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September 4, 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") Answer to CAUSE-PA's Preliminary Objections and Request for Expedited Relief with regard to the above-referenced matter. Copies to be served in accordance with the attached Certificate of Service.

Sincerely,



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.

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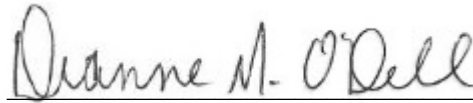
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Date: September 4, 2026

A handwritten signature in dark ink, reading "Deanne A. O'Dell". The signature is written in a cursive, flowing style. The first name "Deanne" is written with a large, looped 'D'. The middle initial "A." is written in a smaller, simpler script. The last name "O'Dell" is written with a large, looped 'O' and a distinct 'D'.

Deanne A. O'Dell

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

**SPARK ENERGY LLC’S ANSWER TO CAUSE-PA PRELIMINARY OBJECTIONS
AND REQUEST FOR EXPEDITED RELIEF**

Pursuant to 52 Pa. Code § 5.61, Spark Energy, LLC (“Spark”) submits this Answer to the Preliminary Objections and Request for Expedited Relief filed on September 1, 2026 by the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (“CAUSE-PA”). Spark denies that the Preliminary Objections establish any basis to deny its Petition to Intervene or, in the alternative, Motion for Leave to Accept Exceptions, or to strike Spark's timely-filed Exceptions from the Commission's consideration. Importantly, the legal objections presented in Spark's Exceptions are not academic.¹ They challenge tariff provisions that, if adopted, will directly govern Spark's residential contracts, customer renewals, recurring customer solicitations, participation in FirstEnergy's Purchase of Receivables program, and day-to-day business operations throughout the FirstEnergy’s four-year default service plan (“DSP”) VII and, if adopted, would directly regulate significant aspects of Spark’s provision of competitive electric generation service.² Spark does not seek to relitigate this proceeding. Spark seeks only the opportunity to present its own legal objections before the Commission determines whether the challenged tariff provisions should become the governing rules applicable to Spark.

¹ Spark Exceptions at 2 (explaining that the challenged tariff provisions govern Spark's residential book, POR participation, and contracts).

² Spark Petition Paragraphs 2-4 (page 7), describing automatic return, recurring affirmative consent, POR, contracts, renewals, and POR access.

Spark responds to CAUSE-PA's numbered Preliminary Objections as follows:

A. Response To Preliminary Objection No. 1: CAUSE-PA Has Not Established A Basis To Dismiss Spark's Petition Or Strike Its Exceptions

1. Spark denies that Preliminary Objection No. 1 establishes any legal basis to deny Spark's Petition to Intervene or, in the alternative, Motion for Leave to Accept Exceptions, or to strike Spark's timely-filed Exceptions from the Commission's consideration.

2. It is admitted that CAUSE-PA has filed Preliminary Objections pursuant to 52 Pa. Code § 5.101(a)(4) and (7). Except as expressly admitted herein, Spark denies the allegations contained in Preliminary Objection No. 1. Spark specifically denies that its Petition to Intervene or, in the alternative, Motion for Leave to Accept Exceptions is legally insufficient or that CAUSE-PA has established any basis to deny the requested relief.

3. By way of further answer, Spark avers that CAUSE-PA's Preliminary Objection No. 1 rests on the erroneous premise that Spark's Petition to Intervene and its timely-filed Exceptions present a single procedural question. They do not. In resolving preliminary objections, the Commission must accept as true the Petition's well-pleaded material factual averments and all reasonable inferences fairly deducible therefrom. *See, e.g., Hommrich v. Pa. Pub. Util. Comm'n*, 169 A.3d 1079, 1084 (Pa. Cmwlth. 2017). Spark's request for limited intervention under 52 Pa. Code § 5.74(c) and its alternative request that the Commission accept and consider its timely-filed Exceptions present distinct procedural requests governed by different legal standards. CAUSE-PA's Preliminary Objections repeatedly conflate the ordinary requirement under 52 Pa. Code § 5.533 that parties file Exceptions with the separate question whether the Commission may, in the exercise of its procedural authority under 52 Pa. Code § 1.2(a) and (c), accept and consider Spark's timely-filed legal Exceptions notwithstanding the disposition of Spark's Petition to Intervene. Spark's Exceptions were timely filed within the

Commission-established exceptions period. Those Exceptions rely exclusively on the existing evidentiary record³ and seek no reopening of discovery, testimony, or hearing. Spark seeks no reopening of the evidentiary record, no discovery, no testimony, no additional hearings, and no alteration of the Commission's schedule. Spark's alternative request that the Commission accept and consider its timely-filed Exceptions rests upon the Commission's independent procedural authority under 52 Pa. Code § 1.2(a) and (c). These distinct issues are addressed more fully in Spark's responses to Preliminary Objections Nos. 2 through 5.

B. Response To Preliminary Objection No. 2: Spark's Timely Exceptions Are Not Foreclosed by Its Pending Petition to Intervene

4. Spark incorporates by reference its responses to Preliminary Objection No. 1 as though fully set forth herein.

5. It is admitted that 52 Pa. Code § 5.533 provides that parties to a proceeding may file Exceptions to a Recommended Decision. Except as expressly admitted herein, Spark denies the allegations contained in Preliminary Objection No. 2, including the assertion that Spark lacks standing to request that the Commission accept and consider its timely-filed Exceptions or that the Commission lacks authority to consider those Exceptions under the circumstances presented here.

6. By way of further answer, Spark avers that CAUSE-PA improperly assumes that denial of Spark's Petition to Intervene necessarily requires the Commission to strike Spark's timely-filed Exceptions. The Commission's consideration of Spark's Exceptions presents a separate procedural question from Spark's request for intervention. Spark's Exceptions were filed within the Commission-established deadline for filing Exceptions to the Recommended Decision, rely exclusively on the existing evidentiary record, and seek no reopening of discovery,

³ Spark Petition at Paragraph 4.

testimony, evidentiary hearing, or other proceedings. Spark's legal objections do not depend upon facts unique to Spark. Rather, they contend that the Settlement proponents failed to satisfy their burden under 66 Pa. C.S. § 332(a) on the evidentiary record they elected to create and that the Recommended Decision misapplied governing statutes, Commission regulations, Commission precedent, and the applicable burden of proof.⁴ Accordingly, consideration of Spark's timely-filed Exceptions neither alters the evidentiary record, requires any additional evidentiary proceedings, nor delays disposition of this proceeding.

7. Spark further avers that Preliminary Objection No. 2 fails to address the Commission's independent procedural authority to disregard or waive procedural defects that do not affect the substantive rights of any party. *See* 52 Pa. Code § 1.2(a), (c). Spark's Exceptions were timely filed, all parties received notice of those Exceptions within the Commission-established Exceptions period, and every party retained the opportunity to address Spark's legal arguments through Reply Exceptions. CAUSE-PA identifies no substantive right that is impaired merely because the Commission considers legal arguments presented on the existing record before entering a final order governing Spark's conduct.

8. Commonwealth Court has likewise recognized the Commission's authority to excuse procedural defects that do not prejudice the substantive rights of the parties. In *AT&T Communications of Pennsylvania v. Pennsylvania Public Utility Commission*, the Commonwealth Court affirmed the Commission's decision to consider Exceptions that had been filed one day late, recognizing that the Commission's procedural rules are intended to secure the just, speedy, and inexpensive determination of proceedings—not to require forfeiture where no party's substantive rights have been impaired. *See* 568 A.2d 1362, 1364-65 (Pa. Cmwlth. 1990).

⁴ Spark Exceptions at 2-5.

That same principle supports the Commission's exercise of its procedural authority here. Spark's Exceptions were not filed late; they were filed timely within the Commission-established Exceptions period. They rely exclusively on the existing evidentiary record, require no reopening of discovery, testimony, or hearing, do not delay the Commission's decisional schedule, and do not impair any substantive right of any party. Accordingly, even if the Commission declines to grant Spark's Petition to Intervene, it retains the procedural authority to accept and consider Spark's timely-filed legal Exceptions on the existing record.

9. CAUSE-PA's position also ignores the practical operation of the Commission's procedural schedule. A petitioner seeking intervention for the purpose of presenting Exceptions may be unable to await disposition of the intervention request without risking expiration of the Commission-established Exceptions deadline. Spark therefore filed its Petition to Intervene and tendered its Exceptions during the Commission-established Exceptions period. By doing so, Spark neither sought to extend the Commission's schedule nor imposed any additional delay upon the proceeding. Rather, Spark ensured that, if the Commission grants Spark's Petition to Intervene, its timely-filed legal Exceptions are already before the Commission without disturbing the existing procedural schedule. This approach is consistent with the Commission's treatment of contemporaneously filed petitions to intervene and exceptions in *Commonwealth of Pennsylvania, et al. v. Blue Pilot Energy, LLC*, Docket No. C-2014-2427655 (Opinion and Order entered June 14, 2018).

10. Accordingly, even if the Commission declines to grant Spark's Petition to Intervene, Preliminary Objection No. 2 should nevertheless be overruled because the Commission retains authority to accept and consider Spark's timely-filed Exceptions on the existing record.

C. Response To Preliminary Objection No. 3: Limited Intervention Is Appropriate Under the Circumstances Presented Here

11. Spark incorporates by reference its responses to Preliminary Objections Nos. 1 and 2 as though fully set forth herein.

12. It is admitted that intervention following the close of the evidentiary record is governed by 52 Pa. Code § 5.74(c). It is further admitted that Spark did not seek individual intervention during the evidentiary phase of this proceeding. Except as expressly admitted herein, Spark denies the allegations contained in Preliminary Objection No. 3, including the assertion that Spark has failed to establish circumstances warranting the limited intervention requested.

13. By way of further answer, Spark avers that it is a member of the Retail Energy Supply Association ("RESA"). During the evidentiary phase of this proceeding, RESA, together with several individual electric generation suppliers, actively litigated the supplier issues presented by FirstEnergy's Petition. Spark elected to rely upon that participation in determining that separate participation during the evidentiary phase was unnecessary.⁵ Spark does not contend that RESA failed to advocate the interests of competitive suppliers generally. Rather, following issuance of the Recommended Decision recommending approval, without modification, of supplier tariff provisions that will directly govern Spark's contracts, renewal practices, customer solicitations, and continued participation in FirstEnergy's Purchase of Receivables program, Spark reasonably concluded that it should present its own legal objections before the Commission enters its final order.

14. CAUSE-PA characterizes Spark's Petition as though it rested solely upon Spark's acknowledgement that it elected not to intervene earlier in the proceeding. That is not what the

⁵ Spark Petition at Paragraphs 14-15.

Petition alleges. CAUSE-PA emphasizes the Petition's acknowledgement that Spark "did not intervene at that time" and that "[t]hat was a judgment," but omits the Petition's immediately following explanation that Spark "does not offer it as a complete excuse, and it does not ask the Commission to treat ordinary litigation strategy as extraordinary."⁶ Instead, the Petition identifies the circumstances upon which Spark relies: the Recommended Decision's recommendation that the Commission approve the Non-Unanimous Settlement without modification, tariff provisions that will directly govern Spark's operations for the duration of DSP VII, Spark's limited request to participate only through legal Exceptions on the existing evidentiary record, and the absence of any request to reopen discovery, testimony, hearings, or the Commission's schedule. Spark Petition ¶¶ 14-15. Those are the allegations the Commission must evaluate under 52 Pa. Code § 5.74(c).

15. Spark's decision to seek limited intervention is further informed by the Commission's and Commonwealth Court's decisions in *Respond Power, LLC v. Pa. Pub. Util. Comm'n*, 250 A.3d 547 (Pa. Cmwlth. 2021) (table), No. 260 C.D. 2020, aff'g *Respond Power, LLC v. Pennsylvania Electric Co. & West Penn Power Co.*, Docket No. C-2016-2576287, C-2016-2576292, C-2017-2631326, and C-2017-2631331 (Pa. P.U.C. entered June 13, 2019), slip op. at 21 (Pa. Cmwlth. filed Feb. 9, 2021). There, Respond Power received notice of the Companies' DSP IV proceeding,⁷ but elected not to participate. After the Commission approved the revised Supplier Coordination Tariff provisions, Respond Power later sought to challenge

⁶ Spark Petition Paragraph 14

⁷ *Joint Petition of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company for Approval of a Default Service Program for the Period Beginning June 1, 2017 through May 31, 2019*, Docket Nos. P-2015-2511333, P-2015-2511351, P-2015-2511355 and P-2015-2511356.

their application through formal complaint proceedings challenging the application of those Commission-approved tariff provisions to Respond Power.⁸

16. Both the Commission and the Commonwealth Court rejected that effort, concluding that Respond Power's complaints constituted an impermissible collateral attack on the Commission's prior approval of the tariff under Section 316 of the Public Utility Code because Respond Power had notice of the DSP IV proceeding, an opportunity to participate in that proceeding, and sought only after entry of the Commission's final order to challenge tariff provisions that could have been challenged during the DSP IV proceeding itself. In affirming the Commission, the Commonwealth Court emphasized that "Respond Power failed to raise its objections to the Clawback Charge when it had the opportunity to do so in the DSP IV proceedings." *Respond Power*, slip op. at 21. Thus, while Respond Power arose in a different procedural posture, it reinforces the importance of presenting supplier-specific objections during the Commission's consideration of proposed tariff provisions before the Commission enters its final order.

17. Spark therefore seeks only limited participation before the Commission enters its final order. Spark does not suggest that RESA inadequately represented the collective interests of competitive suppliers during the evidentiary phase. Rather, because RESA expressly advised the Commission that its views "may not represent the views of any particular member,"⁹ and because the challenged tariff provisions will directly govern Spark's operations if approved, Spark seeks to present its own legal objections before those provisions become final.

18. Spark does not ask the Commission to revisit the evidentiary phase of this proceeding. Spark only asks that, before entering a final order establishing tariff provisions that

⁸ Docket Nos. C-2016-2576287 and C-2016-2576292 (later consolidated with Docket Nos. C-2017-2631326 and C-2017-2631331).

⁹ Spark Petition at Paragraph 12.

will thereafter govern Spark's conduct, the Commission consider Spark's own legal objections to those provisions.¹⁰ Granting the limited intervention requested here will not require the Commission to reopen the evidentiary record or alter the procedural schedule established for this proceeding.

19. Spark's request is narrowly tailored. Spark seeks intervention solely for purposes of presenting legal Exceptions and participating in the Commission's review of the Recommended Decision on the existing evidentiary record. Spark seeks no reopening of discovery, no additional testimony, no new evidence, no additional hearings, and no alteration of the procedural schedule established in this proceeding. The Commission's intervention rule expressly authorizes intervention "in whole or in part." The legal objections presented in Spark's Exceptions are not academic. They challenge tariff provisions that, if adopted, will directly govern Spark's residential contracts, customer renewals, recurring customer solicitations, participation in FirstEnergy's Purchase of Receivables program, and day-to-day business operations throughout the four-year DSP VII term. Those are precisely the types of supplier-specific consequences that motivate Spark's request to be heard before the Commission enters its final order.

20. Accordingly, Preliminary Objection No. 3 should be overruled.

D. Response To Preliminary Objection No. 4: Consideration of Spark's Exceptions Will Not Prejudice the Existing Parties

21. Spark incorporates by reference its responses to Preliminary Objections Nos. 1 through 3 as though fully set forth herein.

22. Except as expressly admitted herein, Spark denies the allegations contained in Preliminary Objection No. 4, including the assertion that granting Spark's Petition or considering

¹⁰ Spark Petition at Paragraphs 14-15.

Spark's timely-filed Exceptions would prejudice any existing party or impair the orderly disposition of this proceeding.

23. By way of further answer, CAUSE-PA's claim of prejudice rests principally on the assertion that, had Spark intervened earlier, CAUSE-PA would have sought discovery concerning Spark's individual business operations. That assertion does not establish prejudice under the circumstances presented here because Spark does not seek to introduce evidence concerning its individual operations, does not ask the Commission to resolve any factual dispute unique to Spark, and does not seek to reopen the evidentiary record.

24. Spark's Petition and Exceptions do not introduce a Spark-specific evidentiary case. The factual allegations contained in Spark's Petition are offered solely to establish Spark's interest in this proceeding and its eligibility for intervention under 52 Pa. Code §§ 5.72-5.74.¹¹ They are not offered as evidence supporting the merits of Spark's Exceptions. Likewise, Spark's legal objections do not depend upon facts unique to Spark.¹² Rather, they accept the existing evidentiary record as it stands,¹³ and require no reopening of discovery, testimony, or hearings. The factual allegations contained in Spark's Petition relate solely to the threshold question of intervention; they are distinct from the evidentiary record on the merits of the Recommended Decision. Accordingly, the Commission need not resolve disputed factual issues concerning Spark—or accept the Petition's factual averments as evidence on the merits—to consider the legal questions presented by Spark's Exceptions.

25. CAUSE-PA's argument also overlooks the distinct function of a petition to intervene. A petition necessarily alleges facts establishing the petitioner's interest in the proceeding and the basis for intervention under 52 Pa. Code §§ 5.72-5.74. Those jurisdictional

¹¹ Spark Petition at Paragraphs 2-4.

¹² Spark Exceptions at 2.

¹³ Spark Petition at 4.

allegations are not part of the evidentiary record on the merits and are not offered as substantive evidence supporting the petitioner's legal position. Rather, they provide the factual basis upon which the Commission determines whether intervention should be granted. CAUSE-PA remains free to dispute those jurisdictional allegations in its Answer to the Petition. They do not, however, create a basis to strike Spark's timely-filed legal Exceptions or require reopening of the evidentiary record.

26. CAUSE-PA's own Preliminary Objections further undermine its claim of prejudice. On the one hand, CAUSE-PA asserts that Spark's Exceptions "do not appear, on initial review, to contain new or novel arguments." On the other hand, it contends that Spark's participation is prejudicial because it introduces new matters that were not subject to discovery. Those positions cannot be reconciled. If Spark's Exceptions present legal arguments that have already been developed by other parties on the existing record, then responding to those arguments imposes no meaningful additional burden and creates no prejudice. If Spark presents additional legal arguments arising from the Recommended Decision and the existing evidentiary record, the Commission's Exceptions process exists precisely so that those legal arguments may be considered before entry of a final order. In either event, CAUSE-PA has not demonstrated that consideration of Spark's timely-filed legal Exceptions prejudices any substantive right.

27. That does not mean Spark lacks an individual interest in the outcome of this proceeding. The challenged Supplier Coordination Tariff provisions apply generally to all electric generation suppliers operating in FirstEnergy's service territory, but they will ultimately be applied specifically to Spark in governing Spark's contracts, customer renewals, participation in FirstEnergy's Purchase of Receivables program, and other aspects of Spark's business

operations.¹⁴ Spark's Exceptions therefore do not seek relief unique to Spark or depend upon facts unique to Spark. Rather, they challenge whether the Settlement proponents satisfied their burden under 66 Pa. C.S. § 332(a) to justify tariff provisions that, if approved, will thereafter govern Spark.¹⁵ As *Respond Power* illustrates, once those tariff provisions are approved and later applied to an individual supplier, the supplier risks being foreclosed from challenging the legal validity of those provisions in a subsequent proceeding. Spark therefore seeks to present those legal objections now, before the Commission enters its final order establishing the challenged tariff provisions.

28. Spark's legal objections therefore do not depend upon facts unique to Spark. Rather, they contend that the Settlement proponents failed to satisfy their burden under 66 Pa. C.S. § 332(a) on the evidentiary record they elected to create and that the Recommended Decision misapplied governing statutes, Commission regulations, Commission precedent, and the applicable burden of proof.¹⁶

29. Under these circumstances, CAUSE-PA has failed to demonstrate any actual prejudice resulting either from Spark's limited request to intervene or from the Commission's consideration of Spark's timely-filed legal Exceptions. Accordingly, Preliminary Objection No. 4 should be overruled.

E. Response To Preliminary Objection No. 5: CAUSE-PA Has Not Demonstrated a Basis for Summary Disposition

30. Spark incorporates by reference its responses to Preliminary Objections Nos. 1 through 4 as though fully set forth herein.

¹⁴ Spark Petition at Paragraphs 2-3.

¹⁵ Spark Exceptions at 2.

¹⁶ Spark Exceptions at 2.

31. Except as expressly admitted herein, Spark denies that CAUSE-PA has established any basis for the extraordinary relief requested in Preliminary Objection No. 5.

32. Spark previously responded to CAUSE-PA's request for expedited relief by letter dated September 2, 2026, which is incorporated herein by reference. As explained in that filing, Spark's objection was not to prompt consideration of the issues presented. Rather, Spark objected to CAUSE-PA's request that the Commission deny Spark's Petition to Intervene and strike Spark's timely-filed Exceptions before Spark had been afforded the opportunity provided by the Commission's Rules of Practice and Procedure to respond to the Preliminary Objections. That concern has now been addressed by the filing of this Answer.

33. Accordingly, Spark does not oppose prompt disposition of the Preliminary Objections on the written submissions whenever the Commission or Presiding Officers deem appropriate. Spark continues to submit, however, that CAUSE-PA has demonstrated no basis for expedited oral argument or for summarily denying Spark's Petition or striking Spark's timely-filed Exceptions.

34. As explained in Spark's September 2 filing and above, Spark seeks no reopening of the evidentiary record, no discovery, no additional testimony, no additional hearings, and no extension of any Commission deadline. Spark's timely-filed Exceptions are confined to legal arguments arising from the Recommended Decision and the existing evidentiary record. Accordingly, if the Commission determines prompt disposition is appropriate, the matter should be decided on the parties' written submissions, without expedited oral argument.

35. To the extent the Commission concludes that any party would benefit from a modest extension of the deadline for Reply Exceptions directed solely to Spark's timely-filed Exceptions, Spark does not oppose such relief, provided that it does not delay the Commission's

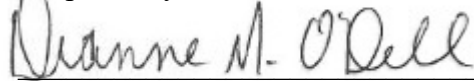
consideration of this proceeding or entry of its final order. Spark's interest is in the Commission's consideration of its legal objections on the existing record—not in shortening any party's opportunity to respond.

36. Accordingly, CAUSE-PA's request for expedited oral argument and summary disposition should be denied, and Preliminary Objection No. 5 should be overruled.

WHEREFORE, Spark respectfully requests that the Commission:

- (a) overrule CAUSE-PA's Preliminary Objections;
- (b) deny CAUSE-PA's request for expedited oral argument and summary disposition;
- (c) grant Spark's Petition to Intervene; or, in the alternative,
- (d) grant Spark's Motion for Leave to Accept Exceptions and accept and consider Spark's timely-filed Exceptions; and
- (e) grant such other relief as the Commission deems just and proper.

Respectfully submitted,



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Counsel for Spark Energy, LLC

Dated: September 4, 2026