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September 21, 2026

VIA eFILING

Matthew L. Homsher, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
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 filing in the above-captioned proceeding is the **Answer of FirstEnergy Pennsylvania Electric Company to the Petition for Reconsideration of Spark Energy, LLC** (the "Answer").

As evidenced by the enclosed Certificate of Service the Answer will be served on the Administrative Law Judges in this proceeding and all parties of record.

If you have any questions, please contact me directly at 215.963.5384. Thank you.

Very truly yours,

Kenneth M. Kulak

Kenneth M. Kulak

c: Per Certificate of Service (w/encls.)

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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 THROUGH MAY 31, 2031	:	**DOCKET NO. P-2026-3060298**

ANSWER OF FIRSTENERGY PENNSYLVANIA ELECTRIC COMPANY TO THE PETITION FOR RECONSIDERATION OF SPARK ENERGY, LLC

Pursuant to 52 Pa. Code § 5.572(e), FirstEnergy Pennsylvania Electric Company ("FE PA" or the "Company") hereby files this Answer opposing the "Petition for Reconsideration of Secretarial Letter Dated September 4, 2026" (the "Petition") filed by Spark Energy, LLC ("Spark"). Following a brief introduction, in Section II below, FE PA provides an overview of the reasons why Spark's Petition lacks merit and should be dismissed. In Section III of this Answer, the Company addresses each of the separately numbered paragraphs in the Petition.

I. INTRODUCTION

On February 3, 2026, FE PA filed the above-captioned Petition requesting Pennsylvania Public Utility Commission (the "Commission" or "PUC") approval of the Company's seventh default service program for the period from June 1, 2027 to May 31, 2031 ("DSP VII"). FE PA's initial filing included supplier coordination tariff modifications changing the current rules for electric generation supplier ("EGS") arrangements with residential customers and limiting access to FE PA's purchase of receivables ("POR") program designed to encourage customers to make intentional choices about the cost of their generation supply and to incentivize EGSs to consider the impact of their pricing on affordability.

On February 21, 2026, the *Pennsylvania Bulletin* published the Commission's Notice setting a deadline for filing protests, complaints or petitions to intervene by March 17, 2026. Thereafter, 14 entities were afforded active party status in this case, including the Retail Energy Supply Association ("RESA") and several EGSs. RESA and the supplier intervenors uniformly opposed changing the rules for EGS contracts with FE PA residential customers and imposing collection risk on EGSs that charge rates above the Price-to-Compare.[1]

On August 21, 2026, Deputy Chief Administrative Law Judge Mark A. Hoyer and Administrative Law Judge Erin L. Gannon (the "ALJs") issued their Recommended Decision ("R.D.") in this proceeding in which they recommend that the Commission approve the Joint Petition for Non-Unanimous Settlement (the "Settlement") filed on July 2, 2026. Among other things, the Settlement adopts FE PA's originally proposed supplier coordination tariff changes. In their well-reasoned R.D. (pp. 55-247), the ALJs concluded that the Settlement, including the supplier coordination tariff changes and associated waiver of the autorenewal provisions of the PUC's regulations at 52 Pa. Code § 54.10, is supported by record evidence in this case and in the public interest. The ALJs analyzed and rejected each of the objections to those revisions and waiver by RESA and other EGS intervenors, finding that the Settlement's provisions preserve retail choice while addressing harms arising from customers consistently paying more for electric generation supply established by the record evidence in this case. *See* R.D., pp. 164-229.

[1] *See* RESA St. 1, pp. 8-47, 50-56; RESA St. 1-R, pp. 18-20; RESA St. 1-SR, pp. 5-21; Town Square Energy East, LLC ("TSE") St. 1, pp. 7-14. Constellation Energy Generation, LLC and Constellation NewEnergy, Inc. ("Constellation"), Shipley Choice, LLC d/b/a Shipley Energy and Interstate Gas Supply, LLC d/b/a IGS Energy (the "EGS Parties"), and WGL Energy Services, Inc. ("WGL") did not present any evidence in this case but relied on the testimony of RESA witness Frank Lacey and TSE witness Randal Miller in opposing the Settlement in briefing. See Constellation Initial Br., pp. 8-14; Constellation Reply Br., pp. 2-5; EGS Parties Initial Br., pp. 9-18; EGS Parties Reply Br., pp. 3-14; TSE/WGL Initial Brief, pp. 13-39; TSE/WGL Reply Brief, pp. 4-16.

Even though it chose not to participate in this proceeding and the Commission's regulations at 52 Pa. Code § 5.553(a) only allow parties to seek review of a recommended decision, Spark filed Exceptions to the R.D. on August 31, 2026. Along with its Exceptions, Spark filed an untimely petition to intervene and request that the PUC consider its non-party exceptions even though Spark explicitly admits that it made a "judgment" not to participate in this case (unlike other EGSs and RESA) but now believes it could be affected by the outcome of these proceedings.[2]

On September 1, 2026, the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania ("CAUSE-PA"), which is a party to this proceeding, filed preliminary objections ("Objections") requesting expedited relief to dismiss Spark's untimely petition to intervene and improperly filed Exceptions ahead of the deadline for Reply Exceptions on September 8, 2026. By Secretarial Letter issued on September 4, 2026 (the "Secretarial Letter"), the Commission denied Spark's petition to intervene and request for acceptance of exceptions filed by a non-party, finding that Spark did not provide a valid basis, let alone extraordinary circumstances required by the Commission's regulations, warranting its requested relief well after the evidentiary hearing concluded on June 15, 2026, and denied CAUSE-PA's Objections as moot.

II. SUMMARY AND OVERVIEW

In its Petition, Spark asks the Commission to reconsider the Secretarial Letter and vacate its decision to strike and disregard Spark's Exceptions. As part of that request, Spark asks the Commission to exercise "procedural discretion" to consider Spark's "legal objections" to the

2 Spark Energy, LLC's Petition to Intervene or, in the alternative, Motion for Leave to Accept Exceptions ("Spark Petition and Motion") at 6.

supplier coordination tariff changes reflected in the Settlement at this late stage in the proceeding despite Spark's lack of standing at the time of filing of its Exceptions.[3]

Spark's Petition should be denied because it fails to meet the well-established standard for granting reconsideration under *Duick*.[4] As a review of the Petition (and Spark's Answer to CAUSE-PA's POs that Spark contends was not considered in the Secretarial Letter) reveals, Spark does not present any "new and novel arguments, not previously heard," nor does it articulate any "considerations" that were "overlooked or not addressed by the Commission."[5] To the contrary, the Petition seeks only to have the Commission address, for a second time, a question that was already considered by the PUC and decided against Spark in the Secretarial Letter – whether the Commission should ignore its regulations on intervention, party status and exceptions and entertain Spark's untimely objections to the Settlement where the only reason Spark points to for allowing its Exceptions is an adverse recommendation by the ALJs.[6] That circumstance is in no way extraordinary as required by Commission regulations (52 Pa. Code § 5.74(c)), and permitting such a maneuver would be unfair and prejudicial to other parties, including by effectively denying discovery relating to Spark's actual retail operations in FE PA's service area and across Pennsylvania, as well as the claimed impacts of the Settlement on those operations alleged in the Spark Petition to Intervene and Motion (pp. 5-6). As the PUC has stated, "it is not unusual for a

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[3] *See* Petition at 16-20.

[4] *See Duick v. Pennsylvania Gas and Water Co.*, 56 Pa. P.U.C. 553, 558-59 (1985) ("*Duick*").

[5] *Id.*

[6] Petition at 2-3, 17-18, 20; *see also* Petition to Intervene and Motion at 6-7; Spark Answer to CAUSE-PA's Preliminary Objections and Request for Expedited Relief ("Answer") at 7 ("[T]he [Petition to Intervene and Motion] 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.").

non-party to be affected by a decision of the Commission" and such circumstances do not provide a basis to allow a non-party to raise new arguments and issues through Exceptions after the record has closed.[7]

Spark readily admits that it received actual service of FE PA's initial DSP VII filing, was aware of the proposed supplier coordination tariff changes and related retail shopping issues, and elected to rely on the participation of RESA and other EGSs that actively litigated the supplier issues presented by FE PA's DSP VII Petition instead of seeking timely intervention.[8] Any interest on Spark's part in presenting legal arguments against the supplier tariff changes proposed on February 3, 2026 and ultimately adopted in the Settlement should have been raised long before the issuance of the R.D. Indeed, Spark could have filed an amicus brief pursuant to the Commission's regulations if it only wanted to address questions of law arising from the record evidence before the R.D. Spark provides no reason for failing to intervene prior to evidentiary hearings or for deciding not to submit an amicus brief to address the supplier issues raised in FE PA's initial filing and that were vigorously litigated through the close of the record in this case. In short, allowing Spark to wait until it faced an unfavorable ALJ recommendation to present legal objections to the Settlement through its 37-page Exceptions is contrary to the Commission's

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7 *Verizon Pa. Inc., Verizon North Inc., Bell Atlantic Communications, Inc. d/b/a Verizon Long Distance, Verizon Select Services, Inc., Verizon Global Networks, Inc., MCImetro Access Transmission Services, LLC d/b/a Verizon Access Transmission Servs. and MCI Communications Servs., Inc., v. Penn Telecom, Inc.*, Docket No. C-20066987, 2008 WL 8014595, at *5 (Opinion and Order entered Aug. 29, 2008) (denying untimely petition to intervene alleging that "importance of the case significantly increased after the Recommended Decision" and potential adverse effects and also noting that interests were adequately represented by other parties) ("*Verizon*"); *see also Pa. P.U.C. v. West Penn Power Co. d/b/a Allegheny Energy*, Docket No. P-00072349 et al., 2008 WL 4614215 (Opinion and Order entered 2008) ("*West Penn*") (denying untimely petition to intervene and motion to accept non-party exceptions following recommended decision recommended denial of unopposed wind energy service rider); *The United Telephone Co. of Pa. LLC d/b/a Century Link 2018 Annual Price Stability/Price Index Report Filing*, Docket Nos. R-2018-3004019 et al., 2022 WL 142148, at *26-*27 (Opinion and Order entered Jan. 13, 2022) ("*CenturyLink*") (declining to exercise discretion to allow intervention after the close of the record or accept non-party exceptions that raised legal arguments in opposition to a settlement akin to a Main Brief that the presiding ALJs recommended the PUC should approve without modification).

8 *See* Petition at 2, 17-18.

regulations and principles of fundamental fairness, especially given the seven-day period and 25-page limit to respond to the Exceptions filed by the parties of record.

Spark attempts to satisfy the rigorous legal standard established in *Duick* by claiming that the non-party exceptions filed by Infinity Capital, LLC ("Infinity") addressing the R.D.'s recommendations regarding classification of non-residential default service customers have not been stricken from the record. However, the Commission's regulations at 52 Pa. Code § 5.553(a) make clear that only parties may file exceptions, and FE PA requested that the Commission disregard Infinity's Exceptions in FE PA's Reply Exceptions. As such, contrary to Spark's contention in its Petition (p. 3), as non-parties without standing to file Exceptions as of the deadline on August 31, 2026, Infinity and Spark are in the same position – the Commission's regulations require rejection of their exceptions without consideration on the merits.

By filing its Petition, Spark is simply asking the Commission, for a second time, to override its regulations and allow Spark to raise legal arguments through exceptions because Spark disagrees with the R.D. even though it made a "judgment" not to timely intervene in this case. Spark's contentions do not meet the *Duick* standard and there is no valid basis for the Commission to reconsider the Secretarial Letter or otherwise accept the Exceptions filed by Spark.

III. ANSWERS TO THE AVERMENTS IN THE NUMBERED PARAGRAPHS OF SPARK'S PETITION FOR RECONSIDERATION

1. Admitted.

2. Admitted that on August 31, 2026, Spark filed its lengthy Exceptions to the R.D., and contemporaneously filed an untimely petition to intervene requesting that the PUC consider its non-party exceptions setting forth its arguments for intervention. It is specifically denied that the issuance of an unfavorable recommended decision on the supplier issues litigated in this case provides any basis for Spark's untimely intervention or for the PUC to accept the inappropriate

non-party Exceptions filed by Spark for the reasons set forth in Section II above, which are incorporated by reference. The remaining allegations of Paragraph 2 are otherwise conclusions of law to which no response is required and, therefore, are deemed denied. To the extent that the allegations are factual, they are denied.

3. Admitted.

4. Admitted that on September 2, 2026, Spark sent the Commission correspondence by letter in response to CAUSE-PA's Preliminary Objections. It is also admitted that on September 4, 2026, Spark filed its Answer to CAUSE-PA's Preliminary Objections; the allegations of Paragraph 4 are otherwise conclusions of law to which no response is required and, therefore, are deemed denied. To the extent that the allegations are factual, they are denied.

5. Denied. By way of further response, contrary to the allegation in Paragraph 5, neither the Code nor the Commission's regulations expressly require the Commission to issue a separate order modifying or shortening response times before the Commission may act on a pending pleading. In any event, to the extent the allegations in Paragraph No. 5 suggest that the 10-day response time identified in the Notice to Plead accompanying CAUSE-PA's POs constitutes a procedural defect, the Commission justifiably exercised its discretion under its regulations at 52 Pa. Code § 1.2 in issuing the Secretarial Letter on September 4, 2026 before the parties expended unnecessary resources in preemptively responding to Spark's inappropriate Exceptions prior to the Reply Exceptions deadline on September 8, 2026. As a result, as of September 4, 2026, the September 21st deadline for responses to Spark's Petition and Motion and the September 11th deadline for Spark's Answer to CAUSE-PA's Preliminary Objections were no longer in effect as Spark alleges.

6. It is admitted that by Secretarial Letter issued on September 4, 2026, the

Commission denied Spark's Petition and Motion and struck Spark's filed Exceptions, finding that Spark did not provide a valid basis, let alone extraordinary circumstances, warranting its post-hearing intervention.[9] In the Secretarial Letter, the Commission also rejected Spark's argument that under *Blue Pilot*, the Commission should accept Spark's Exceptions as a non-party, finding Spark's interpretation of *Blue Pilot* was incorrect.[10] The remaining averments in paragraph 6 are denied. Spark avers that the Secretarial Letter does not specifically address each circumstance raised in each of their Petition, letter, and Answer, but the Commission is under no requirement to do so. The Commission had authority to issue its Secretarial Letter in response to Spark's filings, and the Secretarial Letter sufficiently resolves all issues presented based on applicable law.

7. This paragraph contains a request for relief; no response is required.

8. The allegations of Paragraph 8 are conclusions of law to which no response is required and, therefore, are deemed denied. To the extent that the allegations are factual, they are denied.

9. The allegations of Paragraph 9 are conclusions of law to which no response is required and, therefore, are deemed denied. To the extent that the allegations are factual, they are denied.

10. The allegations of Paragraph 10 are conclusions of law to which no response is required and, therefore, are deemed denied. To the extent that the allegations are factual, they are denied.

11. Denied. Spark's Petition fails to meet the well-established standard for granting reconsideration under *Duick*.[11] In its Petition, Spark does not present any "new and novel

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[9] Secretarial Letter, p. 4.

[10] *Id.*

[11] *See generally Duick*.

arguments, not previously heard," nor does it articulate any "considerations" that were "overlooked or not addressed" by the Commission.[12]

12. It is admitted that CAUSE-PA filed Preliminary Objections requesting both dismissal of Spark's Petition to Intervene and the striking of Spark's Exceptions. However, Spark's characterization of the relief requested as "extraordinary" is denied. By way of further response, CAUSE-PA's request to strike Spark's Exceptions was a straightforward application of the Commission's regulations at 52 Pa. Code § 5.553(a), which limit the filing of exceptions to parties. Because Spark was not a party to this proceeding at the time it filed its Exceptions, CAUSE-PA's request that those Exceptions be stricken was entirely consistent with the Commission's regulations. Spark's contention that CAUSE-PA's request was procedurally extraordinary misstates the governing law; rather, the extraordinary action was Spark's attempt to file Exceptions as a non-party over five months after the deadline for intervention and over two months after the evidentiary hearing concluded. Any acceleration of the filing of an Answer by Spark was its own voluntary choice and does not create an obligation on the part of the Commission to defer action.

13. Denied. The averments in Paragraph 13 are conclusions of law to which no response is required. To the extent a response is required, FE PA denies that the Commission's action was procedurally deficient. By way of further response, Spark's reliance on *Pike County Light & Power* is misplaced; that case does not stand for the broader proposition that the Commission itself is prohibited from exercising its inherent procedural authority to act on a pending matter before the standard response period has expired, but whether a party's substantive

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[12] *See* Spark Petition to Intervene and Motion at pp. 7-21.

rights are properly affected.[13] That is not the case here, where Spark acknowledges that it made a "judgment" not to intervene and the Commission possesses broad discretion under 66 Pa.C.S. § 501 and its regulations to manage its docket and procedural schedule, particularly in the context of a default service proceeding governed by the nine-month statutory deadline at 66 Pa.C.S. § 2807(e). Additionally, as explained in CAUSE-PA's Objections (p. 6), action before expiration of the answer period was entirely appropriate here to "protect the duly admitted parties from incurring substantial resources to respond to Spark's improperly filed Exceptions in order to preserve their rights while Spark's untimely Petition to Intervene is pending."[14]

14. Denied. By way of further response, neither the Code nor the Commission's regulations expressly require the Commission to issue a separate order modifying or shortening response times before the Commission may act on a pending pleading. The response periods established by the Commission's regulations at 52 Pa. Code §§ 5.61 and 5.101 set deadlines for responding parties to file – they prescribe when a responding party must file if it wishes to respond, but they do not impose a mandatory waiting period that binds the Commission's own exercise of authority. As explained above, the Commission justifiably exercised its broad discretion and authority in issuing the Secretarial Letter. As of September 4, 2026, the Secretarial Letter resolved the pending procedural requests, rendering the remaining response deadlines moot. CAUSE-PA's request for expedited relief properly brought the urgency of the matter to the Commission's

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13 *Pa. P.U.C. v. Pike County Light & Power Co.*, Docket Nos. R-2024-3052357 and R-2024-3052359, pp. 26-27 (Opinion and Order entered May 9, 2025) ("*Pike County*").

14 Spark's reliance on *Application of Aqua Pennsylvania Wastewater, Inc., pursuant to Sections 507, 1103, and 1329 of the Public Utility Code for Approval of its Acquisition of the Wastewater System Assets of the Delaware County Reginal Water Quality Control Authority*, Docket No. A-2019-3015173 (Opinion and Order entered Aug. 31, 2020) is similarly misplaced. That decision does not establish a requirement for the Commission to further "expressly explain" its decision where, as here, the Commission specifically found in the Secretarial Letter that Spark had failed to establish any extraordinary circumstances to justify intervention after reviewing the history of the proceedings and Spark's own filing. *See* Secretarial Letter, p. 4.

attention, and the Commission acted within its authority to resolve the matter before the September 8, 2026 Reply Exceptions deadline.

15. Denied for the reasons set forth in Section II and Paragraph 14, which are incorporated by reference.

16. Denied. By way of further response, the Secretarial Letter was not required to address every procedural alternative proposed by Spark or CAUSE-PA. The Commission's regulations at 52 Pa. Code § 5.74(c) are clear: intervention will not be permitted once an evidentiary hearing has concluded absent extraordinary circumstances. The Commission found no such extraordinary circumstances, and that finding resolved Spark's Petition to Intervene. The consequential striking of Spark's non-party Exceptions followed directly from the Commission's denial of intervention under 52 Pa. Code § 5.553(a), which limits the filing of Exceptions to parties. The Commission was under no obligation to adopt alternative procedural accommodations for a non-party that consciously chose not to participate in the proceeding. The Commission also had no obligation to explain why immediate action was necessary. Even if such an obligation existed, the necessity of immediate action is self-evident as Spark filed its Petition and Motion a mere eight days before Reply Exceptions were due.

17. Denied. Spark's argument that the Commission's decision to strike its Exceptions before considering its Answer constitutes an "overlooked procedural consideration" under *Duick* should be rejected. Spark's September 2, 2026 letter and September 4, 2026 Answer merely reiterated the same arguments presented in its Petition to Intervene, including its request for limited participation and its reliance on the *Blue Pilot* precedent. The Secretarial Letter fully addressed those arguments. The fact that Spark filed additional responsive documents does not create a *Duick*-cognizable ground for reconsideration where those filings raised no new or novel

arguments. Moreover, Spark's suggestion that the Commission should have deferred ruling conflicts with the Commission's obligation to resolve procedural issues promptly in a proceeding governed by the nine-month statutory deadline under 66 Pa.C.S. § 2807(e).

18. Denied for the reasons set forth in Section II above, which are incorporated by reference.

19. Denied. The Secretarial Letter does not rest upon an "erroneous legal premise" as Spark avers and the Commission correctly applied its regulations governing intervention and the filing of exceptions. Under 52 Pa. Code § 5.553(a), only parties to a proceeding may file exceptions to a recommended decision. The Commission denied Spark's Petition to Intervene because Spark failed to demonstrate extraordinary circumstances as required by 52 Pa. Code § 5.74(c).

20. Denied. While it is admitted that Spark's Petition and Motion presented two procedural requests, a petition to intervene and an alternative motion for leave to accept exceptions, FE PA denies that the Commission erred in its disposition of those requests. The Commission addressed both requests in the Secretarial Letter. It denied intervention for failure to demonstrate extraordinary circumstances and rejected the alternative request to accept Spark's Exceptions based on its analysis of the *Blue Pilot* precedent. Spark's contention that the Commission was required to treat the motion for leave as an entirely separate, independent exercise of procedural discretion mischaracterizes the relationship between intervention and the right to file exceptions. Under the Commission's regulations, the right to file exceptions derives from party status. In the absence of party status, there is no independent regulatory basis for the Commission to accept and consider a non-party's exceptions.

21. Denied. The Secretarial Letter correctly concluded that Spark failed to establish the extraordinary circumstances necessary for post-hearing intervention under 52 Pa. Code § 5.74(c). The Petition was filed on August 31, 2026, over five months after the March 17, 2026, deadline for intervention and over two months after the evidentiary hearing concluded on June 15, 2026. Spark's own admission that its decision not to intervene earlier was a "judgment" confirms that Spark made a conscious, strategic choice not to participate in this proceeding.[15] The issuance of a Recommended Decision adverse to positions that RESA and the supplier intervenors, whose participation Spark initially elected to rely upon, does not constitute an "extraordinary circumstance." As the Commission has recognized, it is not unusual for a non-party to be affected by a decision of the Commission, and such circumstances do not provide a basis to allow post-hearing intervention.[16]

22. Denied. The Secretarial Letter properly rejected Spark's reading of *Blue Pilot*. As the Commission explained, in *Blue Pilot*, RESA's intervention was denied and the Commission did not address the exception filed by RESA. Instead, the Commission addressed the exception of *Blue Pilot*, which raised the same issue. Spark's attempt to distinguish *Blue Pilot* by focusing on the "broader procedural course" followed in that case ignores the dispositive point that the Commission did not accept or consider RESA's non-party exception.

23. Denied. The averments of Paragraph 23 are conclusions of law to which no response is required and, therefore, are deemed denied. To the extent a response is required, Spark's reliance on *Verizon*, *West Penn Power*, and *CenturyLink* does not support reconsideration. In each of those cases cited by Spark, the Commission ultimately denied the requested alternative

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[15] Spark Petition to Intervene and Motion at 4.

[16] *See* footnote 7, *supra*.

procedural relief.[17] Those decisions demonstrate that the Commission considered and rejected alternative procedural requests in the past – they do not establish that the Commission is required to reach a different result here, nor do they demonstrate that the Commission's approach in the Secretarial Letter constituted legal error.

24. Denied. Spark mischaracterizes the Secretarial Letter's treatment of *Blue Pilot*. The Secretarial Letter correctly found that *Blue Pilot* did not support the acceptance of exceptions filed by a non-party and it applied that finding to deny Spark's alternative motion.

25. Denied. Spark's reliance on 52 Pa. Code § 1.2 and 52 Pa. Code § 5.75 ignores the operative language of those provisions. Section 1.2 provides that the Commission *may* liberally construe its procedural rules and *may* disregard procedural defects, it does not, however, require the Commission to do so. Likewise, Section 5.75 provides that the Commission *may* grant intervention "in whole or in part" or *may* authorize "limited participation," but does not mandate that the Commission exercise those options in any particular case.

26. Denied. There is no "omitted procedural analysis" warranting reconsideration under *Duick*; Spark is simply disagreeing with the Commission's exercise of its discretion and repackaging the same arguments that were considered and rejected in the Secretarial Letter.

27. Denied. The Commission should not exercise its procedural discretion to permit consideration of Spark's Exceptions, because doing so would be inconsistent with the Commission's regulations and would be unfair and prejudicial to the existing parties, including FE PA. Spark had actual notice of FE PA's DSP VII filing, including the proposed supplier coordination tariff changes, from the date the Petition was filed on February 3, 2026. Spark decided not to intervene while the proceeding was active and the record was being developed and

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[17] *Id.*

it now seeks to circumvent the consequences of that judgment by asking the Commission to override its procedural regulations. Permitting Spark's Exceptions would prejudice FE PA and other parties by effectively denying them the opportunity to conduct discovery regarding Spark's actual retail operations in FE PA's service territory and the claimed impacts of the Settlement on those operations, as alleged in Spark's Petition to Intervene and Exceptions.

28. Denied. Spark's contention that granting reconsideration should not be viewed as establishing a "general rule" acknowledges the very danger that granting its request would set. More significantly, the Commission's decision in *Scheffer* does not support Spark's position, but reinforces the principle that the Commission exercises broad discretion in ruling on petitions to intervene and that its decisions are fact-specific.[18]

29. Denied. Spark's invocation of *Respond Power* actually undermines its argument. *Respond Power* makes clear that a party with notice of proposed tariff revisions who fails to raise objections during the proceeding may be foreclosed from challenging those provisions later.[19] *Respond Power* does not support the proposition that the appropriate response to that risk is to seek post-hearing intervention and the filing of non-party exceptions after the record has closed and the Recommended Decision has been issued.

30. Denied. Spark's argument that it "reasonably relied upon RESA's participation" does not constitute an extraordinary circumstance warranting post-hearing intervention, nor does a recommended approval of a settlement without modification constitute an extraordinary or unforeseeable event.

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[18] *See Corinna Lynn Scheffer v. Columbia Gas of Pennsylvania, Inc.,* Docket No. C-2010-2153353 (Opinion and Order entered Nov. 1, 2011) ("Scheffer"), pp. 9, 11-12 & 14 (explaining that an affected natural gas supplier "likely should have been" joined as a party to the case and and no party objected to late-filed intervention).

[19] *Respond Power, LLC v. Pa. P.U.C.*, No. 260 C.D. 2020, (Pa. Commw. Ct. Feb. 9, 2021) (Memorandum Op.) ("*Respond Power*").

31. Denied for the reasons set forth in Paragraphs 13 and 14.

32. Denied. Spark's comparison to Infinity Capital's non-party exceptions is inapposite and does not support its Petition. As the Commission's regulations make clear, only parties may file exceptions, and FE PA requested that the Commission disregard Infinity's non-party exceptions in its Reply Exceptions. The fact that Infinity Capital's Exceptions are not formally stricken from the docket does not mean that they will be considered by the Commission on the merits.

33. Denied. Spark's assertion that "permitting consideration of Spark's timely-filed Exceptions best serves the Commission's review of the RD" is a conclusory statement without factual support and should be rejected.

34. Denied. For all of the reasons set forth above, Spark's Petition for Reconsideration fails to satisfy either step of the *Duick* standard. Under step one, Spark does not present any new or novel arguments not previously heard, nor does it identify any considerations that were overlooked or not addressed by the Commission. The Secretarial Letter fully addressed Spark's Petition to Intervene, its alternative Motion for Leave to Accept Exceptions, and its reliance on *Blue Pilot*. Spark's Petition for Reconsideration merely rehashes the same arguments that the Commission already considered and rejected. Under step two, even if the Commission were to reconsider the Secretarial Letter, no modification is warranted because the Commission properly applied its regulations, correctly interpreted *Blue Pilot*, and acted well within its broad procedural authority in issuing the Secretarial Letter.

WHEREFORE, for the foregoing reasons, Spark has failed to set forth any valid basis for the Commission to grant reconsideration and modify the Secretarial Letter under the *Duick* standard and FE PA respectfully requests that the Petition be denied.

Respectfully submitted,

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Dated: September 21, 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**

CERTIFICATE OF SERVICE

I hereby certify and affirm that I have on this day served copies of the **Answer of FirstEnergy Pennsylvania Electric Company to the Petition for Reconsideration of Spark Energy, LLC** on the persons listed below, in the manner specified in accordance with the requirements of 52 Pa. Code § 1.54:

VIA ELECTRONIC MAIL

The Honorable Mark A. Hoyer
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***=Executed Protective Order acknowledgement**