



COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA PUBLIC UTILITY COMMISSION  
COMMONWEALTH KEYSTONE BUILDING  
400 NORTH STREET  
HARRISBURG, PENNSYLVANIA 17120  
September 4, 2026

Re: *First Energy Pennsylvania Electric Company Default Service Plan*,  
Docket No. P-2026-3060298

Spark Energy, LLC's Petition to Intervene, or In the Alternative Motion for  
Leave to Accept Exceptions filed August 31, 2026 (Petition).

TO ALL PARTIES:

This matter involves the Petition of Spark Energy, LLC (Spark) seeking Sparks' intervention in the above-captioned proceeding or, in the alternative, for the filing to be accepted as Sparks' Exceptions to the Recommended Decision, which was issued on August 21, 2026, following the close of the record.

**Background and History of the Proceeding**

The above-captioned proceeding pertains to the petition of FirstEnergy Pennsylvania Electric Company (FE-PA or the Company) requesting that the Commission approve its seventh default service program, which it states is designed to procure a prudent mix of long-term, short-term and spot market generation supplies and ensure that default service customers have access to an adequate and reliable supply of generation at the least cost over time for the period beginning June 1, 2027 and ending May 31, 2031 (FE-PA DSP VII).

Notice of the DSP VII filing and of the scheduled Prehearing Conference was published in the *Pennsylvania Bulletin* at 56 *Pa.B.* 1085 on February 21, 2026. The deadline for intervention was March 17, 2026. See 56 *Pa.B.* 1085.

Between the dates of February 20, 2026 and March 17, 2026, a number of interested parties filed Petitions to Intervene : including the following entities: the Office of Small Business Advocate, the Office of Consumer Advocate, the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA), Penn Renewables LLC (Penn Renewables), Shipley Choice, LLC d/b/a Shipley Energy and Interstate Gas Supply, LLC d/b/a IGS Energy (collectively, EGS Parties), Met-Ed Industrial Users Group (MEIUG), the Penelec Industrial Customer Alliance (PICA), and the West Penn Power Industrial Intervenors (WPPII) (collectively, Industrial Customer Groups), Dimension PA 1 LLC (Dimension), 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 (collectively, Customer-Generator Coalition (CGC)), WGL Energy Services, Inc. (WGL), Town Square Energy East, LLC (Town Square or TSE), The Pennsylvania State University (PSU), Solar Energy Industries

Association (SEIA) and the Coalition for Community Solar Access (CCSA) (collectively, Joint Solar Advocates), Constellation Energy Generation, LLC (CEG) and Constellation NewEnergy, Inc. (CNE) (collectively, Constellation), Duquesne Light Company (DLC), Walmart Inc. (Walmart), and Retail Energy Supply Association (RESA).

By Prehearing Order dated March 23, 2026, the Administrative Law Judges (ALJs) memorialized the actions taken at March 19, 2026 Prehearing Conference, such as, *inter alia*, granting the Petitions to Intervene.

The evidentiary hearing was convened, as scheduled, on June 15, 2026 and concluded on that same day.

On July 2, 2026, consistent with the amended schedule of the proceeding, FE\_PA filed a Joint Petition for Non-Unanimous Settlement (Settlement). The Settlement was executed by counsel for FE-PA, OCA, OSBA, CAUSE-PA, Walmart and DLC (Settling Parties). Statements in Support by the Settling Parties are attached as Statements B through F. As part of the Settlement, the Settling Parties were authorized by the Industrial Customer Groups and PSU to represent that they do not oppose the Settlement. Also on July 2, 2026, Penn Renewables filed a letter stating that it opposes the Settlement.

On July 10, 2026 and July 22, 2026, respectively, the following Parties filed Main Briefs and Reply Briefs: FE-PA, OCA, CAUSE-PA, CGC, Constellation, Dimension, EGS Parties, Joint Solar Advocates, RESA, Town Square and WGL.

As noted, on August 21, 2026, the Commission issued the Recommended Decision in which the ALJs adopted, without modification, the non-unanimous Settlement.

Also, as previously noted, on August 31, 2026, Spark filed its Petition seeking the Commission's approval to intervene in the proceeding or, in the alternative, for the Commission to address the Exceptions of a non-party. Petition at 4 (citing, *Commonwealth of Pennsylvania, et al. v. Blue Pilot Energy, LLC*, Docket No. C-2014-2427655 (Opinion and Order entered June 14, 2018) (and authorities cited therein) (*Blue Pilot*)).<sup>1</sup>

On September 1, 2026, CAUSE-PA filed Preliminary Objections and Request for Expedited Relief (CAUSE-PA POs) to dismiss Spark's Petition and strike the Spark's Exceptions.

On September 2, 2026, Spark filed a letter response to CAUSE-PA's request for expedited relief.

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<sup>1</sup> On other grounds not relevant to this proceeding, on appeal, the Commonwealth Court affirmed, in part, and reversed, in part. *See Blue Pilot Energy, LLC, v. PA Pub. Util. Comm'n*, 241 A.3d 1254 (Pa. Cmwlth. 2020).

## Spark's Petition to Intervene and Exceptions and CAUSE-PA POs

In its Petition, Spark avers, *inter alia*, that extraordinary circumstances and good cause support Spark's intervention at this stage of the proceeding. In the alternative, Spark requests that the Commission consider its Exceptions. Specifically, Spark avers that the Commission should exercise its discretion to accept and consider its Exceptions based on the Commission's prior holding in *Blue Pilot*. Petition at 4-8 (citing *Blue Pilot*).

Spark cites *Blue Pilot* as precedent as a procedural matter for the proposition that although a party seeking intervention may be denied intervention, the Commission may review the substance of the Exceptions of that nonparty. Spark argues that under the facts in *Blue Pilot*, while the Commission denied RESA's intervention, the Commission proceeded to consider the substantive question that RESA sought to raise in Exceptions. Spark contends that, like in *Blue Pilot*, the questions raised in its Petition are questions of law arising on the face of the Recommended Decision and the existing record, requiring no new evidence, that the consideration of those questions burdens no party, and that the questions assist the Commission in the discharge of its review function. As relief, Spark asks that, should intervention be denied, under *Blue Pilot* the Commission should, nevertheless, accept and consider the Exceptions of a nonparty, for that limited purpose. Petition at 7-8 (citing *Blue Pilot*).

In its POs, CAUSE-PA requests expedited relief to dismiss Spark's Petition to Intervene as untimely and strike Spark's Exceptions as improperly filed by a nonparty. CAUSE-PA argues that Spark's request for intervention is legally insufficient and, consequently, Spark lacks standing to file Exceptions. CAUSE-PA POs at 2.

CAUSE-PA avers, *inter alia*, that: (1) CAUSE-PA objects to Spark's Petition and Exceptions, pursuant to 52 Pa. Code section 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; (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; (4) Spark's 11th hour filings are prejudicial and, if entertained, would violate CAUSE-PA's due process rights; and (5) expedited relief is warranted. Therefore, CAUSE-PA asserts that the Commission must deny Spark's Petition and strike its improperly filed Exceptions from consideration in this proceeding. CAUSE-PA POs at 3-6.

Regarding the need for expedited treatment, CAUSE-PA argues that the Petition should be resolved in advance of the September 8, 2026, deadline for Reply Exceptions or, in the alternative, the procedural schedule should be amended to allow the parties additional time to respond to the Exceptions, if warranted. CAUSE-PA POs at 6.

## Disposition

Intervention in a proceeding is governed by Section 5.72(c) of the Commission Regulations, which provides:

\* \* \*

(c) Except with regard to statutory advocates under subsection (b)(4), intervention will not be permitted once an evidentiary hearing has concluded absent *extraordinary circumstances*.

\* \* \*

52 Pa. Code § 5.72(c)(emphasis added).

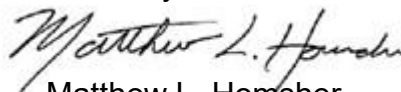
Upon review of the history of the proceedings, the filings and the applicable law, finding no extraordinary circumstances warranting Spark's intervention, the Commission will deny Spark's Petition and strike its Exceptions. Notably, the Petition was filed on August 31, 2026, well after the evidentiary hearing that concluded on June 15, 2026, and Spark has failed to establish any extraordinary circumstances that warrant allowing Spark to intervene at this late stage of the proceeding.

Furthermore, the Commission rejects Spark's argument under *Blue Pilot* that the Commission's procedural treatment of the intervention sought by RESA in *Blue Pilot* weighs in favor of accepting Spark's Exceptions in the present circumstances, even if intervention is denied in this case. Specifically, in *Blue Pilot*, RESA's request for intervention was denied, rendering RESA a nonparty. Following denial of RESA's intervention, the Commission did not address the exception filed by RESA. Rather, the Commission addressed the Exception of *Blue Pilot* which raised the same issue raised by RESA in its request to intervene. See *Blue Pilot* at 78-81. Contrary to Spark's reading, *Blue Pilot* does not provide support for accepting exceptions filed by a nonparty.

Consequently, since the Commission is denying Spark's Petition, Spark is not a party to this matter and, therefore, Spark's Exceptions will be stricken as filings by a nonparty and will not be considered by the Commission.

Based upon the Commission's denial of Spark's Petition, the Commission finds CAUSE-PA's filing in opposition to Spark's Petition to be denied as moot.

Sincerely,

  
Matthew L. Homsher,  
Secretary