COMMONWEALTH OF PENNSYLVANIA

DARRYL A. LAWRENCE
Consumer Advocate

OFFICE OF CONSUMER ADVOCATE
555 Walnut Street, 5th Floor, Forum Place
Harrisburg, Pennsylvania 17101-1923
(717) 783-5048
(800) 684-6560

@pa_oca
/pennoca
FAX (717) 783-7152
consumer@paoca.org
www.oca.pa.gov

September 8, 2026

Via Electronic Filing
Matthew L. Homsher, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
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

Dear Secretary Homsher:

Attached for electronic filing please find the Office of Consumer Advocate's Reply Exceptions to the Recommended Decision, dated August 21, 2026, in this proceeding.

Copies have been served on the parties as indicated on the enclosed Certificate of Service.

Respectfully submitted,

/s/ Harrison W. Breitman
Harrison W. Breitman, Esq.
Senior Assistant Consumer Advocate
PA Attorney I.D. # 320580
Email: HBreitman@paoca.org

Enclosures

cc: Deputy Chief Administrative Law Judge Mark A. Hoyer (Via Email Only: mhoyer@pa.gov)
Administrative Law Judge Erin L. Gannon (Via Email Only: egannon@pa.gov)
Certificate of Service

CERTIFICATE OF SERVICE

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

I hereby certify that I have this day filed electronically on the Commission's electronic filing system and served a true copy of the following document, the Office of Consumer Advocate's Reply Exceptions, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code Section 1.54 (relating to service by a participant), in the manner and upon the persons listed below.

Dated this 8th day of September 2026.

SERVICE BY E-MAIL ONLY

Kenneth M. Kulak, Esq.
Brooke E. McGlinn, Esq.
Morgan, Lewis & Bockius LLP
1701 Market Street
Philadelphia, PA 19103-2921
ken.kulak@morganlewis.com
brooke.mcglinn@morganlewis.com
Counsel for FE PA

Tori L. Giesler, Esq.
Angelina Umstead, Esq.
FirstEnergy Service Company
2800 Pottsville Pike
Reading, PA 19612-6001
tgiesler@firstenergycorp.com
aumstead@firstenergycorp.com
Counsel for FE PA

Maggie E. Curran, Esq.
Morgan, Lewis & Bockius LLP
2222 Market Street
Philadelphia, PA 19103-3007
maggie.curran@morganlewis.com
Counsel for FE PA

Allison C. Kaster, Esq.
Director & Chief Prosecutor
Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120
akaster@pa.gov
Counsel for PA PUC

Elizabeth R. Marx, Esq.
Lauren N. Berman, Esq.
Ria M. Pereira, Esq.
John W. Sweet, Esq.
Levi A. Phillips, Esq.
Pennsylvania Utility Law Project
118 Locust Street
Harrisburg, PA 17101
pulp@pautilitylawproject.org
Counsel for CAUSE-PA

Rebecca Lyttle, Esq.
Office of Small Business Advocate
Forum Place
555 Walnut Street, 1st Floor
Harrisburg, PA 17101
relyttle@pa.gov
Counsel for OSBA

Whitney E. Snyder, Esq.
Erich W. Struble, Esq.
Hawke McKeon & Sniscak, LLP
100 North Tenth Street
Harrisburg, PA 17101
wesnyder@hmslegal.com
ewstruble@hmslegal.com
Counsel for PSU

Michael A. Gruin, Esq.
Donald Wagner, Esq.
Stevens & Lee
17 North 2nd Street, 16th Floor
Harrisburg, PA 17101
Michael.gruin@stevenslee.com
Donald.wagner@stevenslee.com
Counsel for WGL Energy Services, and Town Square

John M. White, Esq.
Constellation Energy Generation, LLC
101 Constitution Avenue, N.W.
Suite 400 East
Washington, DC 20001
john.white@constellation.com
Counsel for Constellation Energy Generation, LLC and Constellation NewEnergy, Inc.

Susan B. Bruce, Esq.
Charis Mincavage, Esq.
Matthew Garber, Esq.
Rebecca Kimmel, Esq.
McNees, Wallace & Nurick, LLC
100 Pine Street
P.O. Box 1166
Harrisburg, PA 17108-1166
sbruce@mcneeslaw.com
cmincavage@mcneeslaw.com
mgarber@mcneeslaw.com
rkimmel@mcneeslaw.com
Counsel for Industrial Customer Groups

Deanne M. O'Dell, Esq.
Eckert Seamans Cherin & Mellott, LLC
213 Market Street, 8th Floor
P.O. Box 1248
Harrisburg, PA 17101
dodell@eckertseamans.com
Counsel for RESA and NRG Energy, Inc.

Lauren M. Burge, Esq.
Eckert Seamans Cherin & Mellott, LLC
600 Grant Street, 44th Floor
Pittsburgh, PA 15219
lburge@eckertseamans.com
Counsel for RESA

Michael Gianantonio, Esq.
Robert F. Daley, Esq.
Robert Peirce & Associates, P.C.
707 Grant Street
Gulf Tower, Suite 125
Pittsburgh, PA 15219
mgianantonio@peircelaw.com
Counsel for John Bevec and Sunrise Energy, LLC

Melissa A. Chapaska, Esq.
HMS Legal LLP
501 Corporate Circle, Suite 302
Harrisburg, PA 17110
machapaska@hmslegal.com
Counsel for Penn Renewables

Colleen P. Kartychak, Esq.
Constellation
1310 Point Street
Baltimore, MD 21231
colleen.kartychak@constellation.com
Counsel for Constellation Energy Generation, LLC and Constellation NewEnergy, Inc.

Linda S. Kizuka, Esq.
Constellation
250 Massachusetts Avenue, Northwest
Suite 760
Washington, DC 20001
linda.kizuka@constellation.com
Counsel for Constellation Energy Generation, LLC and Constellation NewEnergy, Inc.

Marsha D. Makel, Esq.
Constellation
1310 Point Street Legal – 8th Floor
Baltimore, MD 21231
Marsha.Makel@constellation.com
Counsel for Constellation Energy Generation, LLC and Constellation NewEnergy, Inc.

Todd S. Stewart, Esq.
HMS Legal LLP
501 Corporate Circle, Suite 302
Harrisburg, PA 17110
tsstewart@hmslegal.com
Counsel for EGS Parties

Samuel W. Cortes, Esq.
Ashley L. Beach, Esq.
Fox Rothschild LLP
747 Constitution Drive, Suite 100
Exton, PA 19341
scortes@foxrothschild.com
abeach@foxrothschild.com
Counsel for SEIA and CCSA

Daniel B. Markind, Esq.
Flaster Greenberg, PC
1717 Arch Street
Suite 3300
Philadelphia, PA 19103
Daniel.markind@flastergreenberg.com
Counsel for Dimension

Mitchell H. Kizner, Esq.
Flaster Greenberg, P.C.
Commerce Center
1810 Chapel Avenue West
Cherry Hill, NJ 08002
mitchell.kizner@flastergreenberg.com
Counsel for Dimension

Barry A. Naum, Esq.
Steven W. Lee, Esq.
Spilman Thomas & Battle PLLC
1100 Bent Creek Boulevard, Suite 101
Mechanicsburg, PA 17050
bnaum@spilmanlaw.com
slee@spilmanlaw.com
Counsel for Walmart, Inc.

Jamie L. Martines, Esq.
Spilman Thomas & Battle PLLC
301 Grant Street, Suite 3440
Pittsburgh, PA 15219
jmartines@spilmanlaw.com
Counsel for Walmart, Inc.

Nicholas A. Stobbe, Esq.
Stevens & Lee, P.C.
17 North 2nd Street, 16th Floor
Harrisburg, PA 17101
nicholas.stobbe@stevenslee.com
Counsel for CGC

R. Taylor Speer, Esq.
Fox Rothschild LLP
2 West Washington Street, Suite 1100
Greenville, SC 29601
TSpeer@FoxRothschild.com
Counsel for SEIA and CCSA

Karen M. Kemerait, Esq.
Fox Rothschild LLP
301 Hillsborough Street, Suite 1120
Raleigh, NC 27603
KKemerait@FoxRothschild.com
Counsel for SEIA and CCSA

Aron J. Beatty, Esq.
Duquesne Light Company
800 North Third Street
Harrisburg, PA 17402
abeatty@duqlight.com
Counsel for Duquesne Light

Christopher O'Hara, Esq.
PJM Interconnection LLC
2750 Monroe Boulevard
Audubon, PA 19403
christopher.ohara@pjm.com
Counsel for PJM

/s/ Harrison W. Breitman
Harrison W. Breitman, Esq.
Senior Assistant Consumer Advocate
PA Attorney I.D. # 320580
Email: HBreitman@paoca.org

Katie Kennedy, Esq.
Assistant Consumer Advocate
PA Attorney I.D. # 317237
Email: KKennedy@paoca.org

Olivia M. Spergel, Esq.
Assistant Consumer Advocate
PA Attorney I.D. # 337929
Email: OSpergel@paoca.org
Email: OCAFEPADSP26@paoca.org

Counsel for:
Darryl A. Lawrence
Consumer Advocate

Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101-1923

Phone: 717-783-5048
Fax: 717-783-7152

Dated: September 8, 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

REPLY EXCEPTIONS OF THE OFFICE OF CONSUMER ADVOCATE

Harrison W. Breitman, Esq.
Senior Assistant Consumer Advocate
PA Attorney I.D. # 320580
Email: HBreitman@paoca.org

Katie Kennedy, Esq.
Assistant Consumer Advocate
PA Attorney I.D. # 317237
Email: KKennedy@paoca.org

Olivia M. Spergel, Esq.
Assistant Consumer Advocate
PA Attorney I.D. # 337929
Email: OSpergel@paoca.org
Email: OCAFEPADSP26@paoca.org

Counsel for:
Darryl A. Lawrence
Consumer Advocate

Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101-1923

Phone: 717-783-5048
Fax: 717-783-7152

Dated: September 8, 2026

TABLE OF CONTENTS

<u>**TABLE OF AUTHORITIES**</u>

I. INTRODUCTION

On August 21, 2026, Deputy Chief Administrative Law Judges Mark A. Hoyer and Administrative Law Judge Erin L. Gannon (ALJs) issued their Recommended Decision (Recommended Decision or R.D.). The ALJs recommended approval of FirstEnergy Pennsylvania Electric Company's (FE PA or the Company) Default Service Plan (DSP), as modified by the non-unanimous Settlement (Settlement). On August 31, 2026, 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, the Customer-Generator Coalition or CGC); Shipley Choice, LLC d/b/a Shipley Energy and Interstate Gas Supply, LLC d/b/a IGS Energy (collectively, the EGS Parties); Constellation Energy Generation, LLC and Constellation NewEnergy, Inc. (collectively, Constellation); Dimension PA 1 LLC (Dimension); the Solar Energy Industries Association and the Coalition for Community Solar Access (collectively, Joint Solar Advocates or JSA); the Retail Energy Supply Association (RESA), and; Town Square Energy East, LLC (Town Square) and WGL Energy Services, Inc. (WGL) (collectively, Town Square) filed multiple Exceptions in response to the Recommended Decision.

In response to these Exceptions, the Office of Consumer Advocate (OCA) files these Reply Exceptions.

II. REPLY EXCEPTIONS

P. Reply to RESA Exception No. 1: The Competition Act does not prohibit the adoption of the R.D. R.D. at 66-80, 81-82, 163-64, 163-200, 198-200; RESA Exc. at 5-14; OCA M.B. at 6-14, 19-22, 66, 69-70; OCA R.B. at 8-16, 43-46.

In Exceptions, RESA argued that the Competition Act prohibits the Commission from adopting the R.D. However, RESA's claim rests on a false equivalence between regulating competitive generation prices and regulating the structure through which default service is procured and administered.[1] The R.D. does not establish a price ceiling for Electric Generation Suppliers (EGSs), prohibit suppliers from offering prices above the Price to Compare (PTC), or otherwise subject competitive generation prices to Commission regulation. Rather, it modifies FirstEnergy's default-service procurement structure and establishes customer-protection measures governing when customers remain on competitive supply.[2] This is within the Commission's authority and does not displace competition as the mechanism for procuring generation.[3]

FE PA's proposal does not regulate the prices EGSs may charge, prohibit customers from selecting an EGS, or restrict suppliers from competing for customers.[4] Instead, it changes the consequence of customer inaction at the expiration of a fixed-term contract: a customer who affirmatively elects to remain with an EGS may do so, while a customer who takes no action returns to Commission-approved default service.[5]

FE PA's proposal also does not prohibit competition or regulate the price of competitive generation. The ALJs properly found that the Settlement's retail-shopping provisions preserve customers' ability to choose an EGS while addressing demonstrated concerns associated with automatic renewal and customer inaction.[6] RESA's contrary characterization would effectively require the Commission to treat customer inaction as an irrevocable exercise of retail choice and to preserve that consequence regardless of the evidence of customer harm. Nothing in the

---

[1] RESA Exc. at 5-14.
[2] OCA R.B. at 15-16.
[3] *See* 66 Pa. C.S. §§ 2803(4), 2807(e)(3.2), 2807(e)(3.3); OCA R.B. at 8-16.
[4] R.D. at 163-200.
[5] R.D. at 163-64, 198-200.
[6] R.D. at 66-68; OCA R.B. at 43-46.

Competition Act requires that result. The Act requires the Commission to preserve competitive markets and customer choice, but it does not require the Commission to equate silence with affirmative consent.[7]

B. Reply to RESA Exception No. 2: The R.D. preserves meaningful customer choice while addressing problems with the existing framework. R.D. at 63-75, 85-86, 90-91, 163-64, 196-204, 227-29, 240-46; RESA Exc. at 14-21; OCA M.B. at 66; OCA R.B. at 14-15, 43-46.

In Exceptions, RESA argues that the R.D. applied the wrong standard by treating the fact that customers remain legally free to shop as sufficient to preserve competition.[8] However, RESA's exception rests on the false premise that preserving a functioning competitive market requires preserving customers' existing participation in competitive supply.[9]

RESA 2018 recognized that a change in the default treatment of customers did not violate the Competition Act where customers retained meaningful options to select an EGS or return to default service.[10] RESA's contrary position would improperly convert the Competition Act into a requirement that the Commission preserve existing market mechanisms regardless of whether those mechanisms advance the Act's underlying objectives.[11]

The ALJs recognized that the change would affect the competitive market by requiring customers to affirmatively elect continued EGS service, but found that this did not constitute an impermissible restriction on competition because customers remain free to choose their existing EGS, select a different EGS or product, or return to default service.[12] The ALJs further found that the change is narrowly limited to residential customers who enter new fixed-term contracts after

---

[7] 66 Pa. C.S. §§ 2805(b)(2), 2806(a), 2807(d)(1)-(2).
[8] RESA Exc. at 14-21.
[9] RESA Exc. at 17.
[10] *Retail Energy Supply Ass'n v. Pa. Pub. Util. Comm'n*, 185 A.3d 1206, 1221–24 (Pa. Cmwlth. 2018) (*RESA 2018*).
[11] *RESA 2018* at 1065-66 (Pa. Cmwlth. 2018); *see also* 66 Pa. C.S. § 2802(9), (17).
[12] R.D. at 196-97.

June 1, 2027 and who take no action at the end of the contract term, and that the temporary waiver will be subject to review in FirstEnergy's next default service proceeding.[13] RESA's exception should be denied.

C. Reply to JSA Exception Nos. 1 and 2, and Dimension Exception Nos. 1 and 3: The R.D.'s grandfathering provisions are supported by the record and should be upheld. R.D. at 117-18, 128, 132-33; OCA M.B. at 28-30; Dimension Exc. at 1-3, JSA Exc. at 4-12; OCA R.B. at 35-36.

In Exceptions, Dimension and JSA argues that the R.D.'s two-year grandfathering period is insufficient and recommend that the Commission adopt the ten-year grandfathering period achieved via settlement in PPL Electric's base rate case proceeding.[14] The ALJs recognized that this provision must be considered together with Settlement Paragraph 38, which preserves the capacity and line-loss components of the Hourly Pricing (HP) Rider for customer-generators through May 31, 2041, absent a material change in PJM's capacity markets.[15]

The record establishes that large customer-generators create distinct procurement risks and costs that are not shared by similarly situated small commercial customers and that continuing to recover those costs through the Company's PTC Default Service Rate Rider (Commercial PTC Rider or PTC Rider) would perpetuate an unreasonable subsidy borne by small commercial customers.[16] Additionally, lengthy grandfathering periods would perpetuate the existing cost shift and that the Commission should ensure that customer classifications and cost-recovery mechanisms accurately reflect the costs and risks associated with serving each customer group.[17]

---

[13] *Id*. at 197.
[14] Dimension Exc. at 2-3; JSA Exc. at 4-12.
[15] R.D. at 132-133.
[16] R.D. at 132-133; *see also* OCA M.B. at 28-30; OCA SIS at 23-24.
[17] OCA R.B. at 35-36; R.D. at 132-133.

Dimension's and JSA's reliance on *PPL Electric* is particularly misplaced.[18] In *PPL Electric*, the Commission's ten-year grandfathering period was subject to a 140 MW cap that was expected to limit upward pressure on the PTC to approximately $0.02/kWh, while the evidence here demonstrates substantially greater potential rate impacts from extended grandfathering.[19] Here, substantial evidence demonstrated that extended grandfathering could produce dramatically greater impacts, including a projected 23,660% increase in the Penn Power PTC if the eleven currently operating facilities were grandfathered for 25 years, and a 132,980% increase if qualifying projects in the interconnection queue were also included.[20]

Settlements are not precedent.[21] Specifically, the *PPL Electric* settlement does not establish that a ten-year grandfathering period is appropriate here, particularly where the factual record concerning cost impacts and procurement risks is materially different. Dimension's assertion that there is "no relevant distinction" between the proceedings is contrary to the record.[22] Moreover, a ten-year grandfathering period would prolong the very cost shifting the ALJs found problematic by continuing to impose costs associated with large customer-generators on other default service customers.[23] JSA's interests do not justify extending that cost shift for an additional eight years, particularly where the Settlement provides additional protections which preserves capacity and line-loss components of the HP Rider through 2041 and provides a measure of stability for customer-generators.[24] The ALJs expressly considered the competing interests and concluded that the two-year grandfathering period, considered together with the Settlement's protection for

[18] *See In re PPL Elec. Utils. Corp.*, Docket No. R-2025-3057164, Order at 48 (June 4, 2026) (*PPL Electric*).
[19] R.D. at 122-23.
[20] R.D. at 117-118; FE PA M.B. at 33; FE PA St. 1R at 23-24.
[21] *PPL Electric* at 48; R.D. at 128; OCA R.B. at 35.
[22] Dimension Exc. at 3. The R.D. itself identifies the material distinction between the PPL proceeding and this proceeding: PPL's ten-year grandfathering period included a 140 MW cap designed to substantially mitigate the rate impact. R.D. at 117-118.
[23] R.D. at 132-133.
[24] R.D. at 133; Settlement ¶ 38.

capacity and line-loss components, provides an appropriate transition and "some stability" for affected customer-generators.[25]

The R.D. appropriately balanced the interests of existing customer-generators against the interests of other default service customers and that those interests must be balanced against the demonstrated costs and risks that continued grandfathering would impose on other customers.[26] Dimension and JSA has not demonstrated any error in the ALJ's analysis or established a basis for extending the grandfathering period to ten years and their exceptions should be denied.

D. Reply to Dimension Exception No. 2: The ALJs correctly found that the settlement's treatment of the HP rider provides stability while preserving appropriate compensation for net excess generation. R.D. at 133-34, 137; Dimension Exc. at 2-3; OCA R.B. at 20-21.

Dimension argues that the 15-year HP Rider/Maximum Registered Peak Load (MRPL) treatment lacks evidentiary support.[27] Dimension challenges the Settlement provision providing that, for customer-generators taking service under the HP Rider, compensation for net excess generation will continue to include the capacity and line-loss components of the HP Rider through May 31, 2041, absent a material change in PJM's capacity markets.[28] The ALJs expressly considered this provision and concluded that it provides stability for prospective customer-generators while forming part of a reasonable compromise that should be approved.[29]

The Settlement does not address the HP Rider provision in isolation; rather, the ALJs considered it together with the two-year grandfathering period for existing customer-generators.[30] The record demonstrates that large customer-generators create procurement risks and costs that

[25] R.D. at 132-133.
[26] R.D. at 132-133.
[27] Dimension Exc. at 2-3.
[28] Dimension Exc. at 2-3.
[29] R.D. at 133-134.
[30] *Id*.

differ from those of small commercial customers and that continuing to assign those customers to the Commercial PTC Rider would shift costs and risks to other default-service customers.[31]

Against that backdrop, the Settlement's fifteen-year treatment of the HP Rider's capacity and line-loss components provides prospective customer-generators with greater certainty while allowing the Commission to revisit the treatment if a material change occurs in PJM's capacity markets.[32] Walmart, a prospective solar developer, likewise supported the provision because of the stability it provides for future solar development.[33]

E. Reply to EGS Parties Exception No. 4 and RESA Exception No. 5: The Network Integration Transmission Service and Capacity Proxy Price risk allocation does not improperly discriminate against EGSs or disrupt competitive parity. R.D. at 72, 74-80, 80-86, 137; EGS Parties Exc. at 9-11; RESA Exc. at 37-39; OCA M.B. 12-14, 24; OCA R.B. at 11-12, 20-21, 26-28.

1. Network Integration Transmission Service (NITS)

The EGS Parties and RESA argue that removing NITS from the default-service rate is discriminatory.[34] The ALJs correctly determined that removing Network Integration Transmission Service (NITS) costs from the Supplier Master Agreement (SMA) is reasonable and in the best interests of default-service customers because it avoids requiring suppliers to incorporate an uncertain and difficult-to-hedge cost into their fixed-price full-requirements (FPFR) bids.[35] The Settlement does not eliminate NITS costs or shift responsibility for procuring transmission service away from FirstEnergy; rather, it removes an additional layer of supplier risk pricing from the FPFR product and allows customers to pay the actual cost of NITS as incurred.[36]

2. Capacity Proxy Price (CPP)

[31] *Id.* at 132-33.
[32] R.D. at 133-134.
[33] R.D. at 134.
[34] EGS Parties Exc. at 9-11; *see also* RESA Exc. at 37-39.
[35] R.D. at 72, 75-80.
[36] *Id*. at 74-76.

RESA also challenges the CPP mechanism, arguing that it improperly shifts capacity-price risk.[37] However, CPP does not eliminate capacity-price risk; rather, when the PJM Base Residual Auction price is not known when suppliers submit their FPFR bids, the CPP with a subsequent true-up allows customers to pay the actual PJM capacity cost once established instead of paying suppliers a premium to assume and manage an uncertain, difficult-to-hedge cost.[38]

The OCA demonstrated that requiring suppliers to price an unknown future capacity cost into a fixed-price product necessarily requires them to estimate the future market outcome and recover the associated risk through their bids.[39] The ALJs correctly credited this evidence and recognized that the CPP mechanism reduces unnecessary supplier risk premiums while preserving competitive procurement and ensuring recovery of the actual market-based capacity costs.[40] The EGS Parties' and RESA's exception therefore does not undermine the ALJs' determination; it simply favors having suppliers price an uncertain future cost into FPFR bids rather than allowing customers to pay the actual cost once it is known.

F. Reply to JSA Exception No. 3: The R.D. Adequately Addresses the Issues Presented Concerning Negative Peak Load Contributions. R.D. at 80-86; JSA Exc. at 12-13; OCA M.B. at 12-14; OCA R.B. at 11-12.

JSA argues that the ALJs failed to resolve whether FirstEnergy should recognize negative Peak Load Contributions (PLCs) and Network Service Peak Load (NSPLs) for customer-generators, which JSA contends would ensure that the Commercial and Industrial default-service customers who pay for net-metered excess generation also receive the associated capacity and transmission benefits.[41] The ALJs, however, did consider the issue and made specific findings

[37] RESA Exc. at 35-36.
[38] OCA M.B. at 12-14; OCA R.B. at 11-12; OCA St. 1SR at 19-20.
[39] OCA St. 1SR at 19-20; FE PA St. 2R at 10.
[40] R.D. at 80-86; OCA R.B. at 11-12.
[41] JSA Exc. at 12-13.

addressing it: they found that PLCs and NSPLs are accounting constructs, that negative PLCs/NSPLs would change the allocation of costs among FirstEnergy customers, and, critically, that JSA's projected savings assumed customer-generators would be producing excess generation at future PJM peak periods despite the absence of certainty that they would do so.[42]

Substantial evidence shows that negative PLCs would not actually reduce the capacity requirements or costs assigned by PJM to FirstEnergy's zone, could result in other customers bearing increased costs, and could disrupt fixed-price commitments already negotiated with suppliers.[43] Moreover, customer-generators are not PJM capacity resources or dispatchable by PJM and therefore cannot be presumed to provide capacity benefits merely because they reduce load during historical peak periods.[44] JSA's Exception No. 3 should be denied.

G. Reply to JSA Exception No. 4: The ALJs were not required to make a separate finding on resource adequacy. R.D. at 21-22; JSA Exc. at 13-14; OCA M.B. at 24; OCA R.B. at 26-28.

JSA argues that the ALJs failed to consider the resource adequacy benefits of customer-generators and that reclassifying those customers could discourage additional distributed generation at a time when Pennsylvania and PJM face growing resource-adequacy needs.[45] However, the relevant issue in this proceeding is not whether distributed generation may provide broader resource-adequacy, but whether large customer-generators should continue to be grouped with small commercial customers for default-service procurement purposes when they impose materially different procurement risks and costs.[46] The record establishes that large customer-generators can increase switching and volumetric risk for FPFR suppliers, resulting in higher risk

[42] R.D. at 21-22.
[43] OCA R.B. at 26-28; OCA St. 1SR at 33, 35.
[44] OCA R.B. at 27-28.
[45] JSA Exc. at 13-15.
[46] OCA R.B. at 28-29; OCA M.B. at 24.

premiums and/or higher and more volatile PTC rates for small commercial customers.[47] The ALJs correctly recognized that distinction and found that continuing to recover those incremental costs through the Commercial PTC Rider would perpetuate an unreasonable subsidy from small commercial customers to large customer-generators.[48] JSA's Exception No. 4 should be denied.

H. Reply to CGC Exception Nos. 1 and 2: The R.D. properly considered MRPL and the benefits associated with net-metering customers. R.D. at 2, 19-22, 114-115, 134; CGC Exc. at 7-8, 13-17; OCA R.B. at 29.

CGC alleges that the record does not show that large net-metered customer-generators create costs and risks for other default-service customers to warrant being treated differently under the MRPL/default-service structure and that the ALJs improperly concluded that FirstEnergy's proposed MRPL changes were supported by substantial evidence.[49]

The record supports the ALJs' finding that increasing numbers of large customer-generators create procurement uncertainty because their load and generation are variable and their ability to switch between default service and competitive supply affects suppliers' risk.[50] Record evidence also shows that, even assuming only 10% of queued customer-generator projects reach commercial operation, net-metering expenses could exceed $59 million by 2029, demonstrating that the projected cost impact was not speculative.[51] The ALJs further relied on substantial evidence that large customer-generators generally have little or no onsite load and therefore can impose material true-up costs on other PTC Rider customers.[52]

CGC's contends that since the record did not identify a supplier that expressly attributed a discrete "risk premium" to net metering, the ALJs cannot find that a risk premium exists; but the

---

[47] OCA R.B. at 20-21; OCA St. 1 at 38-40.
[48] R.D. at 137.
[49] CGC Exc. at 6-8.
[50] R.D. at 22, OCA St. 1SR at 30-31
[51] R.D. at 21.
[52] R.D. at 20-22.

relevant inquiry is whether the record reasonably supports the finding that customer-generator uncertainty affects procurement risk, not whether a supplier separately itemized such a premium.[53] Likewise, CGC's disagreement with the projected rate of project development goes to the weight of projections, not their evidentiary sufficiency, particularly where the record contains data with sensitivity analyses using multiple commercialization scenarios.[54] As the ALJs relied on testimony, historical data, quantitative analyses, and evidence concerning customer behavior and procurement risk, the Commission had a reasonable evidentiary basis for its MRPL determination, and CGC's contrary interpretation does not establish a lack of substantial evidence.[55]

Record evidence also established that net-metered customer-generators differ materially from traditional commercial customers because they generally have little or no on-site electric load while generating electricity, and excess generation is banked and ultimately cashed out at the commercial PTC Rider rate.[56] Record evidence also established that the continued inclusion of large customer-generators in the commercial PTC procurement group creates both switching risk and volumetric risk for FPFR suppliers.[57]

The record also establishes that large customer-generators are sophisticated customers capable of switching between default service and EGS service, while even customer-generators that remain on default service introduce uncertainty concerning the amount and profile of generation that will actually be available—including uncertainty associated with generator outages and the commercial-operation dates of projects in FirstEnergy's interconnection queue.[58] The ALJs found, based on that evidence, that continued inclusion of large customer-generators in the PTC

---

[53] R.D. at 20.
[54] R.D. at 21.
[55] R.D. at 20-22.
[56] R.D. at 19-20.
[57] R.D. at 2.
[58] *Id.*; *see also* OCA St. 1SR at 30-31; OCA SIS at 30.

Rider commercial class would result in risk premiums in default-service costs that would adversely affect small commercial customers.[59]

CGC also argues that ALJs only identified alleged costs associated with large customer-generators—such as net-metering true-up costs and procurement risks—but did not put those costs on a balance sheet against the benefits of customer-generation.[60] However, CGC continues to conflate the general benefits of distributed generation with benefits that actually reduce FirstEnergy's default-service procurement costs. The OCA does not dispute that customer-generation may provide broader societal or system benefits; those benefits do not answer the cost-allocation question, particularly, where the record demonstrates that large customer-generators impose distinct switching, volumetric, and procurement risks on default-service suppliers.[61]

The ALJs appropriately found that the record evidence established that continued inclusion of large customer-generators in the Commercial PTC Rider would result in risk premiums in default-service costs adversely affecting small commercial customers.[62] The ALJs correctly determined that the MRPL proposal would mitigate the significant "true-up" expenses associated with large customer-generators and prevent those costs from being shifted to other Commercial PTC Rider customers.[63] CGC's Exception Nos. 1 and 2 should be denied.

I. Reply to CGC Exceptions No. 4-6: The Settlement does not violate the Commission's regulations, the Alternative Energy Portfolio Standards Act (AEPS), or Act 129. R.D. at 7-8, 17, 54, 96-98,102-115, 120-121; CGC Exc. at 20-28; OCA R.B. at 30-31.

[59] CGC Exc. at 13-20.
[60] CGC Exc. at 13-20.
[61] OCA R.B. at 29.
[62] R.D. at 114-115.
[63] R.D. at 114.

CGC argues that the Settlement violates the Commissions regulations, AEPS, and Act 129.[64] CGC's Exceptions Nos. 4-6 should be denied because they rest on the same fundamental premise—that FirstEnergy's MRPL methodology impermissibly changes the Commission's regulatory framework for customer classification and compensation.[65]

The MRPL provision is intended to place large customer-generators in the default-service procurement class that best reflects their impact on FirstEnergy's load and procurement requirements.[66] The ALJs explain that MRPL measures a customer's peak demand after accounting for the customer's generation.[67] MRPL recognizes that a large customer-generator can have a different effect on FirstEnergy's default-service procurement than a customer that takes its full load from the grid.[68] MRPL does not eliminate the protections available to customers that otherwise qualify for those protections under Pennsylvania law. Instead, it addresses how those customers are classified for purposes of FirstEnergy's default-service procurement and rates.[69]

CGC's Exception No. 4 should be denied as the ALJs did not simply accept FE PA's proposal without examining the governing regulatory framework. The ALJs considered 52 Pa. Code Sections 54.182, 54.187, and 69.1805 and explained that the Settlement would classify non-residential customers based on peak demand or MRPL, with MRPL defined according to the customer's net demand contribution to FirstEnergy's default-service procurement activity.[70] The ALJs further considered CGC's contention that MRPL could not account for customer generation and rejected that position, relying in part on the Commission's prior treatment of comparable MRPL concepts and the Commonwealth Court's decision affirming UGI's use of a peak-load

---

[64] CGC Exc. at 21-29.
[65] CGC Exc. at 20-28.
[66] R.D. at 96-98.
[67] *Id*. at 97-98
[68] *Id.* at 102-15.
[69] *Id.* at 104-15.
[70] R.D. at 17, 54, 97-98, 102-04.

construct to reclassify certain large net-metered customer-generators.[71] The R.D. thus did not "rewrite" the regulation through a tariff; it concluded that the proposed methodology fell within the regulatory framework governing FirstEnergy's default-service procurement classes.[72]

The ALJs also addressed CGC's waiver argument under 52 Pa. Code Section 56.97 and concluded that the MRPL proposal did not require the separate waiver CGC claimed was necessary.[73] The ALJs properly rejected CGC's waiver argument because the Commission's regulations expressly permit an EDC tariff to further define MRPL, and the Commission's default-service rules permit departures from the specified peak-load ranges.[74]

Contrary to CGC Exception No. 5, MRPL does not violate AEPS. The ALJs expressly recognized that customer-generators reclassified to the HP Rider would continue to receive compensation for their net excess generation and that the Settlement affirmatively preserves the capacity and line-loss components of HP Rider compensation through May 31, 2041, absent a material change in PJM's capacity markets.[75] CGC's disagreement with the compensation methodology therefore does not establish a violation of AEPS; it simply reflects CGC's preference for retaining the existing Commercial PTC Rider treatment.

CGC's Exception No. 5 largely repeats an argument that is foreclosed by *Penn Renewables*.[76] CGC contends that transferring certain customer-generators to the HP Rider violates AEPS because the HP Rider uses hourly LMP-based pricing rather than the PTC rate.[77] Yet, *Penn Renewables* holds that an hourly-priced default-service tariff can satisfy AEPS's "full retail value" requirement so long as the applicable rate reflects the full bundled cost of retail

[71] *Id.* at 104-05.
[72] R.D. at 104-115.
[73] R.D. at 106-108.
[74] R.D. at 113.
[75] *Id.* at 120-21.
[76] *Penn Renewables, LLC v. Pa. PUC*, 2026 Pa. Commw. LEXIS 88 (Pa. Cmwlth. 2026) (*Penn Renewables*)
[77] CGC Exc. at 26-27.

electric service.[78] Moreover, AEPS does not require a fixed or flat rate structure.[79] Moving a customer-generator to the HP Rider does not eliminate its entitlement to full retail value; it merely changes the applicable retail rate used to calculate that value.[80]

CGC's Exception No. 6 argues that customers with an actual registered peak load below 25 kW must remain in the small-business/default-service class and therefore cannot be placed on the hourly-priced HP Rider.[81] However, the MRPL methodology is intended to capture a customer-generator's broader impact on default-service procurement, including the effects of customer generation.[82] This accounts for circumstances in which on-site generation reduces a customer's apparent grid usage but could unexpectedly become unavailable during a peak period, requiring the grid to supply the lost generation.[83]

Moreover, Act 129 does not require FirstEnergy to classify every customer-generator solely by its instantaneous or registered net demand.[84] Act 129 does not prescribe a particular default-service rate-design methodology, leaving the Commission discretion to determine an appropriate structure consistent with the statutory requirements.[85] CGC's exceptions should be denied.

J. Reply to Constellation Exception Nos. 1-4, RESA Exception Nos. 1-4, EGS Parties' Exception No. 1, and Town Square Exception No. 1: The Recommended Decision correctly approved the return-to-default-service provision as the record establishes substantial consumer harm from automatic renewals. R.D. at 194-200; Constellation Exc. at 2-6; RESA Exc. at 5-33; EGS Parties' Exc. at 3-5; Town Square Exc. at 5-15; OCA M.B. at 36-39; OCA R.B. at 42-49.

---

[78] OCA R.B. at 30-31 *citing Penn Renewables* at *10-13 (an hourly-priced default-service rate remains a retail rate when it includes the applicable retail cost components).
[79] *Penn Renewables* at *12-13.
[80] *See* OCA R.B. at 32-33.
[81] CGC Exc. at 27-28.
[82] R.D. at 103.
[83] R.D. at 104.
[84] *See Penn Renewables.*
[85] R.D. at 7-8.

Constellation, RESA, the EGS Parties, and Town Square challenge the R.D.'s approval of FE PA's proposal to return residential customers to default service when a fixed-term EGS contract expires unless the customer affirmatively elects to remain with the EGS.[86] The parties principally argue that the proposal violates the Competition Act's customer-choice and anti-slamming protections, improperly changes a customer's supplier without authorization, constitutes an impermissible utility-specific waiver of Section 54.10(3), and is unsupported by substantial evidence because the record does not establish that automatic renewals caused the customer harms identified by the Settlement proponents.[87]

The R.D. correctly rejected these arguments. The Settlement does not prevent residential customers from shopping or dictate which supplier a customer must select and therefore does not reduce competition.[88] Instead, it changes the consequence of *inaction* at the expiration of a fixed-term contract into one that is beneficial to customers.[89] Under the existing framework, a customer who selected an EGS remains on that supplier's service following expiration unless the customer takes further action.[90] Under the Settlement, a customer who does nothing will instead return to default service, but that customer remains free to affirmatively select the same EGS, a different EGS, or any other competitive product.[91]

Also, unlike prior cases involving similar proposals, the R.D. correctly concluded that FE PA developed a substantial record demonstrating adverse outcomes among residential shopping customers.[92] The record shows that residential shopping customers paid more than $888 million above the applicable PTC from August 2017 through December 2025, including approximately

---

[86] *See generally*, Town Square Exc. at 5-15; EGS Parties' Exc. at 3-5; Constellation Exc. at 2-6; RESA Exc. at 5-33.
[87] *Id.*
[88] OCA R.B. at 49.
[89] *Id.*
[90] *Id.*
[91] *Id.*
[92] R.D. at 198.

$82 million in 2025 alone.[93] In 2025, termination rates for residential shopping customers ranged from 14 percent to 22 percent across FE PA's four divisions, compared to approximately 1 percent to 3 percent for residential default-service customers.[94] Shopping customers also experienced 2-3 times higher uncollectable expense than default service customers in 2025.[95]

This evidence is particularly significant because the Commission has previously identified evidence of increased complaints, payment-troubled customers, collection activity, service terminations, and uncollectible expense as the type of evidence that could justify a waiver of Section 54.10(3).[96] The ALJs correctly recognized that FE PA has now developed precisely the type of record that was absent in *PPL DSP V* and *PECO DSP VI*.[97]

The same considerations defeat the argument that the waiver must instead be considered in a statewide proceeding.[98] The R.D. correctly found that FE PA-specific relief is appropriate because the evidence supporting the change is specific to FE PA's service territory and default-service proceedings are themselves utility-specific proceedings addressing utility-specific retail programs and Supplier Coordination Tariffs.[99] The Commission also previously considered supplier coordination mechanisms, POR provisions, and other retail-market issues in individual DSP proceedings.[100]

Section 5.43(a) of the Commission's regulations provides authority for a waiver where the facts demonstrate grounds warranting the requested relief and the waiver is consistent with the

---

[93] OCA R.B. at 45.
[94] *Id.*
[95] *Id.*
[96] *Petition of PECO Energy Co. for Approval of Its Default Service Program for the Period From June 1, 2025, Through May 31, 2029*, Docket No. P-2024-3046008, Order (Nov. 7, 2024) (*PECO DSP VI*); *Petition of PPL Elec. Utils. Corp. for Approval of Its Default Service Plan for the Period June 1, 2021 through May 31, 2025*, Docket No. P2020-3019356, Order (Dec. 17, 2020) (*PPL DSP V*).
[97] R.D. at 198-99.
[98] OCA R.B. at 48-49.
[99] R.D. at 197.
[100] *Id.*

public interest.[101] Here, the waiver is necessary to implement the Settlement's Supplier Tariff provisions and is supported by a record of customer harm specific to FE PA's territory.[102]

Finally, the record demonstrates that FE PA has not simply jumped to automatic return to default service without considering less restrictive measures.[103] The R.D. specifically recognized FE PA's existing POR clawback mechanism, collaborative review processes, and customer education efforts undertaken following DSP VI.[104] Those measures did not eliminate the documented problems.[105] The Settlement therefore represents a reasonable next step that directly addresses the problem created when customers remain on competitive supply through inaction after their fixed-term contracts expire. The supplier parties identify no less restrictive measure that has demonstrated an equivalent ability to ensure that customers affirmatively decide whether to continue with competitive supply at the end of their contractual term.

Accordingly, the Commission should reject Constellation's, RESA's, the EGS Parties', and Town Square's exceptions.

K. Reply to Constellation Exception Nos. 1-4, RESA Exception Nos. 1-4, EGS Parties' Exception No. 2, Town Square Exception No. 2: The R.D. correctly approved quarterly affirmation. R.D. at 208-09; Constellation Exc. at 2-6; RESA Exc. at 5-33; EGS Parties' Exc. at 6-7; Town Square Exc. at 15-18; OCA M.B. at 39-41; OCA R.B. at 50-51.

Constellation, RESA, the EGS Parties, and Town Square argue that the quarterly affirmation requirement is unnecessary because Commission regulations already require disclosures concerning variable-rate products and because customers knowingly select variable-rate contracts with the understanding that prices may change.[106] They further contend that

---

[101] 52 Pa. Code § 5.43(a).
[102] R.D. at 197.
[103] R.D. at 199.
[104] *Id.* (internal citations omitted).
[105] *Id.*
[106] *See generally*, Town Square Exc. at 15-18; EGS Parties' Exc. at 6-7; Constellation Exc. at 2-6; RESA Exc. at 5-33.

requiring repeated affirmative consent imposes unnecessary administrative burdens, increases supplier costs, discourages competition, and risks returning customers to default service simply because they fail to respond to a quarterly attestation.[107]

The ALJs correctly rejected these arguments because the requirement does not prohibit variable-rate contracts, restrict the prices suppliers may charge, or prevent customers from receiving products with prices that fluctuate.[108] It simply requires the supplier to confirm that the customer continues to affirmatively choose that product.[109]

As the R.D. recognized, variable-rate prices are determined by the supplier and can fluctuate significantly, while existing disclosure statements may not specify the methodology by which the supplier will determine future prices.[110] RESA, the EGS Parties, and Town Square have not presented evidence demonstrating that repeated automatic renewals of variable-rate contracts provide meaningful consumer benefits.[111] Importantly, FE PA demonstrated that existing protections have not prevented residential customers from remaining on higher-priced variable-rate products through inaction, contributing to documented affordability concerns.[112]

The supplier parties also overstate the competitive consequences of the requirement. Customers remain free to select variable-rate products, and suppliers remain free to offer them. Competition is not advanced by allowing a supplier to retain a customer indefinitely based solely on the customer's failure to respond to a notice after the product's price has changed.[113]

---

[107] *Id.*
[108] OCA R.B. at 50-51.
[109] *Id.*
[110] R.D. at 208.
[111] OCA R.B. at 51.
[112] *Id.*
[113] OCA R.B. at 47.

For these reasons, the ALJs correctly concluded that quarterly affirmation supplements, rather than conflicts with existing consumer protections, and reasonably addressed the unique risks associated with variable-rate products.[114]

L. Reply to RESA Exception Nos. 1-4, EGS Parties' Exception No. 3, Town Square Exception Nos. 3, 4: The R.D. correctly approved POR eligibility requirements. R.D. at 227-29; RESA Exc. at 5-33; EGS Parties' Exc. at 7-9; Town Square Exc. at 18-27; OCA M.B. at 41-44; OCA R.B. at 52-55.

RESA, the EGS Parties, and Town Square challenge the Settlement's modifications to FE PA's Purchase of Receivables (POR) program.[115] The parties contend that limiting POR eligibility based on supplier pricing improperly regulates EGS rates, discriminates among similarly situated suppliers, undermines competition, and will reduce the availability and variety of competitive products.[116] They further argue that POR is essential to the residential competitive market because suppliers currently rely on the program to avoid the credit and collection risks associated with residential customers.[117] The R.D., however, correctly recognized that POR is a voluntary program and that FE PA may establish reasonable eligibility criteria governing access to that program, particularly where the record demonstrates that unrestricted POR participation exposes utility customers to disproportionate collection risks.[118]

Contrary to what the supplier parties argue, Section 69.1814 of the Commission's regulations does not require POR to remain available on any particular terms.[119] It provides that "[t]he public interest would be served by consideration of an EGS receivables purchase program in each service territory."[120] The R.D. therefore does not eliminate a statutory entitlement.

---

[114] R.D. at 208-09.
[115] *See generally*, Town Square Exc. at 18-27; EGS Parties' Exc. at 7-9; RESA Exc. at 5-33.
[116] *Id.*
[117] *Id.*
[118] R.D. at 227-29.
[119] OCA R.B. at 54.
[120] 52 Pa. Code § 69.1814.

The R.D. appropriately finds "that the eligibility criteria in the proposed POR provisions are reasonable and rationally related to documented differences in collections risks and payment outcomes."[121] The record established that from 2022 through 2025, POR-related uncollectible rates were between 22 percent and 56 percent higher than default-service uncollectible rates.[122] In 2025, POR-related uncollectible expense ranged from approximately $23 to $38 per customer, compared with approximately $8 to $15 per customer for default service.[123]

Additionally, when high supplier charges are billed through utility consolidated billing and the resulting receivables are purchased through POR, the supplier receives guaranteed payment while FE PA and its customers bear the consequences of the resulting collection risk.[124] The Settlement appropriately addresses that incentive by requiring suppliers that choose to price their products above the PTC to bear the corresponding collection risk rather than automatically transferring that risk to the utility and its customers.[125]

The PTC likewise is not being transformed into a regulatory price ceiling.[126] The PTC is simply an objective benchmark that permits the Commission to distinguish between supplier products that are priced at or below the default-service benchmark and products that impose an additional generation charge relative to default service.[127] That distinction is relevant because the purpose of POR is not to subsidize every possible competitive product; it is to provide a utility-administered billing and collection mechanism consistent with the public interest.[128] Suppliers

---

[121] R.D. at 227.
[122] *Id.*
[123] *Id.*
[124] OCA R.B. at 54.
[125] *Id.* at 54-55.
[126] *Id.*
[127] *Id.*
[128] OCA R.B. at 54.

remain free to offer products with renewable energy, rewards, energy-efficiency products, long-term price certainty, or other value-added features.[129]

Further, the EGS Parties' Section 1502 argument likewise does not warrant rejection of the Settlement because the record establishes materially higher uncollectible expenses among shopping accounts and demonstrates a rational relationship between the proposed POR eligibility criteria and those different collection risks.[130] A distinction grounded in documented differences in risk is fundamentally different from arbitrary discrimination. The supplier parties also point to the fact that no EGS currently serves residential customers in FE PA's territory without POR, but that fact demonstrates the substantial benefit POR provides to suppliers; it does not establish that the benefit must remain unlimited.[131] Their exceptions regarding FE PA's POR should be denied.

M. Reply to RESA Exception Nos. 1-4: The Recommended Decision correctly approved discontinuation of the Customer Referral Program. R.D. at 162-63; RESA Exc. at 5-33; OCA M.B. at 32-36, OCA R.B. at 38-42.

RESA opposes the elimination of the Customer Referral Program (CRP), arguing that the CRP provides significant customer savings, and that removal of the program further incentivizes customers to remain on default service, rather than participate in the competitive market.[132]

The CRP has experienced declining supplier participation, serves only a small percentage of eligible customers, and contains structural features that can result in customers paying more than the applicable PTC.[133] The program's advertised seven-percent discount is based on the PTC in effect when the customer enrolls, even though the PTC may change during the twelve-month CRP contract. A customer who enrolls shortly before a PTC change may therefore receive

[129] R.D. at 229.
[130] R.D. at 227.
[131] R.D. at 228.
[132] RESA Exc. at 2, 18, 26.
[133] OCA R.B. at 39-42.

substantially less than the advertised discount or may even pay more than default service if the PTC subsequently decreases.[134]

Further, the R.D. correctly identifies that the opposing parties have the burden of proof for implementation of a new CRP because the settlement of FE PA's DSP VI proceeding provided that the prior CRP would end, and that FE PA would determine whether or not to propose a new CRP.[135] The opposing parties have not met this burden. On the other hand, FE PA demonstrated that it was in the public interest not to renew the CRP as "there is no reasonable assurance that the design issues can or will be reformed to address" the risk that enrolled customers will face increased prices after the end of the CRP term.[136] Accordingly, the Commission should reject RESA's and Town Square's exceptions regarding FE PA's CRP.

N. Reply to RESA Exception No. 4: Substantial evidence establishes that shopping pricing, terminations, uncollectibles, complaints, and related data justify FE PA's proposals. R.D. at 165-166, 106, 198-200; RESA Exc. at 28-33; OCA M.B. at 37, 42; OCA R.B. at 43-45, 54.

RESA argues that the substantial evidence regarding pricing, termination, uncollectible, complaint and related data for shopping customers are not substantial evidence of customer harm.[137] According to RESA, "[t]hose data do not become substantial evidence of customer harm merely because they are collected, compared, or presented together."[138]

To the contrary, the R.D. properly noted that substantial record evidence establishes customer harm to FE PA's shopping customers.[139] The R.D. also properly determines the customer

---

[134] OCA M.B. at 33-35; OCA R.B. at 40-41.
[135] R.D. at 162.
[136] R.D. at 163.
[137] RESA Exc. at 28-33.
[138] RESA Exc. at 29.
[139] R.D. at 198-200.

harm established by the record evidence of this case by listing out bullet points regarding pricing, termination, write-off balances, uncollectible expense, and related data for shopping customers.[140]

RESA acknowledges that none of these facts in record evidence were disputed by RESA.[141] Instead, RESA takes issue with the following portion of the R.D., which accurately notes that the evidentiary record establishes that a "direct nexus" exists as follows: "It shows a direct nexus between continual supplier pricing above the price to compare and higher involuntary termination rates, higher uncollectible expenses, and rising customer complaints against EGSs in FirstEnergy's service territory."[142] The R.D. further noted a causal connection as follows: "We agree with FirstEnergy, however, that the Company is also affected by the current protocol given the higher shopping customer uncollectible expense, increased termination activity, and rising customer complaints against EGSs in its territory."[143] RESA's claim that there is no causal connection within the significant record evidence of harm to shopping customers under FE PA's existing shopping protocols is essentially a request for the Commission to ignore the record evidence.[144] RESA's Exception No. 4 should be denied.

O. Reply to CGC Exception No. 3: The Recommended Decision utilizes the proper legal standard for approval of settlements. R.D. at 6-9, 112-117; CGC Exc. at 19-20.

CGC argues that the R.D. did not apply the Commission's non-unanimous settlement standard to the Settlement's MRPL provisions.[145] However, the R.D. correctly notes that the Commission applies the same standards for non-unanimous as it does for unanimous settlements and that settlements must be reasonable and in the public interest.[146] Specifically regarding MRPL,

---

[140] R.D. at 165-166.
[141] RESA Exc. at 29.
[142] R.D.at 197-198.
[143] R.D. at 196.
[144] *See* R.D. at 165-166; OCA M.B. at 37, 42; OCA R.B. at 43-45, 54.
[145] CGC Exc. at 19-20.
[146] R.D. at 8-9 (internal citations omitted).

the R.D. further notes that the *Penn Renewables* case affirmed the Commission's approval of UGI's DSP, which established the Supply Peak Load Impact (SPLI) design that utilizes MRPL.[147] Moreover, the R.D. contains a full and complete analysis section that discusses MRPL, and CGC's same arguments, specifically and at length.[148] As the R.D. applies the correct standard for approving a non-unanimous settlement, CGC's Exception No. 3 should be denied.

III. CONCLUSION

Based on the foregoing and for the reasons articulated in the OCA's Main and Reply Briefs, as well as the OCA's Statement in Support of Settlement, the OCA respectfully requests that the Commission deny the Exceptions of CGC, the EGS Parties, Constellation, Dimension, JSA, RESA, and Town Square in this matter.

Respectfully submitted,

<u>*/s/Harrison W. Breitman*</u>
Harrison W. Breitman, Esq.
Senior Assistant Consumer Advocate
PA Attorney I.D. # 320580
Email: HBreitman@paoca.org

Katie Kennedy, Esq.
Assistant Consumer Advocate
PA Attorney I.D. # 317237
Email: KKennedy@paoca.org

Olivia M. Spergel, Esq.
Assistant Consumer Advocate
PA Attorney I.D. # 337929
Email: OSpergel@paoca.org
Email: OCAFEPADSP26@paoca.org

Counsel for:
Darryl A. Lawrence
Consumer Advocate

Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101-1923

Phone: 717-783-5048
Fax: 717-783-7152

Dated: September 8, 2026

[147] R.D. at 113 *citing Penn Renewables*.
[148] *See* R.D. at 112-114.