



September 1, 2026

Via E-File

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

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

Secretary Homsher:

Attached, please find the **Preliminary Objections and Request for Expedited Relief of the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA)** in the above noted proceeding.

As indicated on the attached Certificate of Service, service on the parties was accomplished by email only.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Elizabeth R. Marx".

Elizabeth R. Marx, Esq.
Counsel for CAUSE-PA

CC: Office of Special Assistants (OSA) (via email ra-OSA@pa.gov)
Certificate of Service

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

Certificate of Service

I hereby certify that I have this day served copies of the **Preliminary Objections and Request for Expedited Relief of the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA)** upon the parties of record in the above captioned proceeding in accordance with the requirements of 52 Pa. Code § 1.54.

VIA EMAIL ONLY

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Date: September 1, 2026

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

NOTICE TO PLEAD

TO: All Parties of Record

You are hereby notified that a reply to the enclosed Preliminary Objections of CAUSE-PA must be filed within 10 days of the date of service, pursuant to section 5.101(b).

Be advised that CAUSE-PA has also requested expedited relief which may, if granted, impact the time for responsive pleadings.

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 CAUSE-PA and the Administrative Law Judges 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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Elizabeth R. Marx, Esq., PA ID: 309014

Counsel for CAUSE-PA

September 1, 2026

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of FirstEnergy Pennsylvania Electric :
Company for Approval of Its Default Service : Docket No. P-2026-3060298
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**PRELIMINARY OBJECTIONS AND REQUEST FOR EXPEDITED RELIEF TO DISMISS SPARK
ENERGY, LLC'S UNTIMELY PETITION TO INTERVENE AND STRIKE THE IMPROPERLY
FILED EXCEPTIONS**

The Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA) files these Preliminary Objections, pursuant to 52 Pa. Code section 5.1(b) and 5.101, and requests expedited relief to dismiss the untimely Petition to Intervene and strike the improperly filed Exceptions of Spark Energy, LLC (Spark). CAUSE-PA asserts that a decision must be made this week to avoid further undue burden on CAUSE-PA and the other parties to this proceeding. To facilitate timely disposition, CAUSE-PA requests that Deputy Chief Administrative Law Judge Mark A. Hoyer and Administrative Law Judge Erin Gannon schedule a telephonic hearing this week – either on September 3 or 4, 2026 – to take oral argument on the matter and render a decision in advance of the Tuesday, September 8, 2026, deadline for Reply Exceptions.

Alternatively, CAUSE-PA requests that the Commission amend the procedural schedule to provide the parties an appropriate time to respond to Spark's improperly filed Exceptions, if warranted, *after* a decision is made regarding Spark's untimely request to intervene. CAUSE-PA and other parties to this proceeding should not be forced to expend substantial resources within an already truncated seven-day period, over a holiday weekend, to respond to the improperly filed Exceptions of a non-party.

In support thereof, CAUSE-PA avers the following:

- (1) CAUSE-PA objects to Spark's untimely Petition to Intervene and its improper Exceptions, pursuant to 52 Pa. Code section 5.101(a)(4) & (7).
 - a. The Commission's regulations allow parties to file preliminary objections "in response to a pleading" based on the legal insufficiency of a pleading or standing of a party to participate in the proceeding. 52 Pa. Code § 5.101(a)(4), (7).
- (2) Spark lacks standing to file Exceptions because it is not a party to the proceeding and its request to intervene is legally insufficient.
 - a. Only parties may file Exceptions. 52 Pa. Code § 5.535.
 - b. Spark lacks standing to file Exceptions because it is not a party and, as explained below, its Petition to Intervene is untimely and legally deficient.
 - c. The mere filing of a Petition to Intervene, which is subject to a 20-day Answer period, does not confer standing to file Exceptions. Even if Spark's intervention is ultimately approved, despite the serious legal deficiencies discussed below, that does not allow the Commission to consider Exceptions filed by Spark prior to the date on which Spark's intervention may later be granted.
- (3) Spark's Petition to Intervene is legally insufficient, as it fails to plead any "extraordinary circumstances" necessary to justify intervention 5 months after the deadline for protest and intervention and 2 months after evidentiary hearings concluded.
 - a. An individual or entity may become a party in an active proceeding by filing a petition to intervene. 52 Pa. Code § 5.71-5.72.
 - b. Petitions to intervene are required to be filed by the date fixed for filing responsive pleadings, the date fixed for filing protests as published in the *Pennsylvania Bulletin*, or in accordance with section 5.53 if no deadline is otherwise set. 52 Pa. Code § 5.74(b).
 - c. "[I]ntervention will not be permitted once an evidentiary hearing has concluded absent extraordinary circumstances." 52 Pa. Code § 5.74(c) (emphasis added).

- d. The deadline for filing responsive pleadings or a protest in this proceeding was set for March 17, 2026, and the evidentiary hearing concluded on June 15, 2026. Spark's request to intervene comes more than 5 months after the March 17, 2026, deadline – and more than two months after evidentiary hearings concluded.
- e. There is no justifiable explanation for Spark's failure to intervene at an earlier date. In fact, Spark acknowledges that it had actual notice of FirstEnergy's proposed Default Service Plan, which included the proposals ultimately recommended for approval in the Recommended Decision, and made a conscious decision not to intervene.
- f. Spark was served with FirstEnergy's initial filing in this case, which included the proposals ultimately recommended for approval in the Recommended Decision regarding changes to the supplier tariff. (FE PA Pet., Certificate of Service, filed Feb. 3, 2026).
- g. Not only was Spark served with the actual filing, it actively weighed the risks of litigation and chose not to participate. Spark plainly admits: "During the litigation phase, nine objecting parties contested the provisions now at issue. Spark did not intervene at that time. That was a judgment." (Spark Pet. to Intervene, para. 15 (emphasis added)). In other words, Spark received a copy of the filing, knew the proposals FE PA made in this case, investigated whether there was sufficient representation of its interests, and made a definitive choice not to intervene.
- h. Spark further admits that the only change "is the posture of the proceeding." (Spark Pet. to Intervene, para. 15). In other words, there are no extraordinary circumstances. The only thing that changed from FirstEnergy's initial filing is that the Recommended Decision did not reach the conclusion that Spark was hoping for from its chosen position as an observer. Spark could have chosen to be a litigant in the proceeding, but it sat the proceeding out and now seeks to intervene for the sole purposes of disrupting a settlement that it does not like.
- i. Notably, rather than file a Petition to Intervene the moment Spark changed its mind about intervention, Spark instead took the time to prepare lengthy

Exceptions in tandem with preparation of its late-filed Petition to Intervene. Spark's procedural maneuvering at the 11th hour – following months of intensive litigation – is either dilatory or vexatious, but in either event is a drain on the parties' and the Commission's resources.

(4) Spark's 11th hour filings are prejudicial and, if entertained, would violate CAUSE-PA's due process rights.

- a. Spark's Petition to Intervene and Exceptions plead facts not in the record, including averments regarding the nature and scope of Spark's operations both within FirstEnergy's four operating districts and across the state – as well as claimed impacts of FirstEnergy's proposals on those operations. (Spark Pet. to Intervene at paras. 1-3, 10, 11, 13, 15)
- b. By order dated August 21, 2026, the evidentiary record in this proceeding is closed.
- c. Permitting Spark to intervene and/or to file exceptions at this late stage, without the ability of the parties to interrogate its averments related thereto, would violate the due process rights of CAUSE-PA and each of the other parties in the proceeding.
- d. CAUSE-PA conducted extensive discovery regarding averments made by RESA and each of the individual supplier parties (including Town Square Energy East, LLC, WGL Energy Services, Inc., Shipley Choice, LLC, Interstate Gas Supply, LLC, Constellation Energy Generation, LLC, and Constellation NewEnergy, Inc). Through discovery, CAUSE-PA identified relevant data and evidence related to various claims of RESA and the suppliers that was addressed through multiple rounds of written testimony, admitted to the record, and briefed for the Commission's decision.
- e. Spark cannot shield itself from discovery related to its averments by choosing to forego timely intervention, only to later seek intervention well past time deadline

and after the record was formally closed merely because it disagrees with the ultimate outcome.

- f. Spark claims that its Exceptions are limited to advancing new legal arguments not otherwise argued in briefing or by the other parties and will not prejudice the parties. (Spark Pet. to Intervene at 7, 13). These claims are without merit.
 - i. A preliminary review of Spark's lengthy Exceptions do not appear, on initial review, to contain new or novel arguments.
 - ii. Even if there were novel arguments in Spark's Exceptions, it would be prejudicial to the other parties to allow a new party to raise new arguments long after the record was closed and briefs were submitted.
 - iii. The response period for Reply Exceptions is just 7 calendar days – which in this case is over a national holiday. This is an inadequate timeframe to both respond to the exceptions of the duly admitted parties to the case and respond to the lengthy exceptions and factual averments of a non-party seeking intervention after the record was closed and briefs were submitted.

(5) Expedited relief is warranted.

- a. Answers to Spark's Petition to Intervene – filed contemporaneously with its purported Exceptions – are not due until September 20, 2026, 13 days *after* the parties to the proceeding must file Replies to Exceptions.
- b. Expedited relief is warranted to protect the duly admitted parties from incurring substantial resources to respond to Spark's improperly filed Exceptions in order to preserve their rights while Spark's untimely Petition to Intervene is pending.

WHEREFORE, for the foregoing reasons, CAUSE-PA objects to Spark's untimely Petition to Intervene and improper Exceptions, as its request for intervention is legally insufficient and it lacks standing to file Exceptions. CAUSE-PA therefore asserts that the Commission must deny Spark's Petition to Intervene and strike its improperly filed Exceptions from consideration in this proceeding. To facilitate a timely decision, without further undue harm

to the parties in this case, CAUSE-PA requests that DCALJ Hoyer and ALJ Gannon schedule a hearing this week to take oral argument on the matter and render a decision on Spark's request for intervention prior to the deadline for Reply Exceptions.

Alternatively, CAUSE-PA requests that the Commission amend the procedural schedule to provide the parties an appropriate time to respond to Spark's improperly filed Exceptions *after* a decision is made regarding Spark's untimely request to intervene.

Respectfully submitted,

Counsel for CAUSE-PA



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September 1, 2026

VERIFICATION

I, **Elizabeth R. Marx, Esq.**, legal counsel for the Coalition for Affordable Utility Services and Energy Efficiency (“CAUSE-PA”), hereby state that the facts contained in the foregoing pleading are true and correct to the best of my knowledge, information and belief, that I am duly authorized to make this Verification, and that I expect to be able to prove the same at a 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).

A handwritten signature in blue ink, reading "Elizabeth R. Marx", is positioned above a horizontal line.

On behalf of the Coalition for Affordable Utility
Services and Energy Efficiency in Pennsylvania

September 1, 2026