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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 **Joint Proposed Findings of Fact, Conclusions of Law and Ordering Paragraphs** to the Joint Petition for Settlement filed in this proceeding on July 2, 2026**.**

The public version of the Joint Proposed Findings of Fact, Conclusions of Law and Ordering Paragraphs 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 Joint Proposed Findings of Fact, Conclusions of Law and Ordering Paragraphs 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

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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 **Joint Proposed Findings of Fact, Conclusions of Law and Ordering Paragraphs** to the Joint Petition for Settlement filed in this proceeding on July 2, 2026 on the persons listed below, in the manner specified in accordance with the requirements of 52 Pa. Code § 1.54:

VIA ELECTRONIC MAIL

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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**

JOINT PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDERING PARAGRAPHS

July 10, 2026

PROPOSED FINDINGS OF FACT

I. BACKGROUND

1. FirstEnergy Pennsylvania Electric Company ("FE PA" or the "Company") was formed through the combination of several predecessor Pennsylvania electric utilities after approval by the Pennsylvania Public Utility Commission (the "Commission" or "PUC"). 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.[1] Consistent

[1] *Joint Application of Metro. Edison Co., Pa. Elec. Co., Pa. Power Co., West Penn Power Co., Keystone Appalachian Transmission Co., Mid-Atlantic Interstate Transmission LLC, and FirstEnergy Pa. Electric Co. for All of the Necessary Authority, Approvals, and Certificates of Pub. Convenience for (1) the Agreements and Plans of Merger; (2) the Establishment of FirstEnergy Pa. Holding Co. LLC as an Intermediate Holding Co. in the Chain of Ownership of FirstEnergy Pa. Elec. Co.; (3) the Merger of Metro. Edison Co., Pa. Elec. Co., Pa. Power Co., and West Penn Power Co. with and into FirstEnergy Pa. Elec. Co.; (4) the Initiation by FirstEnergy Pa. Elec. Co. of Elec. Serv. in All Territories in this Commonwealth where Metro. Edison Co., Pa. Elec. Co., Pa. Power Co., and West Penn Power Co. Do or May Provide Elec. Service; (5) the Abandonment by Metro. Edison Co., Pa. Elec. Co., Pa. Power Co., and West Penn Power Co. of All Elec. Service in this Commonwealth; (6) the Adoption by FirstEnergy Pa. Elec. Co. of Metro. Edison Co., Pa. Elec. Co., Pa. Power Co., and West Penn Power Co.'s Existing Tariffs and their Application within New Service and Rate Districts of FirstEnergy Pa. Elec. Co. Corresponding to their Existing Service Territories as the Met-Ed Rate District, Penelec Rate District, Penn Power Rate District, West Penn Rate District, and The Pennsylvania State University Rate District, Respectively; (7) the Sale of Class B Membership Interests in Mid-Atlantic Interstate Transmission, LLC held by*

with the approvals received from the Commission, 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. FE PA is an electric distribution company ("EDC") and a default service provider as defined in the Pennsylvania Public Utility Code ("Public Utility Code" or "Code"), 66 Pa.C.S. § 2803.

3. As a default service provider, FE PA provides electric generation service to those customers who do not select an electric generation supplier ("EGS") or who return to default service after being served by an EGS that becomes unable or unwilling to serve them.[2]

4. The Predecessor Companies' current default service programs ("DSP VI") expire on May 31, 2027.[3]

5. This proceeding was initiated on February 3, 2026, when FE PA filed a Petition (the "DSP VII Petition") requesting that the Commission approve FE PA's proposed seventh default service program ("DSP VII" or "Program") for the period June 1, 2027 through May 31, 2031 in accordance with the Electricity Generation Customer

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Met-Ed and Penelec to FirstEnergy Corp.; (8) the Contribution of West Penn Power Co.'s Transmission Assets to Keystone Appalachian Transmission Co.; (9) a Certificate of Pub. Convenience Conferring Upon Keystone Appalachian Transmission Co. the Status of a Pa. Pub. Util.; (10) Where Necessary, Associated Affiliated Interest Agreements; and (11) Any Other Approvals Necessary to Complete the Contemplated Transaction, Docket Nos. A-2023-3038771, et al. (Order entered Dec. 7, 2023).

2 66 Pa.C.S. § 2807(e).

3 *See Joint Petition of Metro. Edison Co., Pennsylvania Elec. Co., Pennsylvania Power Co., and West Penn Power Co. for Approval of their Default Serv. Programs for the Period Beginning June 1, 2023 through May 31, 2027*, Docket Nos. P-2021-3030012 et al. (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").

Choice and Competition Act, 66 Pa.C.S. §§ 2801 et seq. (the "Competition Act"), as amended by Act 129 of 2008 ("Act 129").

6. As described in the DSP VII Petition, FE PA proposed to continue most of the existing design and procedures as approved by the Commission as part of DSP VI.

7. 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).

8. The following entities were afforded active party status in this case:

Office of Consumer Advocate	("OCA")
Office of Small Business Advocate	("OSBA")
Coalition for Affordable Utility Service and Energy Efficiency in Pennsylvania	("CAUSE-PA")
Constellation Energy Generation, LLC and Constellation NewEnergy Inc.	("Constellation")
Customer-Generator Coalition[4]	("CGC")
Dimension PA 1, LLC	("Dimension")
Duquesne Light Company	("DLC")
Joint Solar Advocates[5]	("JSA")
Met-Ed Industrial Users Group, Penelec Industrial Customer Alliance, and West Penn Power Industrial Intervenors	("Industrial Customer Groups")
Penn Renewables LLC	("Penn Renewables")
Shipley Choice, LLC d/b/a Shipley Energy and Interstate Gas Supply, LLC d/b/a IGS Energy	("EGS Parties")
Retail Energy Supply Association	("RESA")
The Pennsylvania State University	("PSU")

[4] The Customer-Generator Coalition 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] The Joint Solar Advocates consist of the Coalition for Community Solar Access and the Solar Energy Industries Association.

Town Square Energy East, LLC	("Town Square")
Walmart, Inc.	("Walmart")
WGL Energy Services, Inc	("WGL")

9. A litigation schedule was established at the telephonic Prehearing Conference held on March 19, 2026 before Deputy Administrative Law Judge Mark A. Hoyer and Administrative Law Judge Erin L. Gannon (the "ALJs"). The parties submitted written direct, rebuttal and surrebuttal testimony and accompanying exhibits in accordance with that schedule. The Company submitted written rejoinder testimony on June 15, 2026.

10. On June 12, 2026, the parties notified the ALJs that several parties reached a settlement (the "Settlement")[6] of all issues presented by the DSP VII Petition.

11. At the June 15, 2026 evidentiary hearing, FE PA witnesses David M. Young and Gregory F. Hussing, OCA witness Serhan Ogur, and CGG witness James A. Heidell were cross-examined and the pre-served written testimony and exhibits of all parties were admitted into evidence.

12. In the Joint Petition for Non-Unanimous Settlement filed on July 2, 2026 ("Joint Petition"), 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, 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 ("HP") Default Service Rider ("HP Rider"), maximum bill credits under its Customer Assistance Program ("PCAP"), and changes to the Company's website.[7]

II. THE EVIDENCE SUPPORTS THE FOLLOWING FINDINGS OF FACT

[6] The following parties joined the Settlement ("Joint Petitioners" or "Settling Parties"): FE PA, the OCA, the OSBA, CAUSE-PA, DLC and Walmart. The Industrial Customer Groups and PSU authorized the Joint Petitioners to represent that they do not oppose the Settlement.

[7] *See* Joint Petition, ¶¶ 14-74.

A. FE PA's Default Service Procurement and Implementation Plans

1. Program Term, Procurement Classes, and Supply Portfolio

1. FE PA's DSP VII shall be in effect for a period of four years, from June 1, 2027 through May 31, 2031, consistent with the four-year term approved by the Commission in its August 2022 Order.[8]

2. FE PA will divide customers into three classes for purposes of default service procurement, consistent with DSP VI: the residential class, commercial class, and industrial class subject to the definitions that were approved in the August 2022 Order with a change to the 100 kilowatt ("kW") threshold that separates the commercial and industrial class groupings.[9] Default service rates for the Company's residential and commercial class customers are charged through the Company's Price to Compare ("PTC") Default Service Rate Rider ("PTC Rider").[10] The Company's default service rates for the industrial commercial class are charged through the Company's HP Rider.[11]

3. Under the Settlement, during the DSP VII term, FE PA will continue to procure full-requirements, load following energy and energy-related products for default service customers through a descending price clock auction ("DCA") process. A full requirements, load-following contract requires a supplier to provide energy, capacity, ancillary services, and all other services or products necessary to serve a specified percentage of default service load continuously over the term of the contract.[12]

4. The full requirements contracts for the residential class will include a fixed price established through the applicable DCA. During the DSP VII term, contracts for approximately 10% of the load will have terms of 60 months, contracts for approximately

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8 *See* Joint Petition, ¶ 14; FE PA St. 1 (Corrected), p. 9.

9 Joint Petition, ¶¶ 36-37; FE PA St. 1 (Corrected), pp. 15-16.

10 FE PA St. 4, p. 2.

11 *Id.*

12 Joint Petition, ¶¶ 17-18; FE PA St. 2, pp. 2-7.

45% of the residential class load will have terms of 12 months, and contracts for the remaining approximately 49% will have terms of 24 months.[13]

5. The Settlement 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.[14]

6. RESA does not oppose the inclusion of a 60-month contract for the residential class, but recommends that any 60-month contract be procured with no pass-through of costs to customers, arguing that, by definition, a full requirements contract includes PJM charges for Network Integration Transmission Service ("NITS").[15]

7. 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 that obligation does not depend on whether specific PJM billing line items are included in the supplier's price.[16] 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.[17] The treatment of specific cost components does not alter that fundamental characteristic.[18]

8. FE PA's interpretation of the term "full-requirements service" is consistent with default service procurement practices within Pennsylvania.[19]

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[13] Joint Petition, ¶ 20; FE PA St. 2, pp. 6-7.

[14] *Id.*, ¶ 21.

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

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

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

[18] *Id.*

[19] *See e.g.*, PPL Electric Utilities Corporation, Default Service Program VI Procurement Materials (describing "Full Requirements Service" as including energy, capacity, and ancillary services while excluding certain transmission-related charges, including NITS). Among other materials, see https://ppldsp.com/wp-

9. The commercial class load will be supplied by a mix of 12-month (40%) and 24-month (60%) full requirements products with a fixed price established through the DCA process.[20]

10. NITS charges have been variable and unpredictable over the last few years.[21]

11. NITS charges are a large component of all-in energy supply costs, and that they are unhedgeable by wholesale suppliers.[22]

12. Including NITS charges in the FPFR auction products as the responsibility of wholesale suppliers would lead to large risk premiums being built into supplier bids, particularly for longer-term products such as the 24-month, 36-month, or 60-month FPFR contracts.[23]

13. For the industrial class, FE PA will continue to solicit hourly-priced full requirements products with 12-month delivery terms for all default service supply.[24]

14. The procurement terms and schedule for the three procurement classes are set forth in Exhibit A to the Joint Petition.

15. DSP VII includes some residential and commercial class supply products with delivery periods that extend beyond May 31, 2031 (the end of the DSP VII period).[25]

2. Competitive Procurement Process and Independent Evaluator

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

[20] Joint Petition, ¶¶ 23-24; FE PA St. 2, p. 6.

[21] OCA St. 1 at 24.

[22] OCA St. 1 at 24.

[23] OCA St. 1 at 24.

[24] Joint Petition, ¶¶ 26-27; FE PA St. 2, pp. 6-7.

[25] *See* Joint Petition, Ex. A; FE PA St. 2-R, pp. 6-7.

16. Consistent with DSP VI, all bids for full requirements default service supply will be obtained through a fair, non-discriminatory, DCA process conducted by an independent third-party evaluator.[26]

17. FE PA will retain CRA International, Inc. d/b/a Charles River Associates ("CRA") as the independent third-party evaluator of the Company's DCAs.[27]

18. FE PA will execute a form of the Supplier Master Agreement ("SMA"), set forth in FE PA Exhibit RJR-2, with wholesale suppliers that are successful bidders in the Company's DCAs.[28] The form SMA incorporates certain other changes to FE PA's current Commission-approved SMA in the areas of responsibility for AEPS compliance, NITS costs, and new PJM billing line items associated with emergency orders issued by the United States Department of Energy, as well as the calculation of the capacity proxy price ("CPP") used in DCAs under certain circumstances.[29]

19. Transmission requirements under the Company's SMA exclude Regional Transmission Expansion Plan ("RTEP") charges; Expansion Cost Recovery Charges; Reliability Must Run ("RMR")/generation deactivation charges associated with generating plans for which specific RMR charges begin after July 24, 2014; historical out-of-market tie line, generation, and retail customer meter adjustments; unaccounted for energy; and any Federal Energy Regulatory Commission-approved reallocation of PJM RTEP charges related to Docket No. EL05-121-009 (collectively, referred to as "NMB charges").[30] During DSP VII, 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

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[26] *See* Joint Petition, ¶¶ 17-18; FE PA Ex. MP 3; FE PA St. 3, pp. 10-14; FE PA St. 5, pp. 3-5, 8-11.

[27] Joint Petition, ¶ 48; FE PA St. 2, p. 9.

[28] Joint Petition, ¶ 28.

[29] *See* Joint Petition, ¶ 29; FE PA St. 2, pp. 14-18.

[30] *See* Joint Petition, ¶¶ 17, 28; FE PA St. 2, pp. 4-5; FE PA Ex. RJR-2.

associated costs will be recovered from customers in a competitively neutral manner through FE PA's non-bypassable Default Service Support ("DSS") Rider.[31]

20. Currently, default service suppliers are responsible for PJM charges for NITS and those costs are embedded in their prices for full requirements products.[32] Under the Settlement, 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.[33]

21. RESA is the only party that opposes the Settlement's allocation of PJM charges for NITS under the SMA, arguing that such treatment transfers market risks from wholesale suppliers to customers.[34]

22. Removal of NITS charges from the pricing under SMA as outlined in the Settlement is consistent with the treatment of these transmission-related costs by other EDCs.[35] This change in responsibility for NITS under the SMA also 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 the benefit of default service customers.[36]

23. The Independent Evaluator's oversight of the 60-month FPFR auction provides the Commission with an independent assessment of the auction process and results.[37]

3. AEPS Compliance

24. FE PA will meet its Alternative Energy Portfolio Standards ("AEPS") Act, 73 P.S. § 1648.1 et seq., obligations through full requirements products. Consistent with

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[31] FE PA St. 2, p. 5; FE PA St. 4, p. 8.

[32] *See* FE PA St. 2, pp. 4-5, 11; FE PA St. 4, pp. 5-6.

[33] Joint Petition, ¶¶ 28-29, & Ex. B; FE PA Ex. RJR-2; FE PA Ex. CDL-2.

[34] RESA St. 1, pp. 37-48; RESA St. 1R, pp. 25-31; RESA St. 1SR, pp. 25-26.

[35] FE PA St. 2, p. 16; OCA St. 1-R, p. 6.

[36] *See* FE PA St. 2-R, pp. 9-10; OCA St. 1-R, pp. 8-11; OCA St. 1-SR, pp. 18-20.

[37] *See* FE PA St. 5 at 5-7.

prior default service programs approved by the Commission, under the Settlement, FE PA will require each full requirements default service supplier to transfer Tier I (including solar) and Tier II alternative energy credits ("AECs") to the Company corresponding to FE PA's AEPS obligations associated with the amount of default service load served by that supplier.[38]

4. Contingency Plans

25. FE PA will continue utilizing the contingency plans for full requirements procurements approved in prior default service programs. Specifically, if a scheduled solicitation is not fully subscribed following the initial proposed procurement or if the Commission rejects the bid results from a solicitation, FE PA will rebid the unfilled tranches from that solicitation in the next scheduled procurement for which there is sufficient calendar time to include the tranches. For any unfilled tranches remaining, FE PA will purchase the necessary physical supply through PJM-administered markets.[39]

26. Under the Settlement, the Joint Petitioners agreed that if FE PA is unable to procure Commission-approved 60-month fixed-price full requirements ("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.[40]

27. If a winning bidder defaults prior to the start of, or during, the delivery period, FE PA will offer the unfilled tranches to the other qualified bidders who participated in the most recent solicitation of full-requirements, load-following products. If the Company is not able to enter into an agreement with qualified bidders and at least 30 calendar days remain prior to the start of the delivery period, FE PA will seek to bid the defaulted tranches in a separate supplemental competitive solicitation. If insufficient time exists to conduct an additional competitive solicitation, or if the supplemental solicitation

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[38] *See* Joint Petition, ¶ 30; FE PA St. 2, pp. 12-13.

[39] Joint Petition, ¶ 31; FE PA St. 2, pp. 18-19.

[40] Joint Petition, ¶ 32.

is unsuccessful, FE PA will supply the tranches by purchasing power in the PJM-administered markets.[41]

28. In addition, during DSP VII, FE PA will continue to use a CPP in its DCAs if PJM does not conduct a base residual auction ("BRA") in time for default service suppliers to incorporate the BRA results in their bids.[42] The CPP will be equal to the clearing price in the most recent BRA conducted by PJM.[43]

29. Under FE PA's proposal, the CPP for each Rate District would be equal to the most recent PJM BRA clearing price conducted by PJM.[44]

30. Winning bidders will be made whole through a reconciliation mechanism.[45]

31. For each month for which the capacity price was not known at the time of the FPFR auction, a true-up for a given day would be calculated as the difference between the final zonal PJM capacity rate and the CPP, multiplied by the winning bidder's daily capacity obligation.[46]

32. If the CPP is less than the actual capacity price, the winning bidder would receive an additional payment to ensure that it is fully compensated for its capacity cost to serve the FPFR contract.[47]

33. Conversely, if the CPP is greater than the actual capacity price from PJM, FE PA's payment to the winning bidder under the contract would be reduced based on the same calculation.[48]

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[41] Joint Petition, ¶ 31; FE PA St. 2, pp. 18-19.

[42] Joint Petition, ¶¶ 29, 34.

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

[44] OCA St. 1 at 21.

[45] OCA St. 1 at 21.

[46] OCA St. 1 at 21.

[47] OCA St. 1 at 21.

[48] OCA St. 1 at 21.

34. 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.[49]

35. Long-term contracts inherently involve forward-looking risk allocation.[50] The CPP is a reasonable mechanism to address potential delays in PJM BRAs during the DSP VII term that eliminates the need for bidders to add risk premiums if a portion of a FPFR product would extend into an unpriced capacity period.[51]

B. Classification of Non-Residential Default Service Customers

1. Classification of Customers Based on Maximum Registered Peak Load

36. Under DSP VI, default service customers with a demand of 100 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, with demand determination reviewed annually.[52]

37. The Commission's regulations (52 Pa. Code § 54.182) define maximum peak registered load ("MRPL") as the highest level of demand for a particular customer, based on the PJM "Peak Load Contribution Standard," or its equivalent, and as may be further defined by the EDC's tariff in a particular service territory.[53]

38. In DSP VII, FE PA is proposing that non-residential default service customers with a demand of 100 kW or above or an MRPL of 100 kW or above will be served under the HP Rider.[54] Tariff changes as shown on FE PA Exhibit DMY-6 define MRPL as a customer's net demand contribution impact to the Company's default service procurement activity, as determined upon the net power flow from or into the Company's

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[49] RESA St. 1, p. 65; RESA St. 1R, pp. 31-33.

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

[51] *See* FE PA St. 2-R, p. 10; OCA St. 1, pp. 22-23; OCA St. 1SR, pp. 19-20.

[52] FE PA St. 1 (Corrected), p. 16.

[53] *Id.*, p. 17.

[54] *Id.*

distribution system.[55] Default service customers with a demand below 100 kW and MRPL below 100 kW will continue to be served under the PTC Rider.[56]

39. 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.[57]

40. 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.[58] 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.[59] FE PA does not use excess 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").[60]

41. 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-generators that come online before June 1, 2027.[61]

42. The Settling Parties agreed to a modification of FE PA's original MRPL proposal to include capacity and line loss portions of FE PA's 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. This provision is

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[55] *Id.*

[56] FE PA St. 4, p. 3.

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

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

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

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

[61] Joint Petition, ¶¶ 36-38.

supported by Walmart, which is planning to develop solar projects in the Commonwealth of Pennsylvania.[62]

43. 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.[63]

2. Projections of Customer-Generator Growth

44. FE PA witness Young presented a sensitivity analysis of the number of customer-generators 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.[64] 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.[65]

45. 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.[66]

3. Costs and Benefits of Customer-Generators

46. Permitting currently operating customer-generators to remain on the PTC Rider for 25 years (as JSA proposes) would result in an increase in the Penn Power PTC

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62 *See* Joint Petition, Statement E.

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

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

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

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

for the commercial default service customers of an astronomical 23,600%, to $32.62/kilowatt-hour ("kWh") in the 25th year compared to the current $0.1373 kWh.[67]

47. Historical data demonstrated that the HP Rider rate for the industrial class provided additional value over the wholesale LMP throughout FE PA's service territory.[68]

48. Customer-generators also have other options to obtain the compensation for excess generation, including wholesale markets and bilateral power purchase contracts.[69]

49. Supplier risk premiums reflect multiple sources of uncertainty, including load variability, market conditions, and customer behavior, and are incorporated into a single bid price.[70] Inclusion of increasing customer-generators with small commercial customers will lead to higher risk premiums for several reasons, including (i) large customer-generators are sophisticated customers who can and will switch between default service and EGS service;[71] and (ii) fluctuating net-metered customer generation can give rise to uncertain capacity costs to serve default service load.[72]

50. Peak load contributions ("PLCs") and Network Service Peak Load ("NSPLs") used to allocate capacity and transmission costs are accounting constructs.[73]

51. The use of negative PLCs and NSPLs will result in different allocations of costs between FE PA customers (including between FE PA customers in other default service classes).[74]

52. Projected capacity and transmission cost savings proposed by JSA relied upon assumed solar generation by a customer-generator at PJM coincident peaks despite

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

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

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

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

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

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

[73] *See* FE PA St. 6-R, p. 5; JSA St. 1, p. 21.

[74] *See* FE PA St. 6-R, p. 6.

the lack of certainty that a customer-generator would be providing excess generation at future times of peak load within FE PA's service territory.[75]

53. Behind-the-meter generation by customer-generators is not a PJM capacity resource and dispatchable by PJM, and customer-generators do not directly reduce PJM's forward capacity resource requirements.[76]

54. The use of NSPLs to assume transmission savings suffer from the same flaws as the use of PLCs to assume savings in capacity costs.

55. Alleged benefits of customer-generators relating to health benefits, environmental benefits, decarbonized energy, distribution system investments, and state economic benefits were not quantified.[77]

4. Risk Premiums

56. The record shows that continued inclusion of large customer-generators in the commercial PTC default service procurement group would increase volumetric and customer switching risk for suppliers because the amount of load ultimately required to be served would be less predictable.[78]

5. Grandfathering Proposals

57. FE PA proposed a two-year grandfathering for existing online projects as of the beginning of DSP VII.[79]

58. FE PA's proposal would make the MRPL method effective June 1, 2027, for new net metering customer generation coming online after June 1, 2027, and exempting existing net metering generation coming online before June 1, 2027 from the annual reclassification based on MRPL until June 1, 2029.[80]

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[75] *See id.*, pp. 5-6.

[76] *See id.*, p. 7.

[77] *See* FE PA St. 1-R, pp. 20-22.

[78] FE PA St. 1 at 17; OCA St. 1 at 38-40.

[79] OCA St. 1R at 23.

[80] OCA St. 1R at 23-24.

59. Grandfathering proposals of 25 or 15 years, even at 90 percent of commercial PTC, are unreasonably excessive.[81]

60. The 25-year grandfathering period for operating and "transitional" facilities proposed by JSA will result in unreasonable increases in the PTC Rider for all of FE PA's Rate Districts, as shown in the following table[82]:

Table 3				25-yr Increase in PTC Due to True-Up Expenses			
C.	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%

C. Rate Design and Cost Recovery

1. Price to Compare and Hourly Pricing Default Service Rate Riders

61. Under the Settlement, FE PA will continue to recover the cost of default service for the residential and commercial classes through its PTC Rider separately for each Rate District consistent with the PTC Rider approved by the Commission in the DSP VI proceeding.[83]

62. Default service rates established pursuant to the PTC Rider will consist of a single per-kilowatt hour energy charge, which will change semi-annually.[84] These rates will continue to recover: (1) generation costs, certain transmission costs (excluding NMB charges), 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

[81] OCA St. 1R at 22-23.

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

[83] *See* Joint Petition, ¶ 39 & Ex. B; FE PA St. 4, pp. 4-5.

[84] *See* Joint Petition, ¶ 39 & Ex. B; FE PS St. 4, p. 3.

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).[85]

63. FE PA will continue to use the HP Rider approved by the Commission in the DSP VI proceeding to recover the cost of default service for industrial class customers. Default service rates established pursuant to the HP Rider will continue to be based upon 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.[86]

64. RESA witness Lacey contends that FE PA's default service rates improperly exclude overhead and administrative expense and recommends that the PUC re-examine cost allocation between default service and distribution service or direct "unbundling" of default service rates.[87]

65. 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.[88] FE PA's allocation of costs between distribution and default service is consistent with established cost causation principles.[89]

66. 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.[90] The Commission also reviewed the Predecessor Companies'

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85 *See* Joint Petition, ¶ 39 & Ex. B; FE PA St. 4, pp. 4-6.

86 See Joint Petition, ¶ 42; FE PA St. 4, pp. 3-4; FE PA Ex. CDL-2.

87 *See* RESA St. 1, pp. 49-53.

88 FE PA St. 4-R, p. 4.

89 *Id.*, pp. 4-6.

90 *Id.*, pp. 3-4.

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.[91]

67. Under the Settlement, the Joint Petitioners agreed that over/undercollections of default service costs for the residential class will be reconciled every 12 months and default service costs for the commercial class will continue to be reconciled on a semi-annual basis.[92] In addition, FE PA will continue to reconcile default service revenues and costs under the commercial PTC Rider and HP Rider on a semi-annual basis.[93]

68. Billing cycle lag results in a timing difference between revenue and expense that can produce significant fluctuations in the PTC that are not directly related to the underlying cost of default service supply.[94] By using an annual rather than a semi-annual reconciliation schedule, fluctuations in residential default service prices will be smoothed out and result in clearer price signals for both customers and EGSs.[95]

2. Hourly Pricing Default Service Rider

69. 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 will no longer include a $4.00 per mWh adder for winning suppliers.[96]

70. 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

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[91] *Id.*

[92] Joint Petition, ¶ 39 & Ex. B.

[93] *See* Joint Petition, ¶ 42 & Ex. B; FE PA St. 4, pp. 3-4; FE PA Ex. CDL-2.

[94] *See* FE PA St. 4, pp. 3-4.

[95] *See id.*

[96] *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.

expenses and costs to comply with AEPS requirements that are incurred to provide hourly pricing default service.[97]

71. RESA witness Lacey does not oppose the proposal to remove the $4.00 adder, however, he recommends a modification suggesting the adder be replaced with a competitive bid process that includes NITS charges.[98]

72. As explained by Company 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.[99]

73. 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 Finding of Fact No. 19 above.

3. Default Service Support Rider

74. FE PA's tariff will include a DSS Rider that imposes non-bypassable charges to recover the same categories of costs approved by the Commission in the DSP V proceeding, with consolidation of the Consumer Education Charge component of the DSS Rider and elimination of the Midcontinent Independent System Operator and Transmission Expansion Plan cost component, which are both currently set to zero for all Rate Districts.[100]

75. FE PA's DSS Rider will continue to recover four categories of costs: (1) the uncollectible accounts expense incurred through the provision of default service and on behalf of EGSs through the Company's purchase of receivables ("POR") program for residential and commercial customers; (2) retail enhancement costs; (3) customer education costs; and (4) NMB charges.[101]

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97 Joint Petition, ¶¶ 42-43.

98 RESA St. 1, pp. 48-49.

99 FE PA St. 2-R, p. 10.

100 Joint Petition, ¶¶ 44, 46; FE PA St. 4, pp. 8-10; *see also* FE PA Ex. CDL-3.

101 Joint Petition, ¶¶ 45-46.

4. Solar Photovoltaic Requirements Charge Rider

76. The Settlement eliminates the Solar Photovoltaic Requirements Charge Rider "(SPVRC Riders") that applies to all delivery service customers in the Met-Ed, Penelec, and Penn Power Rate Districts in DSP VII because all legacy solar contracts have expired and the rider is no longer active.[102]

5. TOU Default Service Rate Options

77. Based on the statutory requirements set forth in the Proposed Conclusions of Law, *infra*, FE PA currently offers TOU rate options to residential and commercial default service customers through its Commission-approved Time-of-Use Default Service Rider ("TOU Rider").[103]

78. FE PA's existing TOU rates differentiate prices across three periods (peak, off-peak and super off-peak) that remain constant year-round based on price multipliers for each class and Rate District that are updated every two years and are designed to motivate customers to shift usage to lower-cost, off-peak hours.[104] The Company's current TOU rate structure offers a higher rate during weekdays from 2 p.m. to 9 p.m. relative to its non-time varying PTC Rider default service rate and a reduced rate during two off-peak periods.[105] The current TOU rates include a super off-peak pricing period from 11 p.m. to 6 a.m. every day to encourage electric vehicle charging during overnight low-priced hours.[106] The off-peak period consists of all other hours.[107]

79. For DSP VII, FE PA proposed to continue its current TOU rates consistent with Commission guidance on TOU rate design and Act 129 requirements[108] with two

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[102] Joint Petition, ¶ 47; FE PA St. 4, p. 9.

[103] *See* FE PA St. 1 (Corrected), p. 9.

[104] *Id.*, pp. 9-11.

[105] *Id.*

[106] *Id.*

[107] *Id.*

[108] *See Dauphin Cnty. Indus. Dev. Auth. v. Pa. P.U.C.*, 123 A.3d 1124, 1136 (Pa. Commw. Ct. 2015) ("*DCIDA*") (holding that Act 129 does not authorize default service providers

enhancements. First, the Company will shorten the on-peak pricing period from seven hours (2 p.m. to 9 p.m.) to four hours (3 p.m. to 7 p.m.) to create larger price differentials that are more likely to motivate customers to adjust the time of day they use electricity.[109] FE PA also proposed to simplify its TOU rate offerings for DSP VII by using a single weighted-average class multiplier for all Rate Districts.[110]

80. Under the Settlement, the Company agreed to evaluate customer participation and enrollment in its TOU rates and 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.[111]

81. The April 2017 Secretarial Letter (p. 3) provides that EDC TOU rates should be available to all default service customers who are not eligible for "spot only" default service and should incorporate existing consumer protections for Pennsylvania Customer Assistance Program ("CAP" or "PCAP") customers. In accordance with the Commission's guidance, as originally proposed, FE PA's TOU rates under the Settlement will be available to non-PCAP residential and commercial default service customers with smart meters.[112] The Settlement also includes restrictions on re-enrollment if a customer leaves the TOU

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to delegate the obligation to offer TOU rates to customers with smart meters to EGSs); *Petition of PPL Elec. Utils. Corp. for Approval of a New Pilot Time-of-Use Program*, Docket Nos. P-2013-2389572 and M-2016-2578051 (Secretarial Letter issued Apr. 6, 2017) ("April 2017 Secretarial Letter") (proposing a TOU design for PPL in accordance with the *DCIDA* decision and noting that the proposed TOU design "may provide future guidance to all EDCs" for incorporation into their own TOU proposals in their individual default service proceedings).

[109] FE PA St. 1 (Corrected), pp. 11-12; FE PA St. 1-R, pp. 4-5.

[110] FE PA St. 1 (Corrected), pp. 12-14; FE PA St. 1-R, pp. 4-5.

[111] Joint Petition, ¶¶ 50-52.

[112] *Id.*, ¶ 58.

for any reason.[113] This provision is in the public interest because it will reduce "free riders" who enroll in a TOU rate only for times of the year when they do not have to shift usage to save money.[114]

82. The Settlement adopts FE PA's original proposed TOU product structure and rate design.[115]

83. Reducing the peak period duration and applying a single weighted-average customer class TOU multiplier to all Rate Districts, as provided in the Settlement, will produce more significant price variation (on peak rates that are on average 2.5 times higher than off-peak rates) and increase the financial incentive for customers to enroll in TOU rates.[116] Shortening the on-peak period from seven hours (2 p.m. to 9 p.m.) to four hours (3 p.m. to 7 p.m.) reasonably encompasses expected system peak usage times and encourages higher adoption of energy-shifting behaviors like delaying running appliances or charging electric vehicles.[117]

84. Under the Settlement, FE PA will continue updating the TOU pricing multipliers on a bi-annual basis in the same manner as DSP VI.[118]

85. Under the Settlement, FE PA will source both the standard and TOU default service for residential and commercial customers from the same supply portfolio for each procurement class.[119]

86. TOU customer kWh sales and costs will be included in the reconciliation of the over/undercollection component of the PTC Rider for the entire procurement class (i.e., residential or commercial).[120] This reconciliation process, using a single E-Factor for each

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[113] *Id.*, ¶¶ 59-60.

[114] *See* FE PA St. 1 (Corrected), pp. 9-10.

[115] Joint Petition, ¶¶ 49, 53-57.

[116] FE PA St. 1 (Corrected), pp. 11-12; FE PA St. 1-R, pp. 4-5.

[117] FE PA St. 1 (Corrected), pp. 12-14; FE PA St. 1-R, pp. 4-5.

[118] Joint Petition, ¶ 55.

[119] *Id.*, ¶ 56.

[120] *Id.*, ¶ 57.

procurement class, will help mitigate potential large swings in PTC Rider over/undercollections that could arise if customers switch between FE PA's standard default service rate and TOU default service rate.[121]

D. Customer Referral Program ("CRP")

87. 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.[122] 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 12-month contract.[123]

88. 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.[124] 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.[125] 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.[126]

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[121] FE PA St. 1 (Corrected), pp. 14-15.

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

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

[124] *Id.*, pp. 10-11.

[125] *Id.*

[126] *Id.*

89. The Settlement adopts FE PA's original proposal to not implement a successor CRP for DSP VII.[127]

90. 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.[128] RESA admits that the data FE PA provided in testimony[129] shows supplier participation in the CRP has been significantly declining and interest in the program from eligible customers is very low,[130] but continues to argue that even if participation is low, no customer harm caused by the program has been identified.[131]

91. 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.[132]

E. Electric Generation Supplier Coordination Tariff Changes and Retail Shopping Issues

92. 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.[133] In 2025, more than 80% of the EGSs serving FE PA's

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[127] Joint Petition, ¶ 52.

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

[129] *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.

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

[131] *Id.*

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

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

residential customers charged a rate above the Company's applicable PTC.[134] In addition, the termination rates for FE PA residential shopping customers are much higher than all residential customers and residential default service customers.[135] FE PA customer complaints related to competition issues, including slamming and high EGS prices, have also been increasing in recent years.[136]

93. The Settlement adopts FE PA's original proposed modifications to its supplier coordination tariff in two areas: (1) protocols for EGS arrangements with customers and (2) purchase of EGS receivables 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.[137]

94. 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.[138] 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.[139] 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).[140] 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 PTC at the time of

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

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

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

[137] Joint Petition, ¶¶ 65, 68; FE PA Ex. CDL-4; FE PA St. 1 (Corrected), pp. 20-23.

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

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

[140] Joint Petition, ¶ 73.

the customer's enrollment transaction or rate change transaction to be eligible for POR for that customer account.[141]

95. 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.[142] 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.[143] 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.[144] Similarly, CAUSE-PA witness Cicero presented data showing that residential shopping customers have been charged more than $888 million in aggregate net costs above the PTC since August 2017.[145] Low income shopping customers are charged even higher rates than residential shopping customers as a whole. From 2022 through 2025, residential shopping customers were charged rates between 31-42% higher than the default service price, and low income shopping customers were charged rates between 37-56% higher than the default service price.[146]

96. RESA and Town Square both oppose the Company's supplier coordination tariff changes and contend that affordability concerns raised by FE PA, CAUSE-PA and OCA witnesses are based on an inappropriate comparison to the PTC.[147]

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

[142] See CAUSE-PA St. 1, pp. 15-25, 29-34; OCA St. 2, pp. 8-13.

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

[144] *Id.*

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

[146] CAUSE-PA St. 1 at 21, T.4; CAUSE-PA Exhibit 3.

[147] *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.

97. While RESA and Town Square dismiss the relevance of historical EGS pricing data presented in this case, they do not dispute that FE PA residential shopping customers paid more to EGSs than they would have for default service and ignore the adverse impacts of above PTC pricing.[148]

98. Residential shopping customers are up to 10 times more likely to have their service terminated than residential default service customers.[149] Termination rates in 2025 ranged between 14-22% for residential shopping customers, compared to just 1-3% for residential default service customers.[150] EGS pricing in excess of the PTC also imposes higher uncollectible expense on the Company, which is then recovered from customers.[151] 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).[152] 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.[153] Complaints involving EGSs in 2025 were 50% higher than 2024.[154]

99. The DCA clearing price is not simply a function of the level of default service load, and DCA clearing prices would not have been higher, as RESA witness Lacey assumes, had the Company's affirmative consent requirements and POR changes been in effect in the past.[155]

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[148] *See* FE PA St. 1-R, pp. 9-10.

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

[150] CAUSE-PA St. 1 at 24-25.

[151] FE PA St. 1, pp. 24-27; FE PA St. 1-R; pp. 9-10.

[152] FE PA St. 1-R, pp. 9-10; FE PA Ex. DMY-12; *see also* CAUSE-PA St. 1-R at 17-18.

[153] FE PA St. 1-R, pp. 9-10; FE PA Ex. DMY-12.

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

[155] *See* FE PA St. 5-SR, pp. 2-3; OCA St 1-SR, pp. 40-42.

100. 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).[156] 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.[157]

101. Requiring affirmative action by residential customers to remain with an EGS after the end of a fixed duration contract and customer consent on a quarterly basis for month-to-month variable rate products addresses harm arising from residential customers unknowingly paying prices in excess of the PTC.[158] This change also enhances customer choice by allowing customers to assess new contract terms and prices and make an informed decision before reenrolling.[159]

102. Each of the Predecessor Companies agreed to provide, and the Commission 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.[160]

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

157 *Id.*

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

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

160 *See Joint Petition of Metro. Edison Co. and Pa. Elec. Co. for Approval of Their Default Serv. Programs*, 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. Programs,* Docket Nos. P-2013-2391368 et al. (Opinion and Order approving settlement entered July 24, 2014) (revising West Penn).

103. Under the Company's POR program, participating EGSs are paid upfront with no discount and have little incentive to moderate prices.[161]

104. 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.[162] POR-related uncollectible expense disproportionately contributes to the Company's overall generation-related uncollectible expense relative to the share of shopping customers.[163]

105. The Company's current supplier coordination 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.[164] The clawback charge is assessed to EGSs whose write-offs as a percentage of revenues are 200% higher than their peers and whose average price per kWh is greater than 150% of the average PTC of the Company.[165]

106. 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.[166] 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.[167]

107. Restricting POR for EGS accounts where EGSs have charged prices higher than the PTC will substantially reduce FE PA customers' exposure to unreasonable and

[161] FE PA St. 1 (Corrected), pp. 23-24.

[162] *Id.*, pp. 24-25.

[163] *See* FE PA St. 1-R, pp. 9-10; FE PA Ex. DMY-12.

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

[165] *Id.*

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

[167] *Id.*

excessive EGS-driven uncollectible expenses and will incentivize EGSs to consider the impact of their pricing on a customer's ability to pay and affordability.[168]

108. RESA and Town Square 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, invalidates customer choice and could increase overall costs for customers.[169]

109. 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 as they do today.[170]

110. RESA's proposals that the PUC reconsider alternative default service providers and supplier consolidated billing ("SCB")[171] are not reasonable alternatives to the supplier coordination tariff changes adopted in the Settlement to mitigate customer costs and affordability impacts of persistently higher prices in the competitive market.[172]

111. [**BEGIN HIGHLY CONFIDENTIAL**] [redacted] [**END HIGHLY CONFIDENTIAL**]

112. No system changes are necessary for the supplier coordination tariff changes reflected in the Settlement and FE PA will not incur material implementation costs since

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168 FE PA St. 1 (Corrected), p. 28; FE PA St. 1-R, p. 13.

169 *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, 17-19.

170 *See* FE PA St. 1-R, p. 13.

171 *See* RESA St. 1, pp. 5-6, 37.

172 *See* FE PA St. 1-R, p. 14.

173 FE PA St. 1-R, pp. 11-12; Highly Confidential FE PA Exs. DMY-14 and DMY-16.

the attestation of affirmative customer consent and EGS pricing for POR eligibility will be processed through electronic data interchange transactions.[174]

F. Maximum PCAP Credits

113. CAUSE-PA witness Cicero recommended that FE PA increase maximum annual CAP 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.[175]

114. 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.[176] At its quarterly universal service advisory committee meetings, FE PA will report on the number of customers exceeding their maximum PCAP credit limit.[177]

G. Additional Settlement Terms

115. FE PA will include on its website a reference and link to the OSBA's website as a resource for customers.[178]

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[174] FE PA St. 1-R, p. 13.

[175] *See* CAUSE-PA St. 1, pp. 38-40.

[176] Joint Petition, ¶ 69.

[177] *Id.*, ¶ 70.

[178] *Id.*, ¶ 71.

PROPOSED CONCLUSIONS OF LAW

I. BURDEN OF PROOF

1. The party seeking a rule or order from the Commission has the burden of proof in that proceeding.[179]

2. A party's burden of proof is met by establishing a preponderance of the evidence, which requires proof by a greater weight of the evidence.[180]

3. When a utility has made a proposal and presented evidence sufficient to establish a prima facie case, the burden shifts to an opposing party to present "some evidence" to support an alternative approach.[181]

II. STANDARDS APPLICABLE TO DEFAULT SERVICE

A. Default Service Supply Procurement and Implementation Plan

4. As a Pennsylvania EDC, FE PA serves as default service provider to retail electric customers within its service territory in accordance with its obligations under Section 2807(e) of the Code (66 Pa.C.S. § 2807(e)).

5. Default service is the basic service that Pennsylvania's electric customers are entitled by law to receive if they do not switch to an alternative retail electric generation supplier (EGS), or if their alternative EGS fails to provide them with service.[182]

6. FE PA as the Default Service Provider (DSP) is required to provide electric generation supply service to all of its default service customers through a Commission-approved competitive procurement plan.[183]

7. By statute, the DSP must offer default supply service "pursuant to a commission-approved competitive procurement plan" through a "prudent mix of contracts" that is designed to ensure the "least cost to customers over time."[184]

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[179] 66 Pa.C.S. § 332(a).

[180] *See Samuel J. Lansberry, Inc. v. Pa. P.U.C.*, 578 A.2d 600, 602 (Pa. Commw. Ct. 1990).

[181] *NRG Energy, Inc. v. Pa. P.U.C.*, 233 A.3d 936, 950 (Pa. Commw. Ct. 2020).

[182] 66 Pa. C.S. § 2807.

[183] *See* 66 Pa. C.S. § 2807(e).

[184] 66 Pa. C.S. § 2807(e)(3.1, 3.4).

8. A determination of what constitutes "prudent mix" is subject to the Commission's discretion based on the substantive evidence in the record.[185]

9. Under Sections 2807(e) (3.1)-(3.2) and (3.4) of the Competition Act, FE PA is required 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."[186]

10. FE PA's DSP VII, as modified by the Settlement, contains all of the elements required by the Commission's default service regulations (52 Pa. Code §§ 54.181-54.190) and its Policy Statement on Default Service (52 Pa. Code §§ 69.1801-69.1817), including a procurement plan, an implementation plan, contingency plans, a default service rate design plan, and associated tariff pages.

11. FE PA's DSP VII, as modified by the Settlement and approved herein, complies with 66. Pa.C.S. § 2807(e)(3.7) in that: (1) it includes prudent steps necessary to negotiate favorable generation supply contracts; (2) it includes prudent steps necessary to obtain least cost generation supply contracts on a long-term, short-term and spot market basis; and (3) neither FE PA nor its affiliated interests have withheld from the market any generation supply in a manner that violates Federal law.

12. FE PA's DSP VII, as modified by the Settlement, complies with 66 Pa.C.S. § 2807(e) (3.7) in that it includes a prudent mix of default service supply contracts designed to ensure adequate and reliable service at the least cost to customers over time.

13. The record evidence does not support a finding that RESA has established that removal of NITS costs from default service supplier pricing under the SMA or the continued use of a CPP in FE PA's default service auctions is unreasonable or would transfer risk to customers.

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[185] *Popowsky v. Pa. PUC*, 71 A.3d 1112, 1117-1118 (Pa. Cmwlth. 2013) (*Popowsky*).

[186] 66 Pa.C.S. § 2807(e)(3.7).

14. The Commission has previously approved the use of a CPP in default service procurements for FE PA[187] and DLC, finding that such an approach would maintain diversity of supply products while also mitigating risk premiums.[188]

B. <u>AEPS Compliance</u>

15. The AEPS Act requires default service providers like FE PA to obtain specified percentages of electricity sold to retail customers from alternative energy sources as measured by AECs and defined by the AEPS Act. The AEPS Act also includes a "set-aside" that requires some of those AECs to be derived from solar photovoltaic facilities.[189]

16. The Company's DSP VII set forth in the Settlement utilizes a competitive process to procure the AECs necessary to satisfy Section 3 AEPS obligations associated with default service load consistent with the Public Utility Code (66 Pa.C.S. § 2807(e)(3.5)) and the Commission's regulations at 52 Pa. Code § 75.67(b).

C. <u>Classification of Non-Residential Default Service Customers</u>

17. Section 5 of the AEPS Act, 73 P.S. § 1648.5, establishes separate requirements related to net-metered customer-generators. In addition to requiring the Commission to develop technical and net-metering interconnection rules, Section 5 mandates that excess energy from net-metered customer-generators "receive full retail value for all energy produced on an annual basis."[190]

18. The Commission's regulations at 52 Pa. Code § 75.13(c)-(f) further detail how net metered customer-generators should be credited for excess kWh.

19. The record evidence supports a finding that customer-generators with an MRPL of 100 kW or greater will receive full retail value for all excess energy under the Company's HP Rider.

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[187] *See* DSP VI RD, pp. 59-60.

[188] *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.

[189] 73 P.S. § 1648.3(b)(2).

[190] 73 P.S. § 1648.5.

20. 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.[191]

21. A customer-generator has no entitlement to the PTC Rider. *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.*, 281 A.2d. 179, 186 (Pa. Commw. 1971)).

D. <u>Rate Design and Cost Recovery</u>

22. FE PA's rate design for DSP VII, including the PTC Riders, HP Riders, DSS Riders, SPVRC Riders and TOU Riders, are consistent with the applicable provisions of the Public Utility Code (66 Pa.C.S. §§ 2804(3) and 2807(e)(7)), the Commission's default service regulations (52 Pa. Code §§ 54.185(e)(3) and 54.187) and Policy Statement on Default Service (52 Pa. Code §§ 69.1808-69.1810).

23. 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

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[191] *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*"); *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; *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 January 15, 2026) (approving determination of billing demand to include both consumption and production of energy). 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.

fluid nature of shopping and non-shopping customers."[192] All distribution customers benefit from this "reliable safety net" that an EDC provides as the default service provider.[193]

24. 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.[194]

25. The record evidence does not support a finding that the Commission should re-examine cost allocation between default service and distribution service or direct "unbundling" of default service rates as requested by RESA.

26. The record evidence does not support RESA's recommendation that FE PA replace the fixed adder under the HP Rider with a competitive bid process that includes NITS charges.

27. In addition to procurement of a "prudent mix" of default service supply contracts at the "least cost to customers over time,"[195] Act 129 provides that EDCs "shall offer" a TOU rate option to all default service customers with a smart meter.[196]

28. As the Commission has recognized, Act 129 makes clear that an EDC's TOU program should be optional for default service customers.[197]

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

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

[194] *Id.*, pp. 955-56.

[195] 66 Pa.C.S. §§ 2807(e)(3.1)-(3.2), (3.4) and (3.7).

[196] 66 Pa.C.S. § 2807(f)(5).

[197] *See* January 2020 Secretarial Letter, p. 6; 66 Pa.C.S. § 2807(f)(5) ("[r]esidential or commercial customers *may* elect to participate in time-of-use rates or real-time pricing" (emphasis added)).

29. The Commission has previously authorized other EDCs to recover TOU over/undercollection amounts from all default service customers based on its finding that the TOU rates mandated by Act 129 are a "form of default service".[198]

30. The record evidence in this case supports a finding that the Company's current and proposed TOU rates satisfy Act 129 requirements, incorporate the PUC's guidelines on TOU rate design, and balance a variety of important objectives.

E. <u>Customer Referral Program</u>

31. The record evidence does not support a finding that RESA has established a basis for FE PA to implement a successor CRP during DSP VII or hold additional collaboratives regarding program improvements.

F. <u>Electric Generation Supplier Coordination Tariff Changes and Retail Shopping Issues</u>

32. The Commission does not have authority to mandate POR programs for EDCs.[199]

33. The Commission has expressly stated that, "in the electric industry . . . PORs are usually the subject of default service plan filings"[200] and has employed default service

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[198] *See Pa. P.U.C. v. PPL Elec. Utils. Corp.*, Docket No. R-2011-2264771 (Opinion and Order entered Aug. 30, 2012), pp. 22-23.

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

[200] *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).

cases to address and decide many issues related to retail market enhancement issues.[201] The Predecessor Companies' POR programs were also adopted or revised in the context of default service proceedings.[202]

34. EGSs themselves have introduced non-procurement issues, such as shopping by customers enrolled in customer assistance programs and recovery of certain PJM charges in default service proceedings.[203]

35. 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 on the "end state" of default service, the Commission determined that it would be prudent to retain EDCs in this role.[204]

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[201] *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.

[202] *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 Jul. 24, 2014) (revising West Penn).

[203] *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.

[204] *See Investigation of Pennsylvania's Retail Elec. Mkt.: End State of Default Serv.*, Docket No. I-2011-2237952) (Final Order entered Feb. 15, 2013), p. 20.

36. EGSs 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.[205]

37. 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.[206]

38. Returning FE PA residential shopping customers that take no action at the end of the contract term to default service is not "slamming."[207]

39. The record evidence supports a finding that the affirmative consent requirements and POR program changes set forth in the Settlement are necessary to address the harms associated with above-PTC supplier pricing, including higher termination rates and uncollectible expense.

40. The Choice Act authorizes the Commission to impose rules and regulations on both EDCs and suppliers as necessary to ensure service quality (inclusive of billing, collections, and termination standards) is "maintained at the same level of quality under retail competition" that "does not deteriorate" over time.[208] The Act further provides: "The Commonwealth must, at a minimum, continue the protections, policies and services that now assist customers who are low-income to afford electric service" in the competitive environment.[209]

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[205] *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).

[206] *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.

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

[208] 66 Pa. C.S. §§ 2807(d), 2809(e).

[209] 66 Pa. C.S. § 2802(10).

41. The Choice Act "does not demand absolute and unbridled competition."[210] To the contrary, it is well settled that competition must bend to address "other important concerns" – including the panoply of policy priorities, consumer protections, and obligations enshrined in the Choice Act and the Public Utility Code.[211]

42. The record evidence supports a finding that no reasonable alternative exists to the supplier coordination tariff changes outlined in the Settlement to mitigate harm arising from above-PTC supplier pricing.

G. Legal Standards Regarding Settlements

43. A settlement, by definition, reflects a compromise of the parties' positions. 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.[212]

44. 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.

45. In its Policy Statement on Settlements, 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).

46. *Pa. P.U.C. v. PECO Energy Co.*, Docket No. R-2010-2161575 (Recommended Decision issued November 2, 2010), p. 12, which was approved and adopted by the Commission in its Final Order entered December 21, 2010, summarized the benefits of resolving contested cases by settlement:

> Settlements lessen the time and expense the parties must expend litigating a case and at the same time conserve administrative

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[210] CAUSE-PA v. Pa. PUC, 120 A.3d 1087, 1101 (Pa. Commw. Ct. 2015).

[211] Id. at 1103; 66 Pa. C.S. §§ 2802, 2804, 2807, 2809.

[212] *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).

> hearing resources. The Commission has indicated that settlement results are often preferable to those achieved at the conclusion of a fully litigated proceeding. 52 Pa. Code § 69.401. Rate cases are expensive to litigate and the cost of such litigation at a reasonable level is an operating expense recovered in the rates approved by the Commission. This means that a settlement, which allows the parties to avoid the substantial costs of preparing and serving testimony and the cross-examination of witnesses in lengthy hearings, the preparation and service of briefs, reply briefs, exceptions and reply exceptions, together with the briefs and reply briefs necessitated by any appeal of the Commission's decision, yields significant expense savings for the company's customers. That is one reason why settlements are encouraged by long-standing Commission policy.

47. The terms and conditions of the Joint Petition satisfy all of the Commission's criteria for approval of a settlement.

PROPOSED ORDERING PARAGRAPHS

1. The Joint Petition is granted and the Settlement is approved, without modification.

2. The Non-settling parties' claims and recommendations regarding FE PA's procurement and implementation plan, classification of non-residential default service customers, rate design and cost recovery, CRP, and supplier tariff changes related to EGS arrangements with residential customers and the Company's POR program are dismissed.

3. RESA's request that the Commission re-examine costs included in FE PA's default service rates is denied.

4. CRA is approved as the independent third-party evaluator for FE PA's default service procurements.

5. FE PA's request for a waiver of the Commission's regulations at 52 Pa. Code §§ 54.182 and 54.187 is granted to the extent that is necessary to permit the Company to: (1) continue procure generation for three procurement classes and implement the MRPL provisions of the Settlement; (2) continue semi-annual rate adjustments and reconciliation for the commercial class under the PTC Rider and semi-annual reconciliation of HP Rider over/under collections for the industrial class; and (3) continue to recover the NMB charges through the non-bypassable DSS Rider rather than the PTC Rider.

6. FE PA's request for a waiver of the Commission's regulations at 52 Pa. Code §§ 54.10(3) is granted to the extent necessary to permit the Company to implement its changes to residential customer arrangements with EGSs set forth in the Company's DSP VII as modified by the Settlement.

7. The proposed default service program for the period June 1, 2027 through May 31, 2031 is approved, as modified by the Settlement, except as set forth in the ordering paragraphs above.

8. FE PA shall file tariff supplements as set forth in the Joint Petition.

9. This proceeding shall be marked closed.

Respectfully submitted,

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