Morgan Lewis

Kenneth M. Kulak
Partner
+1.215.963.5384
ken.kulak@morganlewis.com

July 10, 2026

VIA eFILING

Matthew L. Homsher, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

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

Dear Secretary Homsher:

Enclosed for filing in the above-captioned proceeding is the **Initial Brief of FirstEnergy Pennsylvania Electric Company ("Initial Brief").**

The public version of the Initial Brief will be served on the presiding Administrative Law Judges ("ALJs") and all parties of record as indicated on the Certificate of Service. The HIGHLY CONFIDENTIAL of the Initial Brief will be served only on counsel for parties that have executed a Non-Disclosure Certificate in accordance with Paragraph 5 of the Protective Order entered in this proceeding.

If you have any questions, please do not hesitate to contact me.

Very truly yours,

Kenneth M. Kulak

Kenneth M. Kulak

Per Certificate of Service (w/encls.)

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PETITION OF FIRSTENERGY PENNSYLVANIA ELECTRIC COMPANY FOR APPROVAL OF ITS DEFAULT SERVICE PROGRAM FOR THE PERIOD FROM JUNE 1, 2027 TO MAY 31, 2031	**:**	**DOCKET NO. P-2026-3060298**

CERTIFICATE OF SERVICE

I hereby certify and affirm that I have on this day served copies of the **Initial Brief of FirstEnergy Pennsylvania Electric Company** on the persons listed below, in the manner specified in accordance with the requirements of 52 Pa. Code § 1.54:

VIA ELECTRONIC MAIL

The Honorable Mark A. Hoyer
Deputy Chief Administrative Law Judge
Pennsylvania Public Utility Commission
Piatt Place
301 Fifth Avenue, Suite 220
Pittsburgh, PA 15222
mhoyer@pa.gov

The Honorable Erin L. Gannon
Administrative Law Judge
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120
egannon@pa.gov

Harrison W. Breitman*
Katherine "Katie" Kennedy*
Olivia M. Spergel*
Office of Consumer Advocate
Forum Place - 5th Floor
555 Walnut Street
Harrisburg PA 17101-1923
OCAFEPADSP26@paoca.org
Counsel for the Office of Consumer Advocate

Rebecca Lyttle*
Office of Small Business Advocate
Forum Place – 1st Floor
555 Walnut Street
Harrisburg, PA 17101
relyttle@pa.gov
Counsel for the Office of Small Business Advocate

Todd S. Stewart*
HMS Legal LLP
501 Corporate Circle, Suite 302
Harrisburg, PA 17110
tsstewart@hmslegal.com
Counsel for Shipley Choice , LLC d/b/a Shipley Energy and Interstate Gas Supply LLC d/b/a IGS Energy EGS Parties

Elizabeth R. Marx*
Lauren N. Berman*
Ria M. Pereira*
John W. Sweet*
Levi A. Phillips*
Pennsylvania Utility Law Project
118 Locust Street
Harrisburg, PA 17101
pulp@pautilitylawproject.org
Counsel for the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania

Melissa A. Chapaska*
HMS Legal LLP
501 Corporate Circle, Suite 302
Harrisburg, PA 17110
machapaska@hmslegal.com
Counsel for Penn Renewables LLC

Whitney E. Snyder
Erich W. Struble
HMS Legal LLP
501 Corporate Circle, Suite 302
Harrisburg, PA 17110
wesnyder@hmslegal.com
ewstruble@hmslegal.com
Counsel for The Pennsylvania State University

Susan E. Bruce*
Charis Mincavage*
Matthew Garbe*r
Rebecca Kimmel*
McNees, Wallace & Nurick, LLC
100 Pine Street
P.O. Box 1166
Harrisburg, PA 17108-1166
sbruce@mcneeslaw.com
cmincavage@mcneeslaw.com
mgarber@mcneeslaw.com
rkimmel@mcneeslaw.com
Counsel for Met-Ed Industrial Users Group, Penelec Industrial Customer Alliance, and West Penn Power Industrial Intervenors

Mitchell H. Kizner
Flaster Greenberg, PC
Commerce Center
1810 Chapel Avenue West
Cherry Hill, NJ 08002
mitchell.kizner@flastergreenberg.com
Counsel for Dimension PA 1 LLC

Daniel B. Markind
Flaster Greenberg, PC
1717 Arch Street
Suite 3300
Philadelphia, PA 19103
Daniel.markind@flastergreenberg.com
Counsel for Dimension PA 1 LLC

Aron J. Beatty
Duquesne Light Company
800 North Third Street
Harrisburg, PA 17402
abeatty@duqlight.com
Counsel for Duquesne Light Company

Nicholas A. Stobbe*
Stevens & Lee, P.C.
17 North 2nd Street, 16th Floor
Harrisburg, PA 17101
nicholas.stobbe@stevenslee.com
Counsel for the Customer-Generator Coalition

Michael A. Gruin*
Stevens & Lee, P.C.
17 North Second Street, 16th Floor
Harrisburg, PA 17101
michael.gruin@stevenslee.com
Counsel for WGL Energy Services Inc. and Town Square Energy East, LLC

Donald R. Wagner
Stevens & Lee, P.C.
111 North Sixth Street
Reading, PA 19603
donald.wagner@stevenslee.com
Counsel for WGL Energy Services Inc. and Town Square Energy East, LLC

Colleen Kartychak
Constellation Energy Generation, LLC
1310 Point Street
Baltimore, MD 21231
colleen.kartychak@constellation.com
Counsel for Constellation Energy Generation, LLC and Constellation NewEnergy, Inc.

Linda S. Kizuka*
Constellation
250 Massachusetts Avenue, NW
Suite 760
Washington, DC 20001
linda.kizuka@constellation.com
Counsel for Constellation Energy Generation, LLC and Constellation NewEnergy, Inc.

Marsha D. Makel*
Constellation
1310 Point Street Legal – 8th Floor
Baltimore, MD 21231
Marsha.Makel@constellation.com
Counsel for Constellation Energy Generation, LLC and Constellation NewEnergy, Inc

Samuel W. Cortes
Ashley L. Beach
Fox Rothschild LLP
747 Constitution Drive, Suite 100
Exton, PA 19341
scortes@foxrothschild.com
abeach@foxrothschild.com
Counsel for Solar Energy Industries Association and the Coalition for Community Solar Access

R. Taylor Speer*
Fox Rothschild LLP
2 West Washington Street, Suite 1100
Greenville, SC 29601
tspeer@foxrothschild.com
Counsel for Solar Energy Industries Association and the Coalition for Community Solar Access

Karen M. Kemerait*
Fox Rothschild LLP
301 Hillsborough Street, Suite 1120
Raleigh, NC 27603
kkemerait@foxrothschild.com
Counsel for Solar Energy Industries Association and the Coalition for Community Solar Access

Jamie L. Martines*
Spilman Thomas & Battle, PLLC
301 Grant Street, Suite 3440
Pittsburgh, PA 15219
jmartines@spilmanlaw.com
Counsel for Walmart, Inc.

Barry A. Naum*
Steven W. Lee
Spilman Thomas & Battle, PLLC
1100 Bent Creek Boulevard, Suite 101
Mechanicsburg, PA 17050
bnaum@spilmanlaw.com
slee@spilmanlaw.com
Counsel for Walmart, Inc.

Deanne M. O'Dell*
Eckert Seamans Cherin & Mellott, LLC
213 Market Street, 8th Floor
Harrisburg, PA 17101
dodell@eckertseamans.com
Counsel for the Retail Energy Supply Association

Lauren M. Burge*
Eckert Seamans Cherin & Mellott, LLC
600 Grant Street, 44th Floor
Pittsburgh, PA 15219
dodell@eckertseamans.com
Counsel for the Retail Energy Supply Association

WITNESSES / CONSULTANTS

Mark Ewen*
Industrial Economics, Incorporated
2067 Massachusetts Avenue
Cambridge, MA 02140
MEwen@indecon.com
OSBA Witness

Maksim Malukoff*
Industrial Economics, Incorporated
2067 Massachusetts Avenue
Cambridge, MA 02140
MMalukoff@indecon.com
OSBA Witness

Serhan Ogur*
Exeter Associates, Inc.
10480 Little Patuxent Parkway
Suite 300
Columbia, MD 21044
OCAFEPADSP26@paoca.org
OCA Witness

Barbara R. Alexander*
Barbara Alexander Consulting, LLC
83 Wedgewood Drive
Winthrop, ME 04364
OCAFEPADSP26@paoca.org
OCA Witness

Patrick M. Cicero*
118 Locust Street
Harrisburg, PA 17101
pcicero@pautilitylawproject.org
CAUSE-PA Witness

James L. Crist, P.E.
Lumen Group, Inc.
4226 Yarmouth Drive, Suite 101
Allison Park, PA 15101
JLCrist@aol.com
PSU Witness

Frank Lacey
Electric Advisors Consulting
3 Traylor Drive
West Chester, PA 19382
frank@eacpower.com
Retail Energy Supply Association Witness

Thomas S. Michelman*
Jim D. Kennerly*
161 Worcester Road, Suit 503
Framingham, MA 01791
tmichelman@seadvantage.com
jkennerly@seadvantage.com

Solar Energy Industries Association and the Coalition for Community Solar Access Witness

Stephen W. Chriss*
814 Respect Drive
Bentonville, AR 72716
Stephen.Chriss@walmart.com
Walmart Witness

Leah K. Armitage*
Jim Heidell*
Andy Reger*
Lauren Rothermich*
PA Consulting Group, Inc.
2420 17th St., Unit 220
Denver, CO 80202
leah.kunkel@paconsulting.com
jim.heidell@paconsulting.com
andy.reger@paconsulting.com
lauren.rothermich@paconsulting.com
Customer Generator Coalition Witness

Randall Miller*
2200 E. Williams Field Road, Suite 200
Gilbert, AZ 85295
rmiller@townsquareenergy.com
Town Square Energy Witness

Kenneth M. Kulak (Pa. No. 75509)
Brooke E. McGlinn (Pa. No. 204918)
Maggie E. Curran (Pa. No. 330545)
Morgan, Lewis & Bockius LLP
2222 Market Street
Philadelphia, PA 19103
Telephone No.: 215.963.5384
ken.kulak@morganlewis.com
brooke.mcglinn@morganlewis.com
maggie.curran@morganlewis.com

Dated: July 10, 2026

Counsel for FirstEnergy Pennsylvania Electric Company

***=Executed Protective Order acknowledgement**

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PETITION OF FIRSTENERGY PENNSYLVANIA ELECTRIC COMPANY FOR APPROVAL OF ITS DEFAULT SERVICE PROGRAM FOR THE PERIOD FROM JUNE 1, 2027 THROUGH MAY 31, 2031	: : : : : : :	**DOCKET NO. P-2026-3060298**

INITIAL BRIEF OF FIRSTENERGY PENNSYLVANIA ELECTRIC COMPANY

Before Administrative Law Judges
Mark A. Hoyer and Erin L. Gannon

Kenneth M. Kulak (Pa. No. 75509)
Brooke E. McGlinn (Pa. No. 204918)
Maggie E. Curran (Pa. No. 330545)
Morgan, Lewis & Bockius LLP
2222 Market Street
Philadelphia, PA 19103-3007

Tori L. Giesler (Pa. No. 207742)
Angelina Umstead (Pa. No. 309615)
FirstEnergy Service Company
341 White Pond Drive
Akron, OH 44320

Counsel for FirstEnergy Pennsylvania Electric Company

Dated: July 10, 2026

TABLE OF CONTENTS

Page

TABLE OF CONTENTS
(continued)

Page

TABLE OF AUTHORITIES

Page(s)

Court Cases

Commission Cases

Statutes and Regulations

I. INTRODUCTION

This proceeding was initiated on February 3, 2026, when FirstEnergy Pennsylvania Electric Company ("FE PA" or the "Company") [1] filed a Petition ("DSP VII Petition") pursuant to Section 2807(e) of the Pennsylvania Public Utility Code (the "Public Utility Code" or "Code"), 66 Pa.C.S. § 2807(e), requesting that the Pennsylvania Public Utility Commission (the "Commission" or "PUC") approve FE PA's default service program for the period from June 1, 2027 to May 31, 2031 ("DSP VII").

DSP VII is FE PA's seventh default service program and is designed to ensure that FE PA's distribution customers who do not shop for electricity with an electric generation supplier ("EGS") or whose EGS does not provide service continue to have access to an adequate and reliable electric generation supply at the least cost over time in accordance with the requirements of the Code. In the DSP VII Petition, FE PA requested that the Commission approve DSP VII, including procurement, implementation and contingency plans, a rate design plan and associated tariff pages, and copies of the agreements and forms to be used in the procurement of default service supply. For DSP VII, FE PA proposed to continue most of the existing design and procedures of the Predecessor Companies' sixth default service program ("DSP VI") as approved by the Commission.[2]

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[1] FE PA was formed through the combination of several predecessor Pennsylvania electric utilities. On January 1, 2024, Metropolitan Edison Company ("Met-Ed"), Pennsylvania Electric Company ("Penelec"), Pennsylvania Power Company ("Penn Power"), and West Penn Power Company ("West Penn") (collectively, the "Predecessor Companies"), which were all affiliates and subsidiaries of FirstEnergy Corp., merged into FE PA. FE PA was certificated as a public utility and authorized to provide public utility service in the territories of the Predecessor Companies (now, "Rate Districts").

[2] *See Joint Petition of Metro. Edison Co., Pa. Elec. Co., Pa. Power Co., and West Penn Power Co. for Approval of their Default Serv. Programs for the Period Beginning June*

As described in the Joint Petition for Non-Unanimous Settlement filed on July 2, 2026 (the "Joint Petition"), and summarized below, FE PA, the Office of Consumer Advocate ("OCA"), the Office of Small Business Advocate ("OSBA"), the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania ("CAUSE-PA"), Walmart, Inc. ("Walmart"), and Duquesne Light Company ("DLC") (the "Joint Petitioners" or "Settling Parties") reached a settlement (the "Settlement") of all issues presented by the DSP VII Petition.[3] In the Settlement, the Settling Parties requested that the Commission approve DSP VII as proposed by FE PA, with certain modifications to the procurement plan for the residential customer class and reconciliation of residential default service rates and the Company's Maximum Peak Registered Load ("MRPL") proposal, along with commitments related to the Company's time-of-use ("TOU") rate options, calculation of compensation for excess generation under FE PA's Hourly Pricing Default Service ("HP") Rider, maximum bill credits under its Customer Assistance Program ("PCAP"), and changes to the Company's website.

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) ("August 2022 Order").

[3] DLC supports the provisions in Section II.I. (Supplier Coordination Tariff and Retail Shopping Changes) of the Joint Petition but takes no position on the other provisions of the Settlement.

Four parties that submitted testimony in this proceeding – the Customer-Generator Coalition ("CGC"),[4] the Joint Solar Advocates,[5] the Retail Energy Supply Association ("RESA") and Town Square Energy East, LLC ("Town Square") – did not join the Settlement.[6] FE PA files this Initial Brief to address the contested issues raised in this proceeding by the non-settling parties and explain why the Commission should approve DSP VII, as modified by the Settlement.

A. Procedural History

Copies of the DSP VII Petition filed by FE PA on February 3, 2026, were served on other organizations and entities as required by 52 Pa. Code § 54.185(c). Subsequently, on February 21, 2026, the *Pennsylvania Bulletin* published the Commission's Notice setting a deadline for filing protests, complaints, or petitions to intervene by March 17, 2026. On February 19, 2026, Deputy Chief Administrative Law Judge Mark A. Hoyer and Administrative Law Judge Erin L. Gannon (the "ALJs") issued a Prehearing Conference Order scheduling a telephonic Prehearing Conference for March 19, 2026. Thereafter, the following entities were afforded active party status in this case: the OCA, the OSBA,

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[4] The CGC consists of 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.

[5] JSA consists of the Coalition for Community Solar Access and the Solar Energy Industries Association.

[6] Constellation Energy Generation, LLC and Constellation NewEnergy, Inc. ("Constellation"), Dimension PA 1, LLC ("Dimension"), Penn Renewables LLC ("Penn Renewables"), Shipley Choice, LLC d/b/a Shipley Energy and Interstate Gas Supply, LLC d/b/a IGS Energy (collectively, the "EGS Parties"), and WGL Energy Services, Inc. ("WGL") also oppose the Settlement but did not present any record evidence in this case.

CAUSE-PA, Constellation, Dimension, DLC, the EGS Parties, JSA, the Met-Ed Industrial Users Group, the Penelec Industrial Customer Alliance, and West Penn Power Industrial Intervenors (collectively, the "Industrial Customer Groups"), Penn Renewables, The Pennsylvania State University ("PSU"), RESA, Town Square, Walmart and WGL.

At the telephonic Prehearing Conference, a schedule was established for submitting written testimony, holding evidentiary hearings, and filing briefs.[7] Written direct, rebuttal and surrebuttal testimony were submitted by various parties on the dates established for each submission. The Company submitted written rejoinder testimony on June 15, 2026.

The parties to this case also engaged in extensive discovery. FE PA responded to 280 interrogatories, and other parties collectively responded to 192 interrogatories from the Company, the OCA, CAUSE-PA, the CGC, JSA, and RESA, with many containing multiple subparts.

The parties discussed the possibility of resolving some or all of the issues by settlement during the course of the proceeding. Counsel for FE PA notified the ALJs of the Settlement on June 12, 2026. At the June 15, 2026 evidentiary hearing, FE PA witnesses David M. Young and Gregory F. Hussing, OCA witness Serhan Ogur, and CGC witness James A. Heidell were cross-examined. In addition, the written testimony and exhibits of all parties were admitted into evidence.

B. Non-Unanimous Settlement

The terms of the Settlement are set forth in the Joint Petition, which also contains the Settling Parties' Statements in Support. Eight parties to this proceeding either joined in the Settlement or have authorized the Joint Petitioners to represent that they do not oppose the Settlement.[8]

As explained in the Joint Petition, the revised DSP VII set forth in the Settlement contains all of the elements required by the Code, the Commission's default service

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[7] *See* Prehearing Order (Mar. 23, 2026).

[8] *See* Joint Petition, p. 1 (noting that the Industrial Customer Groups and PSU have authorized the Settling Parties to represent that they do not oppose the Settlement).

regulations (52 Pa. Code §§ 54.181–54.190) and its Policy Statement on Default Service (52 Pa. Code §§ 69.1801–69.1817). In addition, the Settlement addresses the following key contested issues:

- **Residential/Commercial Default Service Products**. Under the Settlement, the Joint Petitioners agree to FE PA's original proposal to procure full requirements, load following energy and energy-related products for residential and commercial default service customers through a descending price clock auction ("DCA") process, with certain revisions to the procurement plan.[9] As originally proposed, the full requirements contracts for the residential and commercial classes will include a fixed price established through the applicable DCA, and DSP VII introduces a 60-month fixed-price full requirements ("FPFR") product for the residential class.[10] Under the Settlement, the remaining residential default service load will be served by contracts with 12-month and 24-month terms with greater reliance on 24-month contracts.[11] The Settlement also includes FE PA commitments regarding a post-auction report prepared by an independent market consultant assessing the reasonableness of the auction results for any 60-month product.[12] The Joint Petitioners further agreed that if FE PA is unable to procure Commission-approved 60-month FPFR contracts through the solicitation process, the Company will conduct a subsequent solicitation for 24-month FPFR contracts instead of 12-month contracts as originally proposed.[13]
- **Procurement Schedule**. The Settlement provides that after the first year of DSP VII, FE PA will conduct DCAs for the residential and commercial class FPFR products twice per year in February and September, instead of March and November

[9] *Id.*, ¶¶ 17-18.

[10] Joint Petition, ¶¶ 19-20, 22.

[11] *Id.*, Ex. A.

[12] *Id.*, ¶ 21.

[13] *Id.*, ¶ 32.

as FE PA originally proposed.[14] In addition, under the Settlement, the DCAs for hourly priced full requirements products proposed for March 2028, 2029, 2030 and 2026 will be moved to February in those same years.[15]

- **Classification of Non-Residential Default Service Customers**. Under the Settlement, FE PA will maintain the same procurement class definitions that were approved by the Commission for DSP VI, with one change to the classification of non-residential default service customers between the commercial and industrial procurement groups served under the Company's Price to Compare Default Service Rate Rider ("PTC Rider") and the Hourly Pricing Default Service Rider ("HP Rider") as FE PA originally proposed.[16] During DSP VII, default service customers with a demand of 100 kilowatts ("kW") or above **or** an MRPL of 100 kW or above will be served under the HP Rider.[17] The change in the Company's default service classification will be effective June 1, 2027, for new and in development net metering projects.[18] However, existing net metering installations online as of the end of DSP VI on May 31, 2027, will be exempt from reclassification until June 1, 2029.[19] To address Walmart's concerns about transition protections for projects in development in the Company's service area, the Settlement includes a provision that excess generation compensation under the HP Rider will include capacity and line losses until May 31, 2041, absent a material change in PJM Interconnection, LLC ("PJM") capacity markets as described in Paragraph 38 of the Joint Petition.
- **Supplier Master Agreement ("SMA")**. Transmission requirements under the Company's current SMA include PJM charges for Network Integration

[14] *Id.*, ¶¶ 24-25 & Ex. A.

[15] *Id.*, ¶ 27 & Ex. A

[16] *Id.*, ¶¶ 15-16, 36.

[17] Joint Petition, ¶ 36; FE PA St. 1 (Corrected), p. 16; FE PA Exhibit DMY-6.

[18] Joint Petition, ¶ 37.

[19] *Id.*

Transmission Service ("NITS") and those costs are embedded in default service supplier prices for full requirements products, which FE PA recovers as part of the cost component in its PTC and HP Riders.[20] As originally proposed, commencing June 1, 2027, FE PA will acquire NITS for its default service load and recover associated PJM charges through the NITS component – instead of the cost component – of the PTC and HP Riders.[21] The SMA agreed to under the Settlement also reflects modifications to (1) add new PJM billing line items associated with emergency orders issued by United States Department of Energy; and (2) clarify the calculation of the capacity proxy price ("CPP") used in FE PA's auctions in the event PJM does not conduct a base residual auction ("BRA") in time for default service suppliers to incorporate the auction results in their bids.[22]

- **Rate Design and Cost Recovery**. The Settlement will continue FE PA's Commission-approved default service rate design with one change to the reconciliation of residential default service rates established pursuant to the Company's PTC Rider.[23] Under the Settlement, the Company will amortize the cumulative reconciliation balance for the residential PTC Rider identified at the conclusion of each 12-month reconciliation period over the subsequent 12-month period.[24] The Settlement also adopts FE PA's originally proposed TOU rate design with differentiated pricing across three usage periods (on-peak, off-peak and super off-peak) based on price multipliers designed to motivate customers to adjust the time of day they use electricity.[25] In addition, under the Settlement, the Company agreed to evaluate customer participation and enrollment in its TOU rates and

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[20] *See* FE PA St. 2, pp. 4-5, 16; FE PA St. 4, pp. 5-6.

[21] *See* Joint Petition, ¶¶ 28-29.

[22] *See* Joint Petition, ¶¶ 28-29, 34; FE PA Ex. RJR-2.

[23] Joint Petition, ¶¶ 39-47, 62 & Ex. B; FE PA Exs. CDL-2 and CDL-3.

[24] Joint Petition, ¶ 40 & Ex. B.

[25] Joint Petition, ¶¶ 48-49, 53-61; FE PA Ex. DMY-6.

collaborate with interested stakeholders regarding potential alternative or supplemental demand response program options if the TOU program is not producing meaningful demand or peak load reductions or customer load-shifting outcomes.[26]

- **Generation Supplier Coordination Tariff ("Supplier Tariff") Changes**. The Settlement adopts FE PA's original proposed modifications to its Supplier Tariff in two areas: (1) protocols for EGS arrangements with customers and (2) purchase of EGS receivables.[27] First, EGSs entering into new contracts with residential customers after June 1, 2027, must return those residential customers to default service at the conclusion of the fixed duration contract term absent an affirmative customer choice to remain with the EGS in response to the notices required by the Commission's regulations at 52 Pa. Code § 54.10.[28] Commencing June 1, 2027, EGSs will also be required to provide an attestation of affirmative customer consent on a quarterly basis for all residential customers on variable-priced month-to-month products.[29] To implement changes to EGS arrangements with FE PA residential shopping customers under the Settlement, the Joint Petitioners requested waiver of Section 54.10(3) of the Commission's regulations for new contracts entered into on and after June 1, 2027 (the beginning of the DSP VII term).[30] Second, for all contracts entered into after June 1, 2027, EGSs on utility consolidated billing ("UCB") must use "rate-ready" billing and charge a rate that is at or below the Price to Compare ("PTC") at the time of the customer's enrollment transaction or rate

[26] Joint Petition, ¶¶ 50-52.

[27] *Id.*, ¶¶ 65, 68.

[28] Joint Petition, ¶ 66; FE PA Ex. CDL-4.

[29] Joint Petition, ¶ 66; FE PA Ex. CDL-4.

[30] Joint Petition, ¶ 73.

change transaction to be eligible for purchase of receivables ("POR") for that customer account.[31]

- **Customer Referral Program ("CRP")**. Under the Commission-approved settlement of the DSP VI proceeding ("DSP VI Settlement"), the CRP administered by FE PA in each of the Rate Districts will terminate on May 31, 2027.[32] The Joint Petitioners agreed that FE PA will not implement a successor CRP for DSP VII based on data reviewed during the collaborative held in accordance with the DSP VI Settlement.[33]
- **Maximum PCAP Bill Credits**. In this case, CAUSE-PA witness Patrick Cicero recommended that FE PA increase maximum annual PCAP credits for electric customers by 60% for each income tier, effective January 1, 2027, given the number of PCAP customers that exhausted the limits in 2025.[34] Under the Settlement, FE PA agreed to increase its PCAP subsidy credit limit to the amounts shown in Table 2 of the Joint Petition as of January 1, 2027.[35] At its quarterly universal service advisory committee meetings, FE PA will report on the number of customers exceeding their maximum PCAP credit limit.[36]

The CGC, JSA, RESA and Town Square did not join the Settlement and oppose FE PA's DSP VII, as described in Section I.D below.[37]

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[31] Joint Petition, ¶ 67; FE PA Ex. CDL-4.

[32] FE PA St. 4, pp. 10-11.

[33] Joint Petition, ¶ 64.

[34] *See* CAUSE-PA St. 1, pp. 38-44.

[35] Joint Petition, ¶ 69.

[36] *Id.*, ¶ 70.

[37] In its Reply Brief, FE PA will address any objections to the Settlement raised by parties that did not submit record evidence in this case.

C. Legal Standards

1. Standards Applicable to Default Service

Pennsylvania's Electricity Generation Customer Choice and Competition Act ("Competition Act"), as amended by Act 129 of 2008 ("Act 129"), requires FE PA to obtain, through competitive procurement processes, a "prudent mix" of default service supply contracts designed to ensure "adequate and reliable service" at the "least cost to customers over time."[38] Act 129 provides that EDCs "shall offer" a TOU rate option to all default service customers with a smart meter.[39] In addition to the foregoing statutory requirements, the Commission has enacted regulations, 52 Pa. Code §§ 54.181 to 54.190, and a Policy Statement, 52 Pa. Code §§ 69.1801 to 69.1817, addressing default service programs.

2. Legal Standards Relative to Settlements

In order to approve a settlement, the Commission must determine that the proposed terms and conditions, viewed in the context of the settlement as a whole, are in the public interest.[40] The Commission's policy and precedent embodied in its regulation at 52 Pa. Code § 5.231 and its Policy Statement on Settlements at 52 Pa. Code § 69.401 encourage parties to resolve contested proceedings by settlement. In its Policy Statement, the Commission stated that "the results achieved from a negotiated settlement or stipulation, or both, in which the interested parties have had an opportunity to participate *are often preferable to those achieved at the conclusion of a fully litigated proceeding*" (emphasis added).

D. Summary of Argument

As set forth in this Initial Brief, the Commission should approve FE PA's DSP VII, as modified by the Settlement, because DSP VII satisfies all requirements of the

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[38] 66 Pa.C.S. § 2807(e)(3.2), (3.4) and (3.7).

[39] 66 Pa.C.S. § 2807(f)(5).

[40] *See Pa. P.U.C. v. CS Water & Sewer Ass'n*, 74 Pa. P.U.C. 767, 771 (1991); *Pa. P.U.C. v. Phila. Elec. Co.*, 60 Pa. P.U.C. 1, 22 (1985).

Competition Act and applicable Commission regulations and resolves the remaining contested issues in this proceeding pertaining to residential procurement, net-metered excess generation, and supplier tariffs and programs.

Residential Procurement. The record in this proceeding demonstrates that FE PA's residential class procurement product under the Settlement fully satisfies each of the requirements of the Competition Act and the applicable Commission regulations on default service, and will provide benefits to default service customers by protecting the Company and its customers from price and volumetric risk as well as providing price stability. RESA is the only non-settling party that takes issue with the Company's proposed procurement and implementation plans for DSP VII. Specifically, RESA opposes the change in allocation of responsibility for NITS costs under FE PA's SMA and continued use of a CPP under certain circumstances during DSP VII and alleges that those procurement features transfer risk to customers. Acquiring NITS on behalf of FE PA's default service load and recovering the actual costs from customers is consistent with default service procurement practices in Pennsylvania. Continuing the Company's Commission-approved CPP mechanism is a reasonable approach to maintain diversity of supply products while also mitigating risk premiums associated with unknown PJM capacity prices even though the 60-month residential that will be procured under the Settlement extends beyond PJM's current planning horizon.

Net-Metered Excess Generation. CGC and JSA both oppose the Settlement's classification of non-residential default service customers based on MRPL. As set forth in this Initial Brief, the Commission has now considered and rejected substantially similar legal arguments in three recent proceedings involving other EDCs – UGI Utilities, Inc. – Electric Division ("UGI"), PPL Electric Utilities Corp. ("PPL"), and Citizens' Electric Company – and confirmed that default service customer classification based on a customer's net power flow impact is lawful and reasonable. As in the PPL proceedings, FE PA presented substantial record evidence of default service rate impacts if large customer-generators remain on the PTC Rider during DSP VII: absent the Settlement, the analysis shows net metering expenses for small commercial customers rising to between

$60 million and $544 million by 2029 as more customer-generators are energized. Moreover, the extended grandfathering periods proposed by JSA would produce astronomical PTC rate increases, including a 23,600% increase in the Penn Power Rate District if only the eleven currently operational facilities in that Rate District were grandfathered for 25 years as JSA proposes. The efforts of both CGC and JSA to suggest that customer-generators deliver benefits to offset these costs are also unsupported. Those benefits are largely unquantified, and where JSA attempts to quantify capacity and transmission benefits, those purported benefits depend upon accounting constructs to shift costs to other customers and the alleged transmission and capacity savings are speculative. The MRPL provisions of the Settlement, including the two-year grandfathering provision with the additional stability from capacity and line loss compensation under the HP Rider until May 31, 2041, are a just, reasonable and evidence-based resolution that protects commercial default service customers from escalating cross-subsidization while providing reasonable transition protections for affected customer-generators.

Supplier Tariff Changes and the CRP. RESA and Town Square both oppose the Company's supplier coordination tariff changes and allege that changing the rules for EGS arrangements with residential customers and imposing collection risk on EGSs that charge rates above the PTC will reduce competitive offerings in FE PA's service area and could increase overall costs for customers. In addition, RESA proposes that the Company implement a successor CRP and hold another collaborative to discuss how to expand the program and enroll 50% of new customers.

The evidence in this case establishes that FE PA's residential shopping customers paid millions of dollars more to EGSs than the applicable PTC in recent years – $92 million in 2025 alone – which is driving significantly higher service termination rates, excessive uncollectible expense, and rising customer complaints related to supplier pricing and practices. FE PA's proposed changes to its Supplier Tariff protocols and rules regarding EGS contracts with residential customers are narrowly tailored to address concerns about the impact of above PTC pricing on customer bills and affordability without limiting customer choice or the terms of EGS product offerings. In addition, limiting eligibility for

POR as provided in the Settlement will incentivize EGSs to consider the impact of their pricing on a customer's ability to pay and affordability. RESA and Town Square did not present any evidence supporting their claims that FE PA's reforms would limit "value-added" elements in competitive products, such as renewable energy or long-term price stability, and EGSs remain entirely free to offer and charge any price for their services. Contrary to RESA's assertion, alternative default service providers and supplier consolidated billing ("SCB") are not reasonable alternatives that address the record evidence presented by witnesses for FE PA, the OCA and CAUSE-PA regarding customer costs and affordability impacts of persistently higher prices in the competitive market. Therefore, the POR changes and affirmative consent requirements with associated waiver of the Commission's auto-renewal policy set forth in 52 Pa. Code § 54.10 mitigate harm from above-PTC supplier pricing without restricting competition, and are in the public interest.

FE PA opposes RESA's recommendation for a successor CRP, as supplier participation has significantly declined in recent years and customer enrollment remains low. RESA also had ample opportunity to address CRP data showing the drop in supplier interest and recommend improvements for a proposed successor CRP during the collaborative but did not do so.

II. DEFAULT SERVICE PROCUREMENT AND IMPLEMENTATION PLANS

A. Residential Class Default Service Products

In the Original Proposal, the Company proposed a full requirements product for the residential class with each tranche consisting of a 100% fixed price, load-following full requirements portion with 12-month, 24-month, and 60-month contract terms.[41] Under the Settlement, the residential class procurement product is a 100% fixed price full requirements tranche with 12-month (45%), 24-month (45%), and 60-month (10%)

[41] FE PA St. 2, p. 6.

delivery terms.[42] Winning suppliers will be responsible for fulfilling all the associated requirements of a load serving entity ("LSE") under their agreements with PJM, including energy, capacity, transmission, ancillary services, PJM administrative expenses, as well as providing all necessary alternative energy credits for AEPS compliance.

RESA does not oppose the inclusion of a 60-month contract in the residential supply portfolio, but RESA witness Frank Lacey recommends that any 60-month contract be procured with no pass-through of NITS costs to customers because NITS should be included in any full requirements contract.[43] However, as explained by FE PA witness Dr. Nicholas E. Powers in testimony, a full-requirements product refers to a supplier's obligation to serve a customer's load on an as-needed basis across all hours and to manage the associated market risks, and contrary to Mr. Lacey's assertion, that obligation does not depend on whether specific PJM billing line items are included in the supplier's price.[44] Instead, the defining feature of a full-requirements product is that the supplier is responsible for meeting load and managing the variability and uncertainty associated with serving that load under a fixed-price obligation.[45] The treatment of specific cost components does not alter that fundamental characteristic.[46]

FE PA's interpretation of the term "full-requirements service" as well as its treatment of NITS (as discussed in Section II.B *infra*) is consistent with default service procurement practices within Pennsylvania.[47] FE PA's residential class procurement

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[42] Joint Petition, ¶ 20.

[43] RESA St. 1, pp. 43-44, 62-64; RESA St. 1R, p. 28; RESA St. 1SR, pp. 27-28.

[44] FE PA St. 3-R, pp. 3-5; *see also* OCA St. 1-R, pp. 4-6; OCA St. 1-SR, pp. 17-18.

[45] FE PA St. 3-R, pp. 3-5.

[46] *Id.*

[47] FE PA St. 3-R, p. 4 (explaining that PPL's default service procurement materials define full-requirements service in a manner that excludes certain transmission-related charges, including NITS, and citing https://ppldsp.com/wp-

product under the Settlement fully satisfies each of the requirements of the Competition Act and the applicable Commission regulations on default service and should therefore be approved.

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

In accordance with the Commission's default service regulations at 52 Pa. Code § 54.185(e)(6), FE PA submitted a form of SMA that the Company will execute with wholesale suppliers that are successful bidders in FE PA's default service supply procurements. The SMA includes detailed provisions that address billing and payments, credit requirements, procedures for energy scheduling, default and termination, calculation of damages, and other obligations between FE PA and a wholesale supplier.[48] FE PA utilized a new SMA developed through the uniform SMA stakeholder process envisioned by the Commission in the End State Order[49] in order to realize efficiencies and reduce expenses. That SMA, with minor modifications, is currently in use under the Company's current DSP VI. Under the Settlement, for DSP VII, FE PA will use the same form of SMA used in DSP VI with modifications that would allow changes in default service supplier responsibility for AEPS compliance, removal of PJM charges for NITS from the pricing under the SMA, changes to add new PJM billing line items associated with emergency orders issued by DOE, and revisions to clarify the true-up methodology for the capacity proxy price ("CPP") used in FE PA's auctions in the event PJM does not conduct a base residual auction ("BRA") as discussed in Section II.C. below.[50]

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content/uploads/2025/06/DSP-VI-PPL-Electric-RFP-FR-Webcast-3-JUN-2025.pdf, Slide 18.).

48 *See* FE PA St. 2, pp. 14-16.

49 *Investigation of Pennsylvania's Retail Elec. Mkt.: End State of Default Serv.*, Docket No. I-2011-2237952 (Order entered Feb. 15, 2013) ("End State Order"), pp. 34-35.

50 Joint Petition, ¶¶ 28-29.

Transmission requirements under the Company's SMA exclude Regional Transmission Expansion Plan ("RTEP") charges, Expansion Cost Recovery Charges; Reliability Must Run/generation deactivation charges associated with generating plans for which specific "reliability must-run" ("RMR") charges begin after July 24, 2014; historical out-of-market tie line, generation, and retail customer meter adjustments; unaccounted for energy; or any Federal Energy Regulatory Commission-approved reallocation of PJM RTEP charges related to Docket No. EL05-121-009 (collectively, referred to as "NMB charges").[51] FE PA will continue to assume these NMB charges for both default service suppliers and EGSs that serve load in the Company's service area, and the associated costs will be recovered from customers in a competitively neutral manner through FE PA's non-bypassable Default Service Support Rider.[52]

Currently, default service suppliers are responsible for PJM charges for NITS and those costs are embedded in their prices for full requirements products, which FE PA recovers as part of the cost component its PTC and HP Riders.[53] The Settlement adopts FE PA's original proposal where commencing June 1, 2027, FE PA will acquire NITS for its default service load and recover associated PJM charges through the NITS component – instead of the cost component – of the PTC and HP Riders.[54]

RESA is the only party that opposes removal of NITS charges from the pricing under the SMA as outlined in the Settlement, arguing that the treatment of NITS under the Settlement transfers market risks from wholesale suppliers to customers.[55] Contrary to the views of RESA witness Lacey, the change in responsibility for NITS under the SMA eliminates the need for default service suppliers to add premiums into their bids for uncertain NITS costs and may also lead to increased participation in FE PA's auctions to

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51 *See* Joint Petition, ¶ 28; FE PA St. 2, pp. 4-5; FE PA Ex. RJR-2.

52 FE PA St. 2, p. 5; FE PA St. 4, p. 8.

53 *See* FE PA St. 2, pp. 4-5, 11; FE PA St. 4, pp. 5-6.

54 *See* Joint Petition, ¶¶ 17, 28-29; FE PA St. 2, pp. 4-5; FE PA St. 4, pp. 5-6.

55 RESA St. 1, pp. 37-48; RESA St. 1R, pp. 25-31; RESA St. SR, pp. 25-26.

the benefit of default service customers.[56] The risk associated with NITS is fundamentally different from many other wholesale market risks that suppliers routinely manage. Suppliers can actively hedge or manage risks associated with energy, capacity, and load obligations through market transactions, portfolio management, and other commercial strategies.[57] By contrast, NITS charges are primarily administratively determined transmission charges that are outside the control of default service suppliers.[58]

The change in responsibility for NITS under the Settlement is also consistent with Commission approved treatment of these transmission-related costs by other electric distribution companies ("EDCs") and broader industry practice. Including unhedgeable NITS costs to preserve an "equal playing field" between default service suppliers and EGSs is not appropriate, as RESA contends. Default service suppliers must serve customers under the terms of the SMA.[59] In contrast, EGSs may offer customers a variety of retail products and contract structures, including products with different pricing approaches and contract durations.[60] The Settlement ensures that default service customers pay actual NITS costs rather than estimated costs plus a risk premium.[61] The Commission should therefore approve the SMA as proposed by FE PA and adopted under the Settlement without modification.

C. Capacity Proxy Price

As discussed in Section II.B. above, the Settlement adopts FE PA's original proposal to continue a CPP in the Company's auctions in the event PJM does not conduct

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56 *See* FE PA St. 2-R, pp. 9-10; FE PA St. 4-R, pp. 4-5; OCA St. 1-R, pp. 8-11; OCA St. 1-SR, pp. 18-20.

57 *See* FE PA St. 4-R, pp. 4-6.

58 *Id.*

59 *See* FE PA St. 4-R, p. 7.

60 *Id.*

61 *See* FE PA St. 2-R, p. ; FE PA St. 4-R, pp. 4-7; OCA St. 1-R, pp. 9-11; OCA St. 1-SR, pp. 19-20.

a BRA in time for default service suppliers to incorporate the auction results in their bids.[62] As originally proposed, the CPP will be equal to the clearing price in the most recent BRA conducted by PJM.[63]

RESA is the sole party opposing the use of a CPP true-up mechanism, arguing its use is inappropriate for the proposed 60-month contract as the contract extends beyond the PJM planning horizon.[64] The Company disagrees; the fact that the contract extends beyond PJM's immediate planning horizon does not render the CPP inappropriate. In fact, long-term contracts inherently involve forward-looking risk allocation.[65] The CPP is a reasonable mechanism to address potential delays in PJM BRAs during the DSP VII term that reduces the need for bidders to add risk premiums if a portion of a FPFR product would extend into an unpriced capacity period. Notably, the Commission has previously approved the use of a CPP in default service procurements for FE PA[66] and DLC, finding that such approach would maintain diversity of supply products while also mitigating risk premiums.[67] The Commission should therefore approve the CPP mechanism as proposed by FE PA and adopted under the Settlement without modification.

III. CLASSIFICATION OF NON-RESIDENTIAL DEFAULT SERVICE CUSTOMERS

A. Classification of Customers Based on Maximum Registered Peak Load

As originally proposed by FE PA and under the Settlement, FE PA will assign non-residential default service customers to the PTC Rider or HP Rider based on peak demand or MRPL during DSP VII, subject to a two-year "grandfathering" period for customer-

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62 Joint Petition, ¶¶ 29, 34.

63 *See* Joint Petition, ¶ 34; FE PA St. 2, pp. 20-21.

64 RESA St. 1, p. 65.

65 FE PA St. 2-R, pp. 10.

66 *See* DSP VI RD, pp. 59-60.

67 *See Petition of Duquesne Light Co. for Approval to Modify its Supplier Master Agreement*, Docket No. P-2020-3023149 (Order entered Jan. 14, 2021), p. 4.

generators that come online before June 1, 2027.[68] The MRPL proposal agreed to by the Settling Parties will properly classify customer-generators with larger, more sophisticated customers under FE PA's HP Rider and mitigate the "true-up" expense generated by large customer-generators that is projected to be between $60 million to $544 million by 2029 and paid by commercial PTC Rider customers without the Settlement.[69] As reflected in Walmart's Statement in Support of the Settlement, the Settling Parties agreed to a modification of FE PA's original proposal to include capacity and line loss portions of the existing HP Rider until May 31, 2041 (absent a material change in the capacity markets by PJM) to continue to encourage development of solar generation in the Commonwealth.[70]

The Commission's regulations and policies provide that default service providers should design procurement classes based upon peak loads of 0-25 kW, 25-500 kW, and 500 kW and greater, but default service providers may propose to depart from these specific ranges to "preserve existing customer classes."[71] Currently, net metering customer-generators with generating capacity of less than three MW and a demand below 100 kW are classified as commercial customers and assigned to the PTC Rider.[72] Unlike traditional commercial and industrial ("C&I") customers, net metering customer-generators have little or no onsite electric load – meaning they consume minimal energy from the grid – but they generate electricity.[73] The amount of generation that exceeds their minimal consumption is banked until the end of the planning year of PJM on May 31, at which point the banked generation is cashed out at the commercial PTC Rider rate.[74] FE PA does not use excess

[68] Joint Petition, ¶¶ 36-38.

[69] *See* FE PA St. 1-R, p. 17; FE PA Ex. DMY-7 Revised.

[70] Joint Petition, Statement E (Statement in Support of Joint Petition for Non-Unanimous Settlement of Walmart, Inc.) ("Walmart Statement in Support"), p. 3.

[71] *See* 52 Pa. Code § 54.187 & 52 Pa. Code § 69.1805.

[72] *See* FE PA St 1 (Corrected), pp. 15-16.

[73] FE PA St. 1 (Corrected), p. 17; FE PA St. 1-R, pp. 16-17.

[74] FE PA St. 1 (Corrected), p. 18; FE PA St. 1-R, pp. 17-19.

energy from net-metered customer generators as supply to serve default service load; instead, excess energy from intermittent net-metered customer generators is recognized financially as a credit to the applicable Rate District at the locational marginal price ("LMP").[75]

The Settlement's MRPL provisions are consistent with a series of recent Commission decisions as well as the rulings of the Commonwealth Court of Pennsylvania ("Commonwealth Court"). In UGI's most recent default service proceeding, the Commission approved UGI's classification of customers based on peak demand or peak generation, just as FE PA proposed, and the Commission's decision was affirmed by the Commonwealth Court.[76] Similarly, in the settlement of PPL's most recent base rate proceedings, the Commission approved a nearly identical definition of MRPL proposed by PPL and incorporated in the settlement in that proceeding.[77] In approving that settlement, the Commission considered and rejected a variety of CGC arguments against PPL Electric's MRPL proposal, including contentions that PPL's MRPL proposal was

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[75] FE PA St. 1 (Corrected), p. 17.

[76] FE PA St. 1 (Corrected), p. 20; *Petition of UGI Utils., Inc. – Elec. Div. for Approval of a Default Serv. Plan for the Period of June 1, 2025 through May 31, 2029*, Docket No. P-2024-3049343, et al. (Opinion and Order entered Feb. 20, 2025) ("*UGI Electric*"), pp. 52-56, *aff'd sub nom.*, *Penn Renewables, LLC v. Pa. P.U.C.*, ___A.3d___, 2026 WL 1466224 (Pa. Commw. Ct. 2026) ("*Penn Renewables*"); *see also Pa. P.U.C., et al. v. Citizens' Elec. Co. of Lewisburg, PA*, Docket Nos. R-2025-3054394, et al. (Opinion and Order entered Jan. 15, 2026) (approving determination of billing demand to include both consumption and production of energy).

[77] *Pa. P.U.C. v. PPL Elec. Utils. Corp.*, Docket R-2025-3057164 (Opinion and Order entered June 11, 2026) ("*PPL Electric*"), pp. 166-187. On July 8, 2026, the Commission granted reconsideration of its June 11, 2026 Order in PPL Electric to preserve jurisdiction pending consideration of a petition for reconsideration.

inconsistent with the Code and Commission regulations, not in the public interest, unreasonably discriminatory, and required a cost of service study.[78]

The Commission's recent decisions, as well as the Commonwealth Court's decision in *Penn Renewables*, make clear that default service customer classification is not constrained only to similarities of "load withdrawn from the grid," as CGC contends.[79] As the Commission concluded in *PPL Electric*, "classifications that reflect the actual impact of customer-generators on default service procurement and rate class cost responsibility," including net power flows "from or into" a distribution system, are entirely proper and consistent with the Code and Commission regulations.[80] Moreover, the evidence in this proceeding (as discussed in Section III.C.2 *infra*) established that continued inclusion of large customer-generators in the PTC Rider commercial class would result in risk premiums in default service costs that would adversely affect small commercial customers already burdened by the increasing "true-up" expense of customer-generator compensation.

In opposing the MRPL proposal incorporated in the Settlement, CGC witness Heidell and JSA witness Thomas S. Michelman offer a variety of arguments that the risks associated with continued inclusion of customer-generators in the PTC Rider are unfounded and FE PA's analysis of the net metering expense of customer-generators does not properly reflect the benefits customer-generators purportedly provide. As described in the following sections, none of these arguments have merit and the Commission should approve the Settlement so that FE PA PTC Rider customers do not pay compounding and escalating unreasonable rates for default service supply.

B. Projections of Customer-Generator Growth

In support of the MRPL classification proposal incorporated into the Settlement, FE PA witness Young presented a sensitivity analysis of the number of customer-generators

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[78] *Id.*, pp. 187-202

[79] CGC St. 1-R, p. 6.

[80] *PPL Electric*, p. 193.

that will reach commercial operation. The sensitivity analysis documented a range of projects in FE PA's interconnection reaching commercial operation across three scenarios ("low," "medium," and "high") ranging from 1% to 50%, or between 12 and 612 of the 1,223 projects in FE PA's interconnection queue.[81] FE PA further documented that the actual cancellation rate of projects in 2025 was only about 5%, consistent with many more projects likely to commence commercial operation than even the "high" scenario presented by Mr. Young.[82]

CGC witness Heidell and JSA witness Michelman both contest Mr. Young's customer-generator growth projections. Mr. Heidell observes that the majority of customer-generators in FE PA's interconnection queue of 3,932 MW have not progressed beyond filing an initial application, with only 18% (627 MW) of projects in the interconnection queue progressing to or beyond agreeing to pay for an interconnection study agreement and less than 15% (573 MW) signing construction services agreements.[83] For his part, Mr. Michelman argues against relying upon a 2025 cancellation rate, asserting that a much longer "lookback" period (e.g., five years) was required to establish a cancellation rate for projects at the beginning of the development process and noting that Mr. Heidell calculated that 35% of the MW submitted in the last four years had been cancelled.[84]

Both CGC witness Heidell and JSA witness Michelman miss the point of Mr. Young's analysis. As Mr. Young emphasized in his rejoinder testimony, FE PA recognizes that not all customer-generator projects that apply for interconnection will be energized; that was the whole objective in preparing a wide-ranging sensitivity analysis to demonstrate the effects of a variety of scenarios, ranging from 1% to 50% energization.[85]

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81 *See* FE PA Exhibit DMY-7 Revised.

82 FE PA St. 1-R, pp. 21-22.

83 CGC St. 1, pp. 7-8.

84 JSA St. 1-SR, pp. 16-17.

85 FE PA St. 1-RJ, p. 2.

Indeed, Mr. Heidell and Mr. Michelman's reference to Mr. Heidell's calculated 35% cancellation rate underscores the fact that 65% of projects were not cancelled – well above the "high" 50% maximum energization used in Mr. Young's sensitivity analyses.[86] Mr. Young's testimony further demonstrates that even with a projected low PTC rate and just 10% of customer-generator projects coming online by 2029, the net metering expense rises to over $59 million, underscoring the need to address the escalating impact from customer-generator growth on other default service customers.[87]

C. Costs and Benefits of Customer-Generators

1. PTC Rider v. HP Rider

Under FE PA's DSP VI, default service customers with a demand of kW or above are classified as industrial customers and receive hourly-priced default service under the HP Rider while default service customers with a demand below 100 kW are classified as commercial customers served under the PTC Rider. Commission regulations define the PTC to be "equal to the sum of all unbundled generation and transmission related charges to a default service customer for that month of service,"[88] and both the PTC Rider and the HP Rider include the cost of energy for default service customers, PJM billing line items, AEPS costs, and administrative fees, and other necessary cost components.[89] The Settlement provides that beginning in DSP VII (on June 1, 2027), default service customers with a demand of 100 kW or above **or** a MRPL of 100 kW or above will be served under the HP Rider and not the PTC Rider, with a two-year "grandfathering" provision for customer-generators in operation as of June 1, 2027.[90]

As discussed in Section III.B *supra*, FE PA presented a sensitivity analysis that demonstrated dramatic increases in net metering expense under even low increases in the

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[86] FE PA St. Ex DM-7 (Revised).

[87] FE PA St. 1-RJ, p. 2.

[88] 52 Pa. Code § 54.182.

[89] FE PA St. 1, p. 18; FE PA St. 1-R, p. 18.

[90] Joint Petition, ¶¶ 36-38.

number of customer-generators in FE PA's service territory, with higher estimates of just 50% completion of current projects in FE PA's interconnection queue resulting in net metering expense for commercial PTC Rider customers of nearly $544 million. But even leaving aside projections of future growth, Mr. Young demonstrated that simply adopting JSA's grandfathering proposal of 25 years for projects **operating today** in Penn Power's territory (keeping all other factors of the current PTC rate the same as they are today) would result in an increase in the Penn Power PTC for the commercial default service customers of an astronomical 23,600%, to $32.62/kWh in the 25th year compared to the current $0.1373 kWh.[91] Permitting this level of increase rests on the assumption that there would be commercial class customers who would remain on default service to pay that PTC rate to compensate customer-generators, but even JSA witness Michelman concedes that the commercial class is limited in its ability to absorb additional net metered excess generation.[92]

Notably, neither CGC witness Heidell nor JSA witness Michelman argue that the HP Rider Rate is not "full retail value" or a "full retail rate" under the AEPS Act and Commission regulations.[93] Such an assertion would be plainly wrong, as Mr. Young testified:

> . . . [N]et customer generators are not entitled to receive the PTC Rider rate for their excess generation. Pennsylvania's net-metering framework compensates customer generators for the value of their distributed generation at the full retail rate, which

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[91] FE PA St. 1-R, pp. 24-25.

[92] JSA St. 1, p. 63.

[93] 73 Pa. St. § 1648.5 (providing that net-metered customer-generators shall receive "full retail value for all energy produced on an annual basis"); 66 Pa. C.S. § 75.13 (requiring EDCs and EGSs to pay a "full retail kilowatt-hour rate, which shall include generation transmission and distribution charges"); *see also Penn Renewables*, at 4 ("In short, the Commission has established that 'full retail value,' as that phrase is used in Section 5 of the AEPS Act, equites to 'full retail rate' as articulated in the Commission's regulations").

> would be provided to customer-generators under the HP Rider. FE PA is not proposing any changes to its net metering cash out structure for default service customers. Non-shopping customer generators will still have their onsite load offset by their generation, and any excess generation will be paid out at the end of the year using the applicable default service rate.[94]

Historical data also demonstrated that the HP Rider rate for the industrial class provided additional value over the wholesale LMP throughout FE PA's service territory, and Mr. Young explained that customer-generators also have other options to obtain the compensation for excess generation they believe they may deserve, including bilateral power purchase contracts.[95] As in *Penn Renewables*, the HP Rider may not compensate customer-generators at the same level as the PTC Rider, but compensation under the HP Rider indisputably constitutes "full retail value" for customer-generators under the AEPS Act.

2. Risk Premiums

In reviewing the proper classification of customer-generators in other proceedings, the Commission has concluded that increasing numbers of customer-generators create additional risk for default service wholesale suppliers and lead to higher costs for default service supply, in addition to the substantial increased costs of compensating customer-generators.[96] Here, both CGC witness Heidell and JSA witness Michelman contest the existence of such "risk premiums" and whether those premiums could be attributed to customer-generators. Mr. Heidell asserts that neither FE PA witness Powers nor OCA witness Ogur provide evidence of an actual risk premium or quantified such a premium.[97] Similarly, JSA witness Michelman criticizes OCA witness Ogur for not providing

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[94] FE PA St. 1-R, p. 18.

[95] *Id.,* pp. 16-17.

[96] *See UGI Electric*, p. 56; *PPL Electric*, p. 197; *Penn Renewables*, p. 13 (citing testimony relied upon by the Commission).

[97] CGC St. 1-R, pp. 3, 11-14.

testimony on the "actual impact" of higher switching rates on default service supply costs associated with increasing numbers of customer-generators on default service rates.[98]

Contrary to the testimony of CGC and JSA witnesses, the Commission (and the Commonwealth Court) does not require specific quantification of risk premiums to determine that such risks exist and appropriately considered in default service classification to ensure that default service supply is obtained consistent with "least cost to customer over time" procurement requirements.[99] As FE PA witness Dr. Powers explained, "supplier risk premiums reflect multiple sources of uncertainty, including load variability, market conditions, and customer behavior, and are incorporated into a single bid price" and is "inherently difficult" without additional data or assumptions.[100] Similarly, although OCA witness Dr. Ogur did not quantify risk premiums associated with customer-generators, he provided several reasons why those premiums exist and why suppliers necessarily must take those premiums into account in their bids to provide default service, including the following:

- Large customer-generators are sophisticated customers who can and will switch between default service and EGS service to maximize revenue from net-metered generation cashouts, and wholesale suppliers will take such risks into account;[101]
- Fluctuating net-metered customer generation can give rise to uncertain capacity costs to serve default service load.[102]

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[98] JSA St. 1-R, pp. 8-12.

[99] 66 Pa. C.S. 2807(e)(3.3); *UGI Electric*, p. 56 (noting witness testimony regarding historical difficulty in obtaining competitive bidders for diminishing small commercial default service class and recognizing risk of increased bid premiums without quantification).

[100] FE PA St. 3-R, pp. 8-9.

[101] OCA St. 1-SR, pp. 30-31.

[102] *See id.*, p. 30.

As Dr. Ogur further explained, "a quantitative analysis estimating risk premiums in past auctions or forecasting risk premiums in future auctions based on various levels of net-metered customer-generation, and the uncertainty surrounding thereof, is not necessary to conclude that the inclusion of a non-trivial amount of such customer-generation in the commercial default service load would prompt FPFR bidders to recognize the volumetric risk and price their bids accordingly."[103] Consistent with the Commission's decision in *UGI Electric* and the testimony of both Dr. Powers and Dr. Ogur in this proceeding, the Commission should reach the same conclusion that increasing amounts of customer-generation will invariably lead to increased risk premiums and higher default supply prices.

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

In his testimony, JSA witness Michelman recommends that the Commission should require FE PA to assign an individual negative "peak load contribution" ("PLC") to customer-generators in allocating capacity costs, as well as a negative network service peak load ("NSPL") in allocating transmission costs.[104] By assigning a PLC and NSPL of zero (instead of a negative amount) during periods when customer-generators generate excess energy, Mr. Michelman argues that FE PA is failing to recognize the capacity and transmission costs that net-metered excess generation purportedly allows FE PA, its suppliers, and ultimately its customers to avoid.[105] In his direct testimony, Mr. Michelman offers an alternative calculation of net metering costs through 2029 (Exhibit TM-10) based on Mr. Young's "mid-case" projections assuming negative PLCs and NSPLs are permitted, and characterizes the resulting $29.7 million cost impact to default service customers of additional customer-generators in 2029 (and 22% increase in the PTC for Penn Power customers) as "almost neutral."[106] Even assuming that Mr. Michelman's $29.7 million

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[103] *See id.*, pp. 30-31.

[104] *See* JSA St. 1, pp. 26-28, 37-40.

[105] *See id.*, p. 4.

[106] JSA St. 1, p. 60 & JSA Exhibit TM-10.

calculation is "almost neutral," the evidence shows that negative PLCs and NSPLs are accounting constructs that shift costs with uncertain actual capacity and transmission benefits, and the Commission should reject JSA's proposals.

As a threshold matter, Mr. Michelman's calculations in Exhibit TM-10 relied upon FE PA witness Young's original DM-7 exhibit, which did not include the load reduction credits (at LMP) paid to each Rate District associated with excess customer generation that are used to reduce the PTC.[107] In his rebuttal testimony, Mr. Young included a revised DM-7 exhibit which included those payments and resulted in a net metering expense range of \$60 million to \$544 million (instead of \$81 million to \$750 million).[108] When Mr. Michelman asserted that Mr. Young should have incorporated production-weighted estimates of load reduction credits instead of day-ahead LMPs in his revised analysis of net metering expense, Mr. Young prepared an additional exhibit showing there was no material change to projected net metering expense (with amounts ranging from \$56 million to \$511 million).[109]

In his testimony, FE PA witness Hussing explains that PLCs are, in actuality, accounting constructs, and he notes that Mr. Michelman acknowledges that the PLC is "simply an accounting construct" in his direct testimony.[110] Negative PLCs will simply

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[107] *See* FE PA St. 1-R, pp. 2 & 20-21.

[108] *See id*. & FE PA Exhibit DMY-7 (Revised).

[109] Mr. Michelman also criticized Mr. Young for using different assumptions in Exhibit DMY-18, which illustrates the effects of JSA's 25-year grandfathering proposal, than used in the preparation of Exhibits DMY-7 and DM-7 Revised. As Mr. Young explained in his rejoinder testimony, use of the same assumptions results in a higher net metering projected expense between \$77 million and \$880 million. *See* FE PA 1-RJ, pp. 4-5; FE PA Exhibit DMY-19.

[110] *See* FE PA St. 6-R, p. 5; JSA St. 1, p. 21 ("The PLC is simply an accounting construct at the customer and class levels to assign each customer and default service class its share of the zonal capacity obligation").

result in different allocations of costs between utility customers (including between FE PA customers in other default service classes): "If a customer-generator's PLC is reduced through a negative PLC, then another customer, presumably a non-customer generator in the same customer class, will pay more."[111] Furthermore, the purported capacity and transmission cost benefits calculated by Mr. Michelman on behalf of JSA rely on assumed solar generation by a customer-generator at PJM coincident peaks despite the lack of certainty that the customer generator would be providing excess generation at future times of peak load within FE PA's service territory.[112] Mr. Hussing also emphasizes that behind-the-meter generation is not a PJM capacity resource and dispatchable by PJM, and thus customer-generators do not directly reduce PJM's forward capacity resource requirements.[113] And with respect to negative NSPLs, Mr. Hussing explains that they are also an accounting construct, and allocating transmission costs based on negative NSPLs is similarly flawed.[114] OCA witness Dr. Ogur also opposes both negative PLCs and NSPLs for customer-generators and agrees with Mr. Hussing.[115] In addition, Dr. Ogur underscores that assigning negative PLCs is inconsistent with the timing of PJM capacity requirements and cost assignment to EDC zones, the asserted benefits are speculative and uncertain, and would be disruptive for both wholesale supplier and EGS contracts that were priced based on FE PA's existing capacity mechanisms.[116]

In short, as reflected in the testimony of both Mr. Hussing and Dr. Ogur, any cost reduction arising from negative PLCs would reflect reallocation of costs and not actual,

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111 *See* FE PA St. 6-R, p. 5.

112 *See id.*, pp. 5-6.

113 *See id.*, p. 7.

114 FE PA St 6-R, pp. 8-9.

115 OCA St. 1-SR, pp. 33-36.

116 *See id.*

certain capacity and transmission cost reductions.[117] The Commission should therefore reject JSA's proposals.[118]

4. Other Costs and Benefits

Both CGC and JSA assert that there are additional benefits from customer-generators that should be taken into account in determining whether customer-generators should remain on the PTC Rider or the HP Rider, including benefits associated with reduced emissions from fossil fuel generation that would purportedly benefit people in the Commonwealth generally.[119] JSA witness Michelman included an estimated "value of solar" analysis for 2023-2026 based on calculated energy, capacity and transmission costs as well as demand reduction induced price effects ("DRIPE") associated with a calculated wholesale reduction in demand he attributed to customer-generation.[120] As discussed in the preceding sections, Mr. Michelman then used asserted capacity and transmission cost savings to calculate a reduced "net metering expense" which, as previously explained, relies on accounting constructs and uncertain capacity and transmission cost reductions.

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[117] *See* FE St 6-R, pp. 8-9; OCA St. 1-SR, pp. 33-36.

[118] For its part, CGC did not clearly state that it agreed with negative PLCs as proposed by JSA. Instead, CGC recommended that FE PA "could also start" evaluating whether PJM's Effective Load Carrying Capability ("ELCC") was an appropriate mechanism for assessing the capacity contribution of different types of solar projects. But as Mr. Hussing noted, the most recent ELCC calculations cited by CGC witness Heidell reflect a reduction in the ELCC for tracking solar systems and underscore why the Commission should not assume that customer-generators will actually reduce PJM coincident peaks in the future. *See* FE PA St. 1-RJ, p. 2.

[119] *See* CGC St. 1, p. 13 (listing health benefits, decarbonized energy and "state economic benefits"); JSA St. 1, pp. 47-49 (discussing interconnection and distribution system investments).

[120] *See* JSA St. 1, pp. 40-55.

Although Mr. Michelman quantified certain asserted benefits in his "value of solar" analysis, he excluded several of those benefits – including DRIPE and longer-term total-cost-reduction benefits – from his recalculation of Exhibit DMY-7. Other than the energy, capacity share-of-costs, and transmission share-of-cost benefits reflected in Exhibit TM-10, which are flawed for the reasons set forth above, JSA and CGC did not quantify the alleged benefits of customer-generators or demonstrate that they are entitled to additional compensation for those benefits.[121] CGC witness Heidell argues that the HP Rider fails to compensate customer-generators for alleged "health benefits," "state economic benefits," and other alleged benefits of "decarbonized energy," but he neglects to note that the PTC Rider also does not include compensation to customer-generators for those benefits. Neither he nor JSA witness Michelman demonstrate that customer-generators are entitled to compensation for such benefits under the Public Utility Code's full retail rate provisions or that commercial class customers were required to pay for such benefits. Allegations of such additional benefits from customer-generators do not undermine the legality or reasonableness of the Company's MRPL proposal supported by the Joint Petitioners.

D. Compliance with Applicable Laws and Regulations

The MRPL proposal incorporated in the Settlement is entirely compliant with applicable laws and Commission regulations. Under the Settlement, customer-generators will continue to receive "full retail value" as required by the AEPS Act.[122] The classification of customers, including customer-generators, based on their peak load impact (including their export activity and net power flow) has now been considered and approved by this Commission in three separate proceedings and by the Commonwealth Court.[123] To

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[121] *See* FE PA St. 1-R, pp. 20-22. Mr. Michelman excluded asserted DRIP benefits in his recalculation of net metering expense after acknowledging that the DRIPE study he relies upon states that DRIPE benefits dissipate after four years. *See* JSA St. 1, pp. 57-58.

[122] *See* Section III.A, *supra.*

[123] *See PPL Electric*, p. 200.

the extent that CGC or JSA rely upon investor expectations[124] as a basis for their claim for continued compensation under the PTC Rider at the expense of small commercial class default service customers, the *Penn Renewables* decision makes clear that there is no entitlement to the PTC Rider.[125]

As in *PPL Electric*, the Commission has also relied upon projections of the costs to small commercial customers arising from net-metering cash-outs for customer-generators in determining the effects of customer-generators on a default service customer class. Consistent with those prior decisions, and as set forth above and in the Statements in Support accompanying the Settlement, the evidence in this proceeding has clearly established that the Settlement will "protect customers from an inequitable and escalating cost shift, preserve[] reasonable transition protections for customer-generators, and establish[] a just, reasonable, and evidence-based rate classification framework for customer-generators whose exports materially affect default-service procurement and class cost responsibility."[126]

E. Grandfathering Proposals

In this proceeding, FE PA's MRPL proposal included a two-year "grandfathering" period for customer-generators operating as of June 1, 2027, and the Settlement incorporates an fifteen-year period in which the HP Rider will include capacity and line

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[124] *See* CGC St. 1-SR, p. 5; JSA St. 1, p. 67.

[125] *Penn Renewables*, at 11 See, e.g., Penn Renewables, at 12 ("charging different customer classes different rates 'based on such criteria as the quantity of electricity used, the nature of the use, the time of the use, the pattern of the use, or based on differences of conditions of service, or cost of service are not only permissible but often are desirable and even necessary to achieve reasonable efficiency and economy of operation'") (quoting *Phila. Suburban Transp. v. Pa. Pub. Util. Comm'n*, 281 A.2d. 179, 186 (Pa. Commw. 1971).

[126] *PPL Electric*, p. 202.

losses (absent a material change in the capacity markets operated by PJM).[127] In his testimony, JSA witness Michelman proposed that projects operating on or before June 1, 2027, would continue to be compensated at the full value of the PTC Rider rate for their excess generation for a 25-year period, with "transitional projects" (defined as those projects who have met certain development criteria, e.g., executing interconnection and construction services agreements with FE PA) provided with a fifteen-year period in which they would continue to receive a PTC Rider rate for excess generation.[128]

The Commission should reject JSA's extended grandfathering period for several reasons. First, as Mr. Young demonstrated in his testimony, a 25-year grandfathering period would result in substantial increases in the current PTC prices throughout FE PA's territory.[129] As previously noted and as shown in the following table, if just the eleven currently operating facilities in Penn Power's Rate District were grandfathered for 25 years, the Penn Power PTC would increase by 23,660%:[130]

Table 3				25-yr Increase in PTC Due to True-Up Expenses			
	Number of Facilities in Queue			Operational Facilities Only		Operational and Transitionals Facilities	
	Operational	Transitional	Current PTC Price	PTC (kWh)	%	PTC (kWh)	%
Met-Ed	15	25	$0.1293	$0.1620	25%	$0.9915	667%
Penelec	3	35	0.1216	0.1260	4%	1.1829	873%
Penn Power	11	10	0.1373	32.62	23660%	182.71	132980%
West Penn	11	18	0.1099	0.1333	21%	0.271	147%

If the current projects in FE PA's interconnection queue that met JSA's transitional criteria were also included, the commercial PTC Rider would increase across all FE PA

[127] Joint Petition, ¶¶ 36-38.

[128] JSA St. 1, pp. 61-68.

[129] FE PA St. 1-R, pp. 23-24.

[130] *Id.*, p. 24.

rate districts, including a 132,980% increase in Penn Power Rate District alone.[131] Notably, these increases are much greater than the increases that the Commission found would result in the settlement approved in *PPL Electric*, where a ten-year grandfathering period with a 140 MW total cap on customer-generator projects was expected to result in a PTC increase of only $.02/kWh.[132]

Furthermore, Walmart – which intends to develop solar generation projects in FE PA's service territory as part of its corporate sustainability goals and originally supported a grandfathering period with a defined MW cap consistent with *PPL Electric* due to effects on the economics of solar projects – now supports the two-year grandfathering period with the Settlement's additional provision for inclusion of capacity and line losses in the HP Rider until May 31, 2041.[133] As Walmart explained, this provision – which is consistent with the addition of capacity and line losses to PPL's GSC-2 rate under the settlement in *PPL Electric* – provides "some stability for prospective customer-generators like Walmart to move forward with solar projects" and "is a reasonable compromise that may encourage solar generation in the Commonwealth."[134] Given the clearly unreasonable rates that would result from JSA's

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[131] *Id.* As noted *supra*, Mr. Young addressed JSA witness Michelman's criticisms of the assumptions in these calculations, which actually led to higher PTC increases. *See* FE PA St 1-RJ, p. 5.

[132] *PPL Electric*, p. 133 ("PPL also stated that, based on its updated modeling, every 70 MW of [customer-generator projects existing or expected to be placed in service by September 30, 2026] would place about $0.01/kilowatt-hour (kWh) of upward pressure on the Rate GSC-1 Price-to-Compare (PTC), so the 140 MW cap would represent about $0.02/kWh of upward pressure while substantially mitigating impacts, compared with the status quo.") (footnote omitted).

[133] *See generally* Walmart St. 1 & Walmart Statement in Support, p. 3.

[134] *See PPL Electric*, p. 134; Walmart Statement in Support, p. 3.

proposed grandfathering period as well as the support for the Settlement by Walmart as a solar developer with FE PA's service territory, the Commission should reject JSA's grandfathering period proposal.

IV. RATE DESIGN AND COST RECOVERY

A. Price to Compare Default Service Rate Rider

As discussed in Section I.B. above, the Settlement adopts FE PA's original proposed rate design, with a modification to reconcile residential default service rates on an annual instead of semi-annual basis. The rate design set forth in the Settlement fully complies with the Commission's default service regulations and the Public Utility Code, whereby FE PA recovers default service costs from default service customers through its PTC Rider (residential and commercial classes) and HP Rider (industrial class).[135] As originally proposed, FE PA's default service rates will continue to recover: (1) generation costs, certain transmission costs, ancillary service costs, and AEPS compliance costs; (2) supply management and administrative costs; (3) applicable taxes; and (4) a charge or credit, or "E-factor," for reconciliation of any under or overcollection of actual revenues against actual costs for each class from prior rate periods consistent with the Commission's Policy Statement regarding default service and retail electric markets (52 Pa. Code § 69.1808).[136]

RESA witness Lacey contends that comparison of EGS prices to FE PA's PTC is misleading because the Company improperly excludes administrative and overhead costs from default service rates and instead recovers those costs through distribution rates.[137] Based on that view, Mr. Lacey recommends that the Commission investigate a complete unbundling of residential and commercial rates at a separate docket or over six months before implementation of DSP VII.[138] Mr. Lacey further recommends that the Commission direct FE PA to include all of its costs to serve industrial customers in the administrative

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[135] *See* FE PA St. 4, pp. 3-5, 7-8.

[136] *See id.*, pp. 4-6.

[137] *See* RESA St. 1, pp. 49-53.

[138] *Id.*

component of the HP Rider.[139] This includes unbundling FE PA's overhead costs for billing, customer care, computers, customer information systems, desks, chairs, offices, and personnel spending time on default service issues.[140] The Commission should reject both of RESA's recommendations for several reasons.

First, FE PA's allocation of costs between distribution and default service is entirely consistent with established cost causation principles. Under Section 2807 of the Public Utility Code, FE PA, as default service provider, has an obligation to provide default supply to all distribution customers who do not receive generation service from an EGS, including customers whose EGS does not provide service.[141] FE PA's customers are not distribution customers or default service customers – they are distribution customers who may or may not receive default service at any point in time on a moment's notice.[142] As the Commonwealth Court explained in rejecting similar claims that an EDC had failed to include "indirect" costs of serving default service customers in its PTC, FE PA must "'stand ready' to serve all of its distribution customers should the need arise, regardless of the customers' status of shopping or non-shopping, given the fluid nature of shopping and non-shopping customers."[143] All distribution customers benefit from this "reliable safety net" that an EDC provides as the default service provider.[144] If costs are incurred to support FE PA's distribution customers (e.g., billing and collection), FE PA allocates those costs

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[139] *Id.*, p. 49.

[140] *Id.*

[141] 66 Pa.C.S. § 2807(e)(3.1) ("[I]f a customer contracts for electric generation supply service and the chosen electric generation supplier does not provide the service or if a customer does not choose an alternative electric generation supplier, the default service provider shall provide electric generation supply service to that customer pursuant to a commission-approved competitive procurement plan").

[142] FE PA St. 4-R, p. 4.

[143] *See NRG Energy, Inc. v. Pa. P.U.C.*, 233 A.3d 936, 955 (Pa. Commw. Ct. 2020).

[144] *Id.*, p. 952.

to distribution; costs of default service (e.g., the cost of the independent evaluator in conducting default service procurements) are recovered through the PTC.[145] While Mr. Lacey argues that default service is subsidized by distribution rates,[146] the Commission has concluded that default service is not subsidized by distribution rates and the Commonwealth Court has affirmed the Commission's conclusions as consistent with the Code.[147]

Furthermore, the Commission has approved FE PA's default service rate design that will continue during DSP VII, including costs that would be recovered in the PTC and HP Riders, as consistent with PUC requirements in the Predecessor Companies' six prior default service proceedings.[148] Notably, the Commission also reviewed the Predecessor Companies' distribution rates twice, in 2014 and 2016, and FE PA's distribution rates in 2024, and determined that those distribution rates were just and reasonable.[149] In short, FE PA's allocation of costs to the PTC and HP Riders under the Settlement is entirely consistent with long-standing Pennsylvania principles of cost causation and Commission requirements. The PUC should therefore deny RESA's request for the Commission to once again examine cost allocation between default service and distribution service or direct "unbundling" of default service rates.

B. Hourly Pricing Default Service Rider

The Settlement adopts the Company's original proposal to continue to use its HP Rider approved by the Commission in the DSP VI proceeding to recover the cost of default service for industrial class customers, with the modification that the hourly-priced product

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[145] FE PA St. 4-R, pp. 4-6.

[146] *See* RESA St. 1, p. 6; RESA St. 1R, pp. 8, 14.

[147] *See NRG Energy*, 233 A.3d at 955-56.

[148] FE PA St. 4-R, pp. 3-4.

[149] *Id.*

will no longer include a $4.00 per mWh adder for winning suppliers.[150] The default service rates established pursuant to the HP Rider will be based on the PJM hourly LMP for each Rate District's respective PJM-designated transmission zone plus associated costs, such as capacity, ancillary services, PJM administrative expenses and costs to comply with AEPS requirements that are incurred to provide hourly pricing default service.[151]

RESA witness Lacey does not oppose the proposal to eliminate the HP Rider's fixed adder, but recommends that the adder be replaced with a competitive bid process that includes NITS.[152] As explained by FE PA witness Ryan J. Rose, costs associated with capacity, ancillary services, AEPS Act compliance, and other full requirements costs allocated to default service suppliers under the SMA will be included in bids for industrial class products.[153] Thus, RESA's recommendation is simply a variation of its argument that NITS charges should be included in full requirements products and should be rejected for the reasons set forth in Section II.B above. The Commission should therefore approve the HP Rider as proposed by FE PA and adopted under the Settlement without modification.

V. CUSTOMER REFERRAL PROGRAM

FE PA currently has a CRP first established in the Predecessor Companies' second default service proceeding under which residential and small commercial default service customers contacting FE PA's customer service center were presented with an opportunity to select among a group of EGSs who had voluntarily chosen to offer customers a twelve-month contract priced at least 7% below FE PA's applicable PTC at the time of the offer.[154] In the DSP VI proceeding, the OCA and CAUSE-PA opposed continuation of the CRP based on concerns about the prices CRP customers pay for electric supply after the initial

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[150] *See* Joint Petition, ¶ 42; FE PA St. 4, pp. 3-4; FE PA St. 4-R, pp. 4-6; FE PA St. 2, p. 16.

[151] Joint Petition, ¶¶ 42-43.

[152] RESA St. 1, pp. 48-49.

[153] FE PA St. 2-R, p. 10.

[154] *See* FE PA St. 4, p. 10.

12-month contract.[155] Under the Commission-approved DSP VI Settlement, the Predecessor Companies agreed that the CRP administered by FE PA in each of the Rate Districts will terminate on May 31, 2027.[156] Additionally, in accordance with the DSP VI Settlement, the Company convened a collaborative to review CRP metrics, including supplier participation, customer enrollment levels, and the prices CRP customers pay for competitive generation service during and after the 12-month CRP contract term.[157] None of the parties that attended the CRP collaborative requested that FE PA include a successor CRP in DSP VII, and CAUSE-PA provided feedback that the CRP program should be discontinued.[158]

Based on the Company's analysis of the data collected and reviewed during the collaborative, the Company did not propose to implement a successor CRP for DSP VII.[159] The OCA and CAUSE-PA support the Company's proposal,[160] while RESA proposes that the Company implement a successor CRP and hold another collaborative to discuss how to expand the program and enroll 50% of new customers.[161] RESA admits that the data FE PA provided in testimony[162] shows supplier participation in the CRP has been significantly

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[155] *See* FE PA St. 4, pp. 10-11.

[156] FE PA St. 4, pp. 10-11.

[157] *Id.*

[158] *Id.*

[159] *Id.*, p. 10.

[160] *See* OCA St. 2 (Corrected), pp. 4-8; OCA St. 2-R (Corrected), pp. 1-20; CAUSE-PA St. 1, pp. 27-29; CAUSE-PA St. 1-R, pp. 28-29.

[161] RESA St. 1, pp. 57-61; RESA St. 1-SR, p. 22.

[162] *See* FE PA St. 4, Table 1, showing that since the start of DSP VI on June 1, 2023, EGS participation decreased by more than 50% for three of the Rate Districts and 100% for the Penelec Rate District and currently 10,367 residential customers are enrolled in the CRP, which represents only 3% of the Company's total eligible residential customers.

declining and interest in the program from eligible customers is very low,[163] but continues to argue that even if participation is low, no customer harm caused by the program has been identified.[164] This contention is not supported by the record in this case, as both OCA witness Alexander and CAUSE-PA witness Cicero testified that there are a significant number of CRP customers that end up with contract prices in excess of the applicable PTC and the CRP produces significant adverse outcomes for FE PA customers.[165]

In sum, the changes to FE PA's CRP as proposed by FE PA and adopted under the Settlement balance the interests of customers, participating EGSs, and commitments under the Commission-approved DSP VI Settlement and should therefore be approved without modification.

VI. SUPPLIER COORDINATION TARIFF CHANGES AND RETAIL SHOPPING ISSUES

The Settlement adopts the Company's original proposed Supplier Tariff changes described in Section I.B above designed to encourage customers to make intentional choices about the cost of their generation supply and to incentivize EGSs to consider the impact of their pricing on affordability. As documented in FE PA witness Young's testimony, in 2025 alone, the Company's residential shopping customers, in aggregate, paid $82 million more to EGSs than they would have paid for default service, even after factoring in customers who saved money by switching to an EGS.[166] In 2025, more than 80% of the EGSs serving FE PA's residential customers charged a rate above the Company's applicable PTC.[167] In addition, the termination rates for FE PA residential shopping customers are much higher than all residential customers and residential default

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[163] RESA St. 1-SR, p. 22.

[164] *Id.*

[165] OCA St. 2, pp. 7-8; CAUSE-PA St. 1, pp. 28-29; CAUSE-PA St. 1-R, pp. 28-29.

[166] FE PA St. 1 (Corrected), pp. 21-22; FE PA St. 1-R, p. 10; FE PA Ex. DMY-13.

[167] FE PA St. 1 (Corrected), p. 21; FE PA Ex. DMY-13.

service customers.[168] FE PA customer complaints related to competition issues, including slamming and high EGS prices, have also been increasing in recent years.[169]

Witnesses for CAUSE-PA and the OCA support FE PA's proposals and associated waiver of 52 Pa. Code § 54.10(3) to address affordability of electric generation service, emphasizing undisputed data showing that residential customers paid millions of dollars more to EGSs than they would have for default service. As OCA witness Barbara R. Alexander testified, residential shopping customers collectively paid 30% more than the PTC in every month from January 2022 through January 2026, or $394.8 million in aggregate.[170] In contrast, as Ms. Alexander explained, C&I shopping customers collectively all paid less to EGSs than they would have for default service over the same 49-month period.[171] Similarly, CAUSE-PA witness Cicero presented data showing that residential shopping customers have paid $888 million in aggregate net costs above the PTC since 2017.[172] DLC supports the Settlement's Supplier Tariff reforms as a "first initial step" to improving "affordability of offers in the Pennsylvania retail market."[173]

RESA and Town Square do not dispute that FE PA's residential shopping customers paid more to EGSs than they would have paid for default service. Nonetheless, they both object to the Supplier Tariff changes outlined in the Settlement and contend that FE PA's concerns about affordability of electric service are based on an inappropriate comparison to the PTC.[174] While RESA and Town Square dismiss the relevance of historical EGS pricing data presented in this case, they fail to acknowledge – or rebut – the actual adverse

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[168] *See* CAUSE-PA St. 1, pp. 23-25; FE PA St. 1-R, p. 9; FE PA Ex. DMY-10.

[169] FE PA St. 1 (Corrected), p. 22; FE PA St. 1-R, p. 11.

[170] *See* OCA St. 2, pp. 9-10.

[171] *Id.*

[172] *See* CAUSE-PA St. 1, pp. 9, 15-22, 25, 31; CAUSE-PA St. 1-R, pp. 5-7.

[173] DLC Statement in Support of Non-Unanimous Settlement, pp. 3-4.

[174] *See* RESA St. 1, pp. 31, 50-57; RESA St. 1R, pp. 4-12; RESA St. 1SR, pp. 15-22; Town Square St. 1, pp. 4-7, 14-16.

impacts of above-PTC supplier pricing.[175] As the evidence in this case confirms, residential shopping customers are up to 10 times more likely to have their service terminated than residential default service customers.[176] EGS pricing in excess of the PTC also imposes higher uncollectible expense on the Company, which is then recovered from customers.[177] In fact, on average, from 2022 to 2025, the uncollectible expense per FE PA residential shopping customer was $22.83, or almost three times more than the uncollectible expense per residential default service customer ($7.82).[178] Similarly, from 2022 to 2025, on average, 40% of the Company's total residential generation uncollectible expense was attributable to purchased EGS accounts receivables even though only 18% of residential customers were shopping over that same period.[179] Not surprisingly, given FE PA residential customer shopping outcomes, complaints involving EGSs in 2025 were 50% higher than 2024.[180]

RESA and Town Square also did not present any evidence to support their witnesses' claims that above-PTC competitive pricing does not present affordability concerns, and their assertion that changing the rules for EGS arrangements with FE PA residential customers and limiting access to POR will reduce competitive "value-added"

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[175] RESA also urges the PUC to disregard historical EGS pricing on the ground that DCA clearing prices would have been higher had the Company's affirmative consent requirements and POR changes been in effect in the past because less customers would have been shopping. RESA St. 1R, pp. 10-11. That assertion is incorrect because the DCA clearing price is not simply a function of the level of default service load, and lower shopping rates assumed by Mr. Lacey would eliminate switching risk premiums from bids. *See* FE PA St. 5-SR, pp. 2-3; OCA St 1-SR, pp. 40-42.

[176] *See* FE PA Ex. DMY-10; CAUSE-PA St. 1, pp. 23-25.

[177] FE PA St. 1 (Corrected), pp. 24-27; FE PA St. 1-R (Corrected), pp. 9-10.

[178] FE PA St. 1-R (Corrected), pp. 9-10; FE PA Ex. DMY-12.

[179] FE PA St. 1-R (Corrected), pp. 9-10; FE PA Ex. DMY-12.

[180] FE PA St. 1 (Corrected), p. 22.

offerings in FE PA's service area[181] is contrary to the facts. **[BEGIN HIGHLY CONFIDENTIAL]** [redacted]

[END HIGHLY CONFIDENTIAL]

RESA and Town Square's contention that it is somehow improper to consider residential shopping and POR issues in a default service proceeding[187] is contrary to the

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[181] *See* RESA St. 1, pp. 6-7, 11-13, 18-24, 31-32; RESA St. 1R, pp. 20-22; RESA St. 1SR, pp. 7-8, 12; Town Square St. 1, pp. 4-5, 9-10, 14-15.

[182] FE PA St. 1-R (Corrected), p. 11; Highly Confidential FE PA Exhibit DMY-14.

[183] FE PA St. 1-R (Corrected), p. 11; Highly Confidential FE PA Exhibit DMY-14.

[184] FE PA St. 1-R (Corrected), p. 11; Highly Confidential FE PA Exhibit DMY-14.

[185] FE PA St. 1-R (Corrected), pp. 11-12; Highly Confidential FE PA Ex. DMY-16.

[186] RESA declined to provide information about its members' products or pricing offered to FE PA customers to support its claim that comparison of EGS prices to the PTC is misleading, asserting that RESA does not have access to its member's retail contracts. *See* FE PA Exhibit DMY-15.

[187] RESA St. 1R, pp. 3-4; Town Square St. 1, pp. 18-19.

Commission's policy, practice and precedent. In fact, the Commission has expressly stated that, "in the electric industry . . . PORs are usually the subject of default service plan filings."[188] The Predecessor Companies' POR programs were also adopted or revised in the context of default service proceedings.[189] Furthermore, the Commission itself has employed default service cases to address and decide many issues related to retail market enhancement issues. To cite only two significant examples, in *Investigation of Pennsylvania's Retail Electricity Market: Recommendations Regarding Upcoming Default Service Plans*,[190] the Commission directed EDCs to include in their then-upcoming default service plans retail opt-in auctions and standard offer customer referral programs. These directives were repeated in the Commission's March 2, 2012 Order in *Investigation of Pennsylvania's Retail Electricity Market: Intermediate Work Plan.*[191] EGSs themselves have introduced non-procurement issues, such as shopping by customers enrolled in

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[188] *Investigation of Pennsylvania's Retail Nat. Gas Supply Mkt.*, Docket No. I-2013-2381742, 2014 Pa. P.U.C. LEXIS, at * 74 (Order entered Aug. 21, 2014).

[189] *See Joint Petition of Metro. Edison Co. and Pa. Elec. Co. for Approval of Their Default Serv. Program*s, Docket Nos. P-2009-2093053 and P-2009-2093054 (Opinion and Order approving settlement entered Nov. 6, 2009) (Met-Ed and Penelec); *Petition of Pa. Power Co. for Approval of its Default Serv. Program,* Docket No. P-2010-2157862 (Opinion and Order approving settlement entered Nov. 17, 2010) (Penn Power); *Joint Petition of Metro. Edison Co., Pa. Elec. Co., Pa. Power Co., and West Penn Power Co. for Approval of Their Default Serv. Program*s, Docket Nos. P-2013-2391368 et al. (Opinion and Order approving settlement entered July 24, 2014) (revising West Penn).

[190] *Investigation of Pennsylvania's Retail Elec. Mkt.: Recommendations Regarding Upcoming Default Serv. Plans*, Docket No. I-2011-2237952 (Final Order entered Dec. 16, 2011), pp. 21-44.

[191] *Investigation of Pennsylvania's Retail Elec. Mkt: Intermediate Work Plan*, Docket No. I-2237952 (Final Order entered Mar. 2, 2012), pp. 30-31 and 36-37.

customer assistance programs and recovery of certain PJM charges in default service proceedings.[192]

RESA urges the Commission to revisit transitioning EDCs out of the role of default service provider instead of adopting FE PA's proposed supplier tariff changes.[193] That is not a reasonable alternative to address the affordability concerns posed by above-PTC supplier rates charged to FE PA residential customers.[194] During its Retail Markets Investigation, the Commission considered whether the Company and other EDCs should remain in the default service provider role, or whether these responsibilities should be transitioned to an alternative default service supplier. In its Final Order in the End State Order proceeding, the Commission determined that it would be prudent to retain EDCs in this role.[195] In the 13 years following the End State Order, RESA had the opportunity to request that the Commission open a proceeding to reconsider alternative default service

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[192] *See Joint Petition of Metro. Edison Co., Pa. Electric Co., Pa. Power Co. and West Penn Power Co. for Approval of their Default Serv. Programs*, Docket Nos. P-2013-2391368, P-2013-2391372, P-2013-2391375 and P-2013-2391378 (Order entered July 24, 2014), pp. 15, 22.

[193] RESA St. 1, pp. 5-6, 37.

[194] RESA witness Lacey's recommendation for the PUC to revisit SCB to address affordability concerns (RESA Statement No. 1, p. 37) is also inappropriate. The Commission has extensively considered the legal and public policy issues raised by SCB, including the legality under the Code, the risk of harm to customers and the level of interest in SCB in the EGS community, and declined to proceed with implementation. *See Petition of NRG Energy, Inc. for Implementation of Elec. Generation Supplier Consol. Billing*, Docket No. P-2016-2579249 (Order entered Jan. 31, 2018), p. 60; *Notice of En Banc Hearing on Implementation of Supplier Consolidated Billing*, Docket No. M-2018-2645254 (Secretarial Letter issued June 21, 2021), p. 2.

[195] *See End State Order*, p. 20.

providers, but did not do so. Moreover, an EGS may petition the Commission to become a default service provider for a particular EDC service area if they are interested and able to do so.[196] Mr. Lacey also presents no evidence to support his claim that removing FE PA and other EDCs from the default service provider role would remove "perverse incentives to erect barriers to electricity market competition."[197] FE PA and its predecessors have served as the default service provider in its service area since the beginning of electric restructuring, without any Commission finding of adverse effects related to this service.[198]

In summary, the record in this case contains more than sufficient evidence for the Commission to conclude that no reasonable alternative exists to address the harm arising from the protocols governing EGS contracts with residential customers and unlimited access to POR under the Company's current Supplier Tariff. The existing two-notice framework under 52 Pa. Code § 54.10 and clawback charges assessed to a subset of EGS participating in the Company's POR program has not prevented the harms documented in this case — including hundreds of millions in excess supply charges for FE PA residential shopping customers, far greater termination rates for shopping accounts, and uncollectible expense nearly three times greater per shopping customer. As discussed in Sections VI.A to VI.C below, the arguments against the specific Supplier Tariff changes under the Settlement advanced by RESA witness Lacey and Town Square witness Randal Miller are without merit.

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[196] *See* 66 Pa.C.S. § 2803 (defining "default service provider" to include "an alternative supplier approved by the Commission"); 52 Pa. Code § 54.183(b)(3).

[197] *See* RESA St. 1, p. 6.

[198] FE PA St. 1-R (Corrected), p. 14.

A. Return of Customers to Default Service at Contract Expiration

Concerns raised by FE PA, CAUSE-PA and the OCA about the impact of EGS charges in excess of default service rates on affordability are particularly important given the auto-renewal with customer opt-out practice authorized in the Commission's regulations at 52 Pa. Code § 54.10(3).[199] Under that practice, if a customer does not respond to the required regulatory notices, EGSs currently have the right to increase the customer's price after an introductory "teaser" rate that might be temporarily lower than the PTC or other competitive offers or change a fixed-rate contract to a variable-rate contract.[200] Requiring affirmative action by residential customers to remain with an EGS after the end of a fixed-duration contract addresses issues arising from residential customers unknowingly paying prices in excess of the PTC.[201] This Supplier Tariff change also enhances customer choice by allowing customers to assess new contract terms and prices and make an informed decision before reenrolling.[202]

In their respective testimony, RESA witness Lacey and Town Square witness Miller oppose the change to EGS fixed-duration contracts with residential customers agreed to by the Settling Parties. Their discussion of this issue boils down to three basic arguments: (1) returning FE PA residential shopping customers to default service is anticompetitive and invalidates customer choice;[203] (2) adopting the change to FE PA's Supplier Tariff outlined in the Settlement would constitute illegal "slamming";[204] and (3) requiring affirmative

199 FE PA St. 1 (Corrected), pp. 22-23.

200 *Id.*

201 FE PA Sts. 1 (Corrected), pp. 22-24, & 1-R, p. 7.

202 FE PA Sts. 1 (Corrected), pp. 22-24, & 1-R, p. 7.

203 *See* RESA St. 1, pp. 14-17; RESA St. 1R, pp. 15-17; RESA St. 1SR, pp. 5-8; Town Square St. 1, pp. 17-19.

204 *See* RESA St. 1, pp. 16-17; RESA St. 11SR, p. 6; Town Square St. 1, pp. 19-20.

consent to remain with an EGS after expiration of a fixed-duration contract unlawfully regulates EGS pricing.[205]

FE PA acknowledges that the Commission has previously rejected affirmative consent requirements similar to the change set forth in the Settlement in the context of other EDCs' customer referral programs.[206] However, in those cases, the PUC found that the EDC did not present evidence of harm specific to CRP customers, such as an increase in service terminations.[207] In contrast, as previously explained, the record in this case includes extensive evidence of excessive EGS rates charged to FE PA residential customers and corresponding higher termination rates and uncollectible expense associated with shopping accounts. Revising the Supplier Tariff rules that apply at the end of fixed-duration contracts with FE PA residential customers also does not restrict customer choice, as RESA and Town Square suggest. EGSs may offer any pricing relative to the PTC and contract durations they desire to shopping customers as they do today.[208] FE PA residential shopping customers remain free to choose another EGS or affirmatively choose to remain with their supplier in response to the notices required by the Commission's regulations at 52 Pa. Code § 54.10. For these reasons, the restrictions on auto-renewal of EGS contracts with FE PA customers set forth in the Settlement are in the public interest: these changes address concerns expressed by several parties in this case regarding FE PA customers unknowingly rolling over onto contracts with their EGS at higher prices that the customer

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[205] *See* RESA St. 1, pp. 29-30; RESA St. 1R, pp. 20-21.

[206] See RESA St. 1, p. 25 (citing *Petition of PECO Energy Co. for Approval of Its Default Serv. Program for the Period from June 1, 2025 through May 31, 2029*, Docket No. P-2024-3046008 (Opinion and Order entered Nov. 7, 2024) ("*PECO DSP VI*") and *PPL Elec. Utils. Corp. for Approval of Its Default Serv. Plan for the Period June 1, 2021 through May 31, 2025*, Docket No. P-2020-3019356 (Opinion and Order entered Dec. 17, 2020) ("*PPL DSP VI*").

[207] *See PECO DSP VI*, pp. 79-80; *PPL DSP VI*, pp. 96-98.

[208] *See* FE PA St. 1-R (Corrected), p. 13.

may not understand or desire, while ensuring that customers retain direct access to the retail market.

Returning FE PA residential shopping customers that take no action at the end of the contract term to default service also is not "slamming." FE PA's proposal does not force residential shopping customers to return to default service at the end of a fixed-duration contract. Rather, the choice remains with the customer to affirmatively consent to remain with their EGS in response to the required notices.[209]

Finally, the affirmative customer consent requirements adopted by the Settlement do not regulate EGS prices. In contrast to the Maryland legislation cited by Mr. Lacey that cap residential supply prices relative to 12-month historical utility standard offer rates and impose a 12-month limit on EGS contracts with residential customers, EGSs may offer any contract term and price they desire, including variable rates, to FE PA shopping customers.[210] EGS notices at the end of a fixed-duration contract may also continue to offer any price relative to the PTC.[211] The only difference from today is that after June 1, 2027, any EGS contract with an FE PA residential shopping customer will provide that if the customer does not make an affirmative decision to remain with its EGS in response to the required EGS notices, the customer will be returned to default service.

B. Quarterly Affirmation for Variable Rate Contracts

EGS prices under variable rate contracts change by the hour, day, or month, based on market conditions according to the terms and conditions in the supplier's disclosure statement.[212] Variable-rate product prices can swing dramatically, especially during

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[209] *See Retail Energy Supply Ass'n v. Pa. P.U.C.*, 185 A.3d 1206, 1224 (Pa. Commw. Ct. 2018).

[210] *See* FE PA St. 1-R (Corrected), pp. 12-13.

[211] *Id.*

[212] *See Review of Rules, Policies and Consumer Education Measures Regarding Variable Rate Retail Electric Products*, Docket No. M-2014-2406134 (Order entered March 4, 2014), pp. 3-4.

extreme temperatures, and EGS disclosure statements do not provide the customer with the EGS's specific variable pricing methodology.[213] Requiring customer consent on a quarterly basis for month-to-month variable rate products under the Settlement will encourage customers to make choices about the cost of their generation supply and help mitigate the adverse impact of above-PTC prices on customer bills and affordability for the same reasons discussed in Section VI.A. above.

In addition to raising the same unavailing objections to affirmative customer consent requirements for fixed-duration contracts, RESA argues that quarterly affirmation of month-to-month variable rate contracts would impose unnecessary implementation costs on customers.[214] To the contrary, as FE PA witness Young explained, no system changes are necessary and FE PA will not incur material implementation costs since the attestation of affirmative customer consent will be processed through electronic data interchange transactions.[215]

C. Changes to Purchase of Receivables Program

While the Commission does not have authority to mandate POR programs for EDCs,[216] each of the Predecessor Companies agreed to provide, and the Commission

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[213] 52 Pa. Code §54.5(c)(3); *Rulemaking Regarding Electricity Generation Customer Choice*, 52 Pa. Code Chapter 54, Docket No. L-2017-2628991 (Final Rulemaking Order entered Feb. 27, 2020), pp. 41-46; *see also* OCA St. 2-R, pp. 11-12; OCA Exs. BA-9 to BA-11.

[214] RESA St. 1, pp. 13, 36.

[215] FE PA St. 1-R (Corrected), p. 13.

[216] *See* 66 Pa.C.S. § 2807(c)(3); *Petition of PPL Elec. Utils. Corp. Requesting Approval of a Voluntary Purchase of Receivables Program and Merchant Function Charge*, Docket No. P-2009-21290502, 2009 WL 4087051 (Pa. P.U.C. Nov. 19, 2009) ("No provision of the Code either expressly or by 'strong and necessary implication' provides the Commission with the authority to require EDCs to purchase accounts receivable from

approved, POR programs for residential and small commercial accounts served by EGSs, consistent with the Commission's Policy Statement at 52 Pa. Code § 69.1814.[217] Because FE PA purchases the accounts receivable of participating EGSs at face value and without recourse, the POR program provides an enormous benefit to EGSs by totally eliminating the risk that some of their customers will not pay their bills.[218] As such, participating EGSs are paid upfront with no discount and have little incentive to moderate prices.[219]

FE PA recovers uncollectible accounts expense created by its POR program from all customers in its DSS Rider up to the "baseline" allowance for total uncollectible accounts expense (from all sources) that was approved in FE PA's most recent base rate case.[220] POR-related uncollectible expense disproportionately contributes to the Company's overall generation-related uncollectible expense relative to the share of shopping customers.[221] For example, as Mr. Young testified, from 2022 to 2025, on average, 40% of FE PA's total residential generation uncollectible expense was attributable to purchased EGS accounts receivable even though only 18% of residential customers were shopping over that same period.[222]

The Company's current Supplier Tariff includes a clawback mechanism to reduce FE PA's and customer exposure to increased uncollectible expense generated by EGSs whose pricing practices are driving significantly higher write-offs as compared to other EGSs.[223] The clawback charge is assessed to EGSs whose write-offs as a percentage of

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EGSs. On the contrary, the Code specifically provides that the Commission cannot require EDCs to purchase EGS' accounts receivable.").

[217] *See supra* n.183.

[218] FE PA St. 1 (Corrected), p. 24.

[219] *Id.*

[220] FE PA St. 1 (Corrected), pp. 24-25.

[221] *See* FE PA St. 1-R (Corrected), pp. 9-10; FE PA Ex. DMY-12.

[222] FE PA St. 1-R (Corrected), p. 9.

[223] FE PA St. 1 (Corrected), p. 25.

revenues are 200% higher than their peers and whose average price per kWh is greater than 150% of the average PTC of the Company.[224] RESA and Town Square both claim that changes to the current POR structure with a clawback mechanism are not necessary to reduce uncollectible expense and promote affordability.[225] Notwithstanding RESA's claims that clawback charges are declining, during DSP VI, a substantial number of EGSs serving FE PA customers continue to charge prices 1.5 times higher than the PTC and generate POR-related write-offs well above the average for the entire EGS population notwithstanding clawback charges.[226] In addition, even for those EGSs identified by its two screening measures, the clawback charge recoups only a small fraction of the uncollectible accounts those EGSs generate.[227]

FE PA is not proposing to eliminate its POR program in DSP VII. EGSs that choose not to use rate ready billing or that wish to charge rates higher than the PTC at the time of enrollment or a price change can still use UCB and seek to collect arrearages from their customers using the same legal options available to other competitive businesses. Restricting the purchase of receivables for EGS accounts where EGSs have charged prices higher than the PTC will substantially reduce FE PA customers' exposure to unreasonable EGS-driven uncollectible expenses. Town Square's assertion that restricting access to POR as provided in the Settlement will reduce customer choice is undercut by the fact that Town Square operates in Maine without POR for residential accounts.[228] In sum, limiting eligibility for the Company's POR program as set forth in the Settlement is a reasonable approach that allows suppliers to continue using UCB but places the collection risk on those EGSs that charge rates above the PTC to protect all customers from unnecessary and excessive costs.

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[224] *Id.*

[225] *See* Town Square St. 1, pp. 7-9, 14-16; RESA St. 1, pp. 27-33.

[226] FE PA St. 1 (Corrected), pp. 26-27.

[227] *Id.*

[228] *See* CAUSE-PA St. 1-R, p. 22 & App. A-R.

VII. CONCLUSION

For the reasons set forth above, the Commission should approve DSP VII, as modified by the Settlement, and reject proposed modifications to FE PA's MRPL proposal and the supplier coordination tariff modifications set forth in the Settlement. In addition, the Commission should: (1) make the findings required by 66 Pa.C.S § 2807(e)(3.7); (2) grant the waivers requested in the Joint Petition; and (3) grant such other approvals as may be needed to fully implement FE PA's DSP VII as set forth in the Joint Petition.

Respectfully submitted,

Kenneth M. Kulak (Pa. No. 75509)
Brooke E. McGlinn (Pa. No. 204918)
Maggie E. Curran (Pa. No. 330545)
Morgan, Lewis & Bockius LLP
2222 Market Street
Philadelphia, PA 19103-3007
Phone: 215.963.5384
ken.kulak@morganlewis.com
brooke.mcglinn@morganlewis.com
maggie.curran@morganlewis.com

Tori L. Giesler (Pa. No. 207742)
Angelina Umstead (Pa. No. 309615)
FirstEnergy Service Company
341 White Pond Drive
Akron, OH 44320
Phone: (610) 921-6202
tgiesler@firstenergycorp.com
aumstead@firstenergycorp.com

Dated: July 10, 2026

Counsel for FirstEnergy Pennsylvania Electric Company

APPENDIX A

FIRSTENERGY PENNSYLVANIA ELECTRIC COMPANY'S PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDERING PARAGRAPHS

FirstEnergy Pennsylvania Electric Company incorporates and relies upon the Proposed Findings of Fact, Conclusions of Law and Ordering Paragraphs filed on July 10, 2026, by the parties to the Joint Petition for Settlement filed in this proceeding on July 2, 2026