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VIA eFiling

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 through May 31, 2031,
Docket No. P-2026-306029**

Dear Secretary Homsher:

UGI Energy Services, LLC ("UGIES") respectfully submits this letter to the Pennsylvania Public Utility Commission ("Commission") to share its concerns with Paragraph 67 of the non-unanimous Joint Petition for Settlement ("Settlement") reached in FirstEnergy Pennsylvania Electric Company's ("FE") Default Service Plan ("DSP") proceeding at Docket No. P-2026-3060298, as supported by the Recommended Decision ("RD") that issued on August 21, 2026. Paragraph 67 of the Settlement would condition Electric Generation Supplier ("EGS") access to FE's Purchase of Receivables ("POR") program on use of rate-ready billing and a supply commodity price at or below FE's Price to Compare ("PTC").

UGIES is not a party to this proceeding and does not seek party status. This letter should not be viewed as a petition to intervene, nor as exceptions to the RD. Moreover, UGIES is aware of the Commission's September 4, 2026 Secretarial Letter denying Spark Energy, LLC's late petition to intervene and striking its exceptions. UGIES is not asking the Commission to depart from that ruling here.

Instead, UGIES offers its perspective as a licensed EGS on a policy issue of statewide significance: conditioning POR access on the price an EGS charges for alternative energy supply. If Paragraph 67 is approved, it will directly impact and regulate the supply rate that EGSs may charge their customers, as a threshold to POR program participation. UGIES respectfully asks that the Commission consider this letter as public comment, to the extent it finds that appropriate, as it considers Paragraph 67.

I. Settlement Paragraph 67

According to Paragraph 67 of the Settlement, after June 1, 2027 EGSs will only be eligible for POR if two conditions are met:

1. **Rate-ready billing.** An EGS on utility consolidated billing sends its rate to the utility who then applies that rate to the customer's usage to calculate the supplier charges included on the utility bill.
2. **Price at or below the PTC.** The EGS's rate must be at or below the utility's PTC at the time of the customer's enrollment or rate change transaction.

An account that does not meet both conditions could not be sold to FE through its POR program. FE would also phase out its existing clawback mechanism over the first year of DSP VII (RD at 36, 211-12). The RD acknowledges that all EGSs operating in FE's service territory¹ participate in the POR. The POR has historically been available, without conditions, to eligible EGSs using consolidated billing (RD at 228).

II. UGIES's Concerns

A. Paragraph 67 is contrary to the purpose of POR.

POR programs exist to take credit and collection risk out of the retail offer, so that suppliers compete on price and product rather than on their ability to finance bad debt. The RD itself adopts that description (RD at 228, quoting Town Square St. 1 at 9). The Commission's policy statement also encourages POR in every service territory (52 Pa. Code § 69.1814).

Under Paragraph 67, EGSs would be free to charge rates higher than the PTC as long as they do not participate in the POR program. While this concept was intended to address excessive write-off levels of some EGSs, the PTC price cap contradicts the POR's purpose and erodes an important and widely used market protection for EGSs. If approved, Paragraph 67 would remove that essential market element. It keeps POR only for products that are at or below the utility's own default service rate. It removes the POR from products that serve the public interest, such as fixed-price, renewable and longer-term offers - all of which give customers incentive to shop.

Because every residential EGS in FE's territory relies on POR, those that do not want to be held to the FE's PTC would need to build separate billing and collection capabilities and credit-screen their customers. This alternative raises costs, while credit screening in particular would narrow the offers available to customers with weaker credit and possibly cause EGSs to leave the market, the opposite of what POR was designed to achieve (RD at 222). UGIES also notes the concern, raised by the EGS Parties, that price-based discriminatory treatment of similarly situated customers raises questions under 66 Pa. C.S. § 1502 (RD at 225).

UGIES recognizes that FE cannot be compelled to offer a POR program. But the voluntary nature of the program addresses only whether FE must offer POR. It does not address whether any particular eligibility provision is reasonable, nondiscriminatory, and consistent with the Commission's retail market policy. Accordingly, the voluntary nature of the program should not be used as the linchpin to justify the reasonableness of Paragraph 67.

¹ FE's POR applies to residential and small business customers (RD at 35).

B. Paragraph 67 caps the price of EGS supply at the utility's PTC, which the Competition Act does not permit.

The General Assembly restructured Pennsylvania's electric industry on the premise that the market, not regulation, should set the price of generation. It found that "competitive market forces are more effective than economic regulation in controlling the cost of generating electricity" (66 Pa. C.S. § 2802(5)). It stated that generation "will no longer be regulated as a public utility function except as otherwise provided" in the Competition Act (§ 2802(14); *see* § 2806(a)). And it directed that customers be permitted to choose among alternatives including flexible pricing and alternate generation sources (§ 2804(2)). Price regulation was reserved for the services that remain natural monopolies for transmission and distribution services (§ 2802(16)). The expiration of rate caps completed the transition to a competitive retail marketplace.

However, Paragraph 67 would use POR eligibility as a hook that re-establishes Commission jurisdiction over generation prices, accomplishing what the Competition Act prohibits expressly. For EGSs that participate in the POR, currently all of FE's residential suppliers (RD at 228), the price of POR-eligible supply would be capped at the PTC. In effect, the utility is setting the rate that these EGSs can charge. Otherwise, EGSs will be penalized by losing POR access. Doing so undermines the competitive market structure for EGSs participating in FE's POR. EGSs lose an important protection that permits them to compete with default service on more even footing.

Under Paragraph 67, an EGS that prices above the PTC bears the full collection risk for its residential and small business accounts. The only way an EGS could obtain collection treatment comparable to default service would be to price at or below the very product it is competing against. Protection from bad debt would be available if EGSs give up pricing above the PTC. That is a barrier to competition, not a feature of an open market.

EGSs are not monopolies. Their prices are disciplined by competition and customer choice, and the Competition Act does not authorize the Commission to regulate those prices. The Commission has only the powers the General Assembly expressly conferred or that are necessarily implied (*Feingold v. Bell of Pa.*, 383 A.2d 791 (Pa. 1977)).

C. Existing precedent does not support Paragraph 67.

UGIES recognizes that the Commonwealth Court has upheld rules that would limit the terms of an offer from an EGS that a low-income customer could accept while remaining eligible for Customer Assistance Programs ("CAP"). The Commonwealth Court determined this limitation ensures low-income programs are cost-effective and adequately funded (*CAUSE-PA v. PUC*, 120 A.3d 1087, 1103, 1107 (Pa. Cmwlth. 2015)). The Commonwealth Court also upheld the Commission's ability to partially restrict or limit the ability of CAP customers to shop for electricity, thereby requiring EGSs that serve CAP customers to offer prices at or below the PTC (i.e., standard offer programs) (*Retail Energy Supply Ass'n v. Pa. PUC*, 185 A.3d 1206 (Pa. Cmwlth. 2018)). That precedent, however, does not reach Paragraph 67. CAP customers' bills are subsidized by other ratepayers, and the Competition Act expressly directs the Commission to protect low-income customers and fund universal service programs (66 Pa. C.S. §§ 2802(10), 2804(9)). Moreover, the Court has determined:

While it cannot, under the mantra of system reliability, re-regulate the industry by favoring the distribution company, thereby thwarting the goals of the [Choice] Act, the PUC can, as long it provides substantial reasons why there is no reasonable alternative so competition needs to bend to ensure overall system reliability, order customers by whatever scheme to curtail usage during abnormal peaks.²

Paragraph 67, however, would have the Commission bend the Competition Act to regulate and cap EGS rates (applicable to POR participation), although other reasonable alternatives exist as described in Section II.E below.

Nor does *Respond Power, LLC v. Pa. PUC*, No. 260 C.D. 2020, 2021 WL 446097 (Pa. Cmwlth. Feb. 9, 2021) (unreported) (“*Respond Power*”), support Paragraph 67. The clawback at issue in that case compared EGS pricing against the PTC, but it was designed to recover excessive uncollectible costs. A participating supplier owed the charge only if its write-offs exceeded 200% of the average for all participating suppliers and its average price exceeded 150% of the PTC (*Id.* at *3). Moreover, the clawback recovered only the incremental excess write-offs (the difference between the EGS’s actual write-offs and what the write-offs would have been at 150% of the average write-off percentage for all EGSs participating in the POR). The EGS’s price operated as an ancillary factor (or secondary screening measure), applied after the fact and only in combination with excessive write-offs.

Paragraph 67 reaches much farther. It makes price the sole condition of POR eligibility, sets a PTC cap for the price of supply products, and excludes every product priced above default service regardless of the supplier's collection record. Unlike the clawback, Paragraph 67 does not recover credit costs. Paragraph 67 implements a direct condition on supplier rates, not an ancillary limit within a cost-recovery mechanism. It makes the regulated PTC the ceiling for competitive offers included in the POR. As discussed in Section II.B above, the Competition Act removed generation pricing from public utility rate regulation, and nothing in *Respond Power* suggests that POR may serve as a vehicle for restoring it.

D. Paragraph 67 undermines customers who choose EGS products for reasons other than lowest price.

Paragraph 67 also assumes that a supply price exceeding the PTC is always a problem. UGIES cautions against adopting policy based on this assumption. Many customers choose to shop because they want something default service does not offer, and they are willing to pay for it. This includes renewable and other “green” supply products, which customers purchase voluntarily, beyond what the Alternative Energy Portfolio Standards (“AEPS”) requires that utilities include in their default service plans (73 P.S. § 1648). Those renewable and green products often cost more to supply than the PTC. However, under Paragraph 67, an EGS offering such products would have to either price them at or below the PTC regardless of cost, give up POR for those customers altogether or leave the marketplace. These results create a headwind for the for renewable energy in the retail market, which contradicts the Commonwealth’s ongoing efforts to expand clean energy development. Paragraph 67 would steer EGSs away from exactly the differentiated products that retail choice is meant to offer (see 66 Pa. C.S. § 2804(2)).

² *CAUSE-PA v. PAPUC*, 120 A.3d 1087, 1103 (Pa. Cmwlth. 2015) (quoting *PP&L Indus. Customer All. v. Pa. PUC*, 780 A.2d 773 (Pa. Cmwlth. 2001)).

The same is true of fixed-price products where customers enter into an EGS contract that locks in a fixed price for a year or more. For example, some customers may choose to not pay a lower PTC in exchange for predictable energy costs over the contract term. Paragraph 67 tests POR eligibility against the PTC at the time of the enrollment or a rate change transaction, but the PTC itself resets periodically over the DSP term. An EGS may offer a fixed price below the PTC when the customer enrolls, only to have FE lower its PTC months later. That customer would then be paying a “POR eligible” price for part of the contract term and a “POR-ineligible” price for the remainder. Paragraph 67 does not say how FE would treat that account: (1) whether it remains in POR for the life of the contract, (2) whether it drops out of POR when the PTC changes, or (3) whether FE would attempt to divide the receivables between eligible and ineligible periods. Re-determining eligibility at each PTC change would be extremely difficult to administer, and it would subject suppliers and customers to midterm changes in billing and collection treatment that neither could have anticipated when the contract was signed. Paragraph 67 would discourage EGSs from offering longer-term, fixed-price products, removing a source of price stability that default service does not provide.

E. Less restrictive tools are available.

FE’s concern about POR-related uncollectible expense can be addressed without a price cap. Without endorsing any single mechanism, UGIES notes that options include (1) recalibrating the thresholds of the existing clawback, which the Commonwealth Court upheld in *Respond Power*, rather than abandoning it outright; and (2) implementing a POR uncollectible accounts expense discount rate for purchased receivables, an approach used by PPL Electric for residential and small commercial accounts (*Petition of PPL Elec. Utils. Corp. Requesting Approval of a Voluntary Purchase of Receivables Program and Merchant Function Charge*, Docket No. P-2009-2129502 (Order entered Nov. 19, 2009)). Each method allocates collection costs to the suppliers that generate them without conditioning POR access on price.

F. Policy impacting POR access and EGS rates should be developed in an industry-wide proceeding.

POR policy in Pennsylvania has been developed through an industry-wide process including the Commission’s Retail Markets Investigation and 52 Pa. Code § 69.1814. Paragraph 67 would be the first POR program in the Commonwealth to directly condition eligibility on the supplier’s price. Approving a POR eligibility condition tied to the default service rate could invite similar price-based conditions on other aspects of retail market participation. Such conditions would move Pennsylvania away from the market-based framework that the General Assembly intended - one in which competition sets the price of generation (66 Pa. C.S. § 2802(5), (14)).

The Competition Act directs the Commission to monitor the retail market and take steps to prevent anticompetitive or discriminatory conduct (66 Pa. C.S. § 2811(a)). A change of the magnitude proposed in Paragraph 67 is better considered in a proceeding in which all electric utilities, EGSs, and statutory advocates can participate, rather than through a single utility’s default service settlement.

III. Conclusion

For these reasons, UGIES respectfully urges the Commission, in ruling on the RD and the exceptions properly before it, to decline to approve Paragraph 67 of the Settlement. UGIES

appreciates the Commission's attention to these concerns and supports the Commission's goal of protecting customers from unaffordable supplier charges. UGIES believes that goal can be met without converting POR from a market protection into a price screen.

Respectfully submitted,

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Parties of record, per the attached 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, : Docket No. P-2026-3060298
2031 :
:

I hereby certify that I have this day filed a true and correct copy of the foregoing document,
the 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 7th day of October 2026.

SERVICE BY E-MAIL ONLY

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