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August 31, 2026

Via Electronic Filing

Matthew Homsher, Secretary
Pennsylvania Public Utility Commission
400 North Street
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 electronic filing please find Spark Energy, LLC's ("Spark Energy") Petition to Intervene or, In the Alternative Motion for Leave to Accept Exceptions with regard to the above-referenced matter. Copies to be served in accordance with the attached Certificate of Service.

Sincerely,

Deanne M. O'Dell

Deanne M. O'Dell

DMO/dmc

Enclosure

cc: Honorable Mark A. Hoyer (*via email*)
Honorable Erin L. Gannon (*via email*)
Office of Special Assistants (*via email*)
Cert. of Service w/enc.

CERTIFICATE OF SERVICE

I hereby certify that this day I served a copy of Spark Energy's Petition to Intervene, upon the persons listed below in the manner indicated in accordance with the requirements of 52 Pa. Code Section 1.54.

Via Email Only

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Date: August 31, 2026

Deanne A. O'Dell

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

NOTICE TO PLEAD

TO: All Parties of Record

You are hereby notified that a reply to the enclosed Petition of Spark Energy, LLC to Intervene or, in the Alternative, Motion for Leave to Accept Exceptions must be filed within 20 days of the date of service.

All pleadings, such as a reply to the enclosed filing, must be filed with the Secretary of the Pennsylvania Public Utility Commission with a copy served to counsel for Spark Energy, LLC and the Administrative Law Judge presiding over the proceeding.

File with:

Matthew L. Homsher, Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

With a copy to:

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Deanne M. O'Dell, Esquire

Counsel for Spark Energy, LLC

Date: August 31, 2026

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

SPARK ENERGY, LLC's PETITION TO INTERVENE
OR, IN THE ALTERNATIVE,
MOTION FOR LEAVE TO ACCEPT EXCEPTIONS

TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

Pursuant to 52 Pa. Code §§ 5.72–5.75, Spark Energy, LLC ("Spark") respectfully petitions to intervene in the above-captioned proceeding for the limited purpose of filing the Exceptions of Spark Energy, LLC to the Recommended Decision of Deputy Chief Administrative Law Judge Mark A. Hoyer and Administrative Law Judge Erin L. Gannon, issued August 21, 2026 (the "Recommended Decision" or "RD"), which Spark files contemporaneously herewith. In the alternative, if intervention is not granted, Spark respectfully moves for leave to have its Exceptions accepted and considered by the Commission. In support, Spark states as follows:

I. INTRODUCTION

1. Spark is a licensed electric generation supplier ("EGS") in the Commonwealth of Pennsylvania (PA PUC License No. A-2009-2145787, Utility Code 110171). Spark serves residential and small commercial customers in each of the rate districts of FirstEnergy Pennsylvania Electric Company ("FirstEnergy" or the "Company") and participates in the Company's purchase of receivables ("POR") program.

2. The Recommended Decision recommends that the Commission adopt, "without modification," a non-unanimous settlement (the "Settlement") of FirstEnergy's seventh default

service program ("DSP VII") and dismiss the non-settling parties' claims. RD at 248–49, Ordering ¶¶ 1, 4. Among other things, the Settlement's Supplier Coordination Tariff provisions would: (i) require every residential contract Spark enters into in FirstEnergy's territory after June 1, 2027 to terminate into default service at the expiration of its fixed term absent an affirmative customer election (RD at 32, FOF 92); (ii) require Spark to obtain and attest to affirmative customer consent every ninety days for every residential customer served on a variable-priced month-to-month product (RD at 52–53, Settlement ¶ 66); and (iii) condition Spark's continued participation in the Company's POR program on Spark charging a rate at or below the price to compare ("PTC") at the time of each enrollment or rate change transaction and on Spark's use of rate-ready billing (RD at 53, Settlement ¶ 67).

3. The Supplier Coordination Tariff provisions the Recommended Decision would approve operate directly on electric generation suppliers, including Spark, rather than on FirstEnergy as default-service provider. Spark will be bound by those tariff terms — in the contracts it writes, the manner in which it renews customers, and its access to the billing and collections infrastructure without which, as the Recommended Decision itself finds, no supplier serves residential customers in this territory (RD at 228) — for the four-year DSP VII term.

4. Spark seeks intervention for a limited purpose only: to place before the Commission Exceptions directed to discrete questions of law presented by the Recommended Decision. Spark takes the existing record as it stands. Its Exceptions require no reopening of the record, no additional discovery or hearings, and no alteration of the schedule established in this proceeding, and they are filed within the exception period established by the Secretarial Letter accompanying the Recommended Decision.

II. BACKGROUND

5. FirstEnergy filed its Petition for approval of DSP VII on February 3, 2026, for the period June 1, 2027 through May 31, 2031. RD at 1. On July 2, 2026, six parties filed a Joint Petition for Non-Unanimous Settlement. RD at 248, Ordering ¶ 1. Nine parties objected to the Settlement in whole or in part. RD at 38.

6. The Recommended Decision was issued on August 21, 2026. It recommends that the Settlement be approved and adopted "without modification," that FirstEnergy be granted a waiver of 52 Pa. Code § 54.10(3), and that the non-settling parties' claims be dismissed. RD at 248–49, Ordering ¶¶ 1, 4, 8. The Secretarial Letter dated August 21, 2026 shortens the default exception period in 52 Pa. Code § 5.533(a) and provides that signed Exceptions must be filed with the Secretary and served on each party of record within ten (10) days of the date of the letter, that a courtesy copy must be emailed to the Office of Special Assistants at ra-OSA@pa.gov, and that replies are due within seven (7) days of the date Exceptions are due. The Commission must enter a final order on or before its October 22, 2026 Public Meeting. RD at 1.

7. Spark's Exceptions, filed contemporaneously herewith, present questions of law arising on the face of the Recommended Decision, the Settlement, and the existing record. Those questions include whether the mandatory return of shopping customers to default service is consistent with 66 Pa. C.S. § 2807(d)(1) and the Commission's unwaived customer-switching regulations at 52 Pa. Code §§ 57.171–57.180; whether a statewide regulation may be reversed by adjudicative waiver at the request of an entity it does not govern; whether access to a tariffed utility service may be conditioned on the price a competing supplier charges consistent with 66 Pa. C.S. § 1502 and the Commission's jurisdiction; and whether the Recommended Decision allocated the

burden of proof consistent with 66 Pa. C.S. § 332(a). Spark develops those questions in the Exceptions and does not repeat that argument here.

III. LEGAL STANDARDS

8. The Commission's regulations at 52 Pa. Code § 5.72 provide that a person may be eligible to intervene where the person has an interest of such nature that intervention is necessary or appropriate to the administration of the statute under which the proceeding is brought, including where the person's rights or interests may be directly affected by the proceeding and may not be adequately represented by existing parties, and where participation is in the public interest. The form and content of a petition to intervene are governed by 52 Pa. Code § 5.73. Timing is governed by 52 Pa. Code § 5.74. Under § 5.74(c), intervention will not be permitted once an evidentiary hearing has concluded absent extraordinary circumstances. The determination whether to permit intervention rests in the sound discretion of the Commission. *See Commonwealth of Pennsylvania, et al. v. Blue Pilot Energy, LLC*, Docket No. C-2014-2427655 (Opinion and Order entered June 14, 2018) ("*Blue Pilot*") (and authorities cited therein).

9. The Commission has recognized administrative precedent for permitting late intervention where the circumstances warrant. *Corinna Lynn Scheffer v. Columbia Gas of Pa.*, Docket No. C-2010-2153353 (Opinion and Order entered November 1, 2011); *see Blue Pilot*, supra. Spark addresses the extraordinary-circumstances standard of § 5.74(c) in Section IV.C below and does not contend that ordinary good cause, standing alone, suffices after a hearing has closed.

IV. SPARK SATISFIES THE STANDARDS FOR INTERVENTION

A. Spark's Rights Will Be Directly Affected and Bound by the Order Entered in This Proceeding.

10. Spark's interest in this proceeding is neither general nor precedential. The Supplier Coordination Tariff provisions the Recommended Decision approves will operate directly upon Spark as a regulated participant in FirstEnergy's territory: they will govern the termination of Spark's residential contracts, impose recurring re-solicitation and attestation obligations on Spark's variable-rate book, and condition Spark's access to the Company's tariffed POR service on the relationship between Spark's prices and the PTC. RD at 32, FOF 92; RD at 52–53, Settlement ¶¶ 66–67. The final order in this proceeding will bind Spark for the four-year DSP VII term in the conduct of its business.

11. This interest is different in kind from the interest the Commission found insufficient in *Blue Pilot*. There, the Commission denied a trade association's post-decision petition to intervene where the petitioner's asserted interest rested on the precedential effect a decision about one supplier's past conduct might have on other suppliers, and where the respondent supplier remained a party litigating the very issue the association sought to address. Spark does not invoke the precedential force of a decision about someone else's conduct. The order entered in this proceeding will itself regulate Spark: the tariff provisions it approves apply by their terms to every EGS serving residential customers in FirstEnergy's territory, including Spark, from the first day of the DSP VII term.

B. <u>No Existing Party Adequately Represents Spark's Interests.</u>

12. In *Blue Pilot*, intervention was denied because the interests of the electric generation supplier community were found to be adequately represented by an existing party litigating the same issue. No comparable representation exists here. The Retail Energy Supply Association ("RESA"), the principal supplier association participating in this proceeding, states expressly in its filings that its positions represent those of the association as an organization and

"may not represent the views of any particular member of the Association." An association speaking for a broad and divided membership cannot, by that disclaimer, assert the particular interests of a supplier whose residential book, renewal practices, and POR participation in this territory are directly at stake, and it cannot advance claims — such as unreasonable discrimination against a similarly situated supplier under 66 Pa. C.S. § 1502 — that belong to an individual market participant.

13. Nor does any other objecting party stand in Spark's position. The objecting suppliers and supplier groups litigated the issues from their own commercial postures, and none purports to represent Spark. The Exceptions Spark tenders are confined to arguments that no other party has presented in the form Spark presents them, and where Spark relies on a record developed by another objecting party, its Exceptions say so expressly and add only legal argument.

C. <u>Extraordinary Circumstances and Good Cause Support Acceptance of the Petition at This Stage.</u>

14. Spark does not seek to relitigate the evidentiary record. Spark acknowledges that the intervention period fixed in this proceeding has closed, that the evidentiary hearing concluded on June 15, 2026, and that § 5.74(c) therefore requires a showing of extraordinary circumstances. During the litigation phase, nine objecting parties contested the provisions now at issue. RD at 38. Spark did not intervene at that time. That was a judgment. Spark does not offer it as a complete excuse, and it does not ask the Commission to treat ordinary litigation strategy as extraordinary.

15. What has changed is the posture of the proceeding. The Recommended Decision recommends adoption of the non-unanimous Settlement "without modification" and dismissal of the non-settling parties' claims in a single ordering paragraph. RD 248–49, Ordering ¶¶ 1, 4. The tariff terms recommended for approval will bind Spark's Pennsylvania operations for four years. Spark's request is limited to placing legal objections to those terms before the Commission on the

existing record, within the exception period, without reopening anything that has already been tried. Spark submits that a supplier that will be directly regulated by the order, that takes the record as it stands, and that seeks only to be heard on exceptions presents the kind of limited, non-disruptive participation § 5.74(c) contemplates. These circumstances arose upon issuance of the Recommended Decision and within the exception window set by the August 21, 2026 Secretarial Letter.

D. Intervention Will Not Delay the Proceeding or Prejudice Any Party.

16. Spark's participation is limited to the filing of Exceptions within the period established by the August 21, 2026 Secretarial Letter, on the schedule applicable to every party. Spark takes the record as developed. It seeks no discovery, no hearing, no reopening of the record, and no extension of any deadline. Its Exceptions comply with the 40-page limit of 52 Pa. Code § 5.533. The Joint Petitioners and all other parties retain a full opportunity to respond in replies to exceptions under 52 Pa. Code § 5.535. The Commission's ability to enter a final order on or before the October 22, 2026 public meeting (RD at 1) is unaffected.

17. Participation by a supplier that will be bound by the provisions at issue is also in the public interest. The Recommended Decision approves tariff terms that will govern residential competitive contracts written in FirstEnergy's service territory for four years. Hearing from a supplier that will operate under those terms assists the Commission's review; it does not enlarge the case.

V. IN THE ALTERNATIVE, THE COMMISSION SHOULD ACCEPT AND CONSIDER SPARK'S EXCEPTIONS

18. If the Commission declines to grant intervention, Spark respectfully requests, in the alternative, that the Commission exercise its discretion to accept and consider Spark's Exceptions. In *Blue Pilot*, although intervention was denied, the Commission proceeded to consider and resolve

on the merits the substantive question the petitioner sought to raise. The questions Spark presents are questions of law arising on the face of the Recommended Decision and the existing record. Their consideration burdens no party, requires no new evidence, and assists the Commission in the discharge of its review function. Spark asks, at minimum, that the Exceptions be accepted for that limited purpose.

VI. CONCLUSION

WHEREFORE, Spark Energy, LLC respectfully requests that the Commission grant this Petition, permit Spark to intervene in the above-captioned proceeding for the limited purpose of filing the Exceptions submitted contemporaneously herewith, and accept and consider those Exceptions; or, in the alternative, that the Commission grant Spark leave to have its Exceptions accepted and considered; and that the Commission grant such other relief as it deems appropriate.

Respectfully submitted,

Deanne M. O'Dell

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Counsel for Spark Energy, LLC

Dated: August 31, 2026

VERIFICATION

I, Deanne M. O'Dell, hereby state that the facts set forth in the foregoing Petition of Spark Energy, LLC to Intervene or, in the Alternative, Motion for Leave to Accept Exceptions are true and correct to the best of my knowledge, information, and belief, and that I expect Spark Energy, LLC to be able to prove the same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.

Deanne M. O'Dell

Deanne M. O'Dell, Esquire
Counsel for Spark Energy, LLC

Dated: August 31, 2026