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January 12, 2018

Via Electronic Filing

Rosemary Chiavetta, Secretary
PA Public Utility Commission
PO Box 3265
Harrisburg, PA 17105-3265

Re: Joint Petition of Metropolitan Edison Company, Pennsylvania Electric Company,
Pennsylvania Power Company and West Penn Power Company for Approval of Their
Default Service Program (DSP-V) – Docket Nos. P-2017-2637855; P-2017-2637857;
P-2017-2637858; and P-2017-2637866

Dear Secretary Chiavetta:

Enclosed for electronic filing please find Respond Power LLC's Petition to Intervene with regard to the above-referenced matters. Copies to be served in accordance with the attached Certificate of Service.

Sincerely,



Karen O. Moury

KOM/lww
Enclosure

cc: Hon. Mary D. Long w/enc.
Cert. of Service w/enc.

CERTIFICATE OF SERVICE

I hereby certify that this day I served a copy of Respond Power's Petition to Intervene upon the persons listed below in the manner indicated in accordance with the requirements of 52 Pa. Code Section 1.54.

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Dated: January 12, 2018



Karen O. Moury, Esq.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

| | | |
|---|---|----------------------------|
| Joint Petition of Metropolitan Edison | : | |
| Company, Pennsylvania Electric Company, | : | Docket Nos. P-2017-2637855 |
| Pennsylvania Power Company, and West | : | P-2017-2637857 |
| Penn Power Company for Approval of | : | P-2017-2637858 |
| Their Default Service Programs | : | P-2017-2637866 |

**PETITION TO INTERVENE
OF RESPOND POWER LLC**

Pursuant to 52 Pa. Code §§ 5.72-5.75 of the Pennsylvania Public Utility Commission’s (“Commission”) regulations, Respond Power LLC (“Respond Power”) petitions to intervene in the Joint Petition of Metropolitan Edison Company, Pennsylvania Electric Company (“Penelec”), Pennsylvania Power Company, and West Penn Power Company (“West Penn”) (collectively referred to as the “Companies”) for Approval of Their Default Service Programs. The purpose of Respond Power’s proposed intervention is to review the Companies’ proposal for a default service program to commence on June 1, 2019 and end on May 31, 2023, including the proposed continuation of the clawback charge in connection with the Companies’ Purchase of Receivables (“POR”) Program. In support of its intervention, Respond Power states as follows:

I. BACKGROUND

1. The name and business address for Respond Power are:

Respond Power LLC
100 Dutch Hill Road – Suite 310
Orangeburg, NY 10962

2. The name and address of Respond Power’s attorney is:

Karen O. Moury (PA ID #36879)
Eckert Seamans Cherin & Mellott, LLC
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Phone: 717.237.6000
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Respond Power's attorney is authorized to accept service on its behalf in this proceeding.

3. Respond Power is an electric generation supplier ("EGS") licensed by the Commission to supply electricity or electric generation supply services to the public within the Commonwealth of Pennsylvania.¹ Since receiving its EGS license, Respond Power has served a significant number of residential and small commercial customers in various electric distribution company ("EDC") service territories throughout Pennsylvania, including those of the Companies.

4. Serving residential and small commercial customers in the Companies' territories, Respond Power has utilized the Companies' consolidated billing option and therefore has been required to participate in the Companies' POR Program. Respond Power has participated in the Companies' POR Program since 2013.

5. On September 27, 2016 and October 2, 2017, Penelec and West Penn assessed clawback charges against Respond Power in connection with the POR Program, pursuant to their Supplier Tariffs that were filed in accordance with the Commission's Order addressing the

¹ *License Application of Respond Power LLC for Approval to Offer, Render, Furnish or Supply Electricity or Electric Generation Services as a Supplier of Retail Electric Power*, Docket No. A-1010-2163898 (Order entered August 19, 2010).

Companies' Default Service Plan IV proceeding for the time period of June 1, 2017 through May 31, 2019.²

6. Currently pending before the Commission are Formal Complaints filed by Respond Power against Penelec and West Penn, alleging that application of the existing clawback charges against Respond Power is unlawful, unjust and unreasonable.³ The Formal Complaints have been consolidated for hearing and decision, and evidentiary hearings are scheduled for January 31-February 2, 2018. To date, Respond Power has served Direct Testimony, Supplemental Direct Testimony and Rebuttal Testimony in that proceeding.

7. Pursuant to Notice published in the *Pennsylvania Bulletin* on December 23, 2017, petitions to intervene must be filed on or before January 12, 2018. By this Petition, Respond Power seeks to intervene in this proceeding, in which the Companies are proposing to continue the clawback charges, as they are currently structured, for a four-year period.

II. STANDARDS FOR INTERVENTION

8. The Commission's regulations allow intervention where a person has an "interest in the proceeding which may be directly affected, and which is not adequately represented by existing participants, and as to which the petitioner may be bound by the action of the Commission." 52 Pa. Code § 5.72(a)(2). Intervention is also permitted where participation of the person may be in the public interest. 52 Pa. Code § 5.72(a)(3). A "person" includes a corporation and an association. 52 Pa. Code § 1.8.

² *Joint Petition of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company for Approval of their Default Service Programs*, Docket No. P-2015-2511333, P-2015-2511351, P-2015-2511355 and P-2015-2511356 (Order entered May 19, 2016) (DSP IV Order).

³ *Respond Power LLC v. Pennsylvania Electric Company*, Docket No. C-2016-2576287; *Respond Power LLC v. West Penn Power Company*, Docket No. C-2016-2576292, *Respond Power LLC v. Pennsylvania Electric Company*, Docket No. C-2017-2631331; *Respond Power LLC v. West Penn Power Company*, Docket No. C-2017-2631326.

9. The eligibility requirements for an interested party to intervene in an action before the Commission are less strict and easier to satisfy than the common law standard for intervention. *See Application of Metropolitan Edison Co. for Approval to Construct an Electric Generating Unit Fueled by Natural Gas*, Docket No. A-110300, 1994 Pa. PUC LEXIS 52 (Order entered February 25, 1994) (citing *William Penn Parking Garage, Inc. v. City of Pittsburgh*, 464 Pa. 168, 346 A.2d 269 (1975)).

III. GROUNDS FOR INTERVENTION

10. Respond Power has a substantial and direct interest in participating in this proceeding. Specifically, as an EGS, Respond Power supplying electric generation services to residential and small commercial customers through the Companies' POR Program. Therefore, Respond Power has a substantial and direct interest in the Companies' proposal to continue the existing clawback charge, which would be assessed against EGSs with certain levels of write-offs and charging prices above a specified threshold.

11. Respond Power submits that no other party can or will adequately protect its interests in this proceeding. As an EGS that has been assessed clawback charges by the Companies and is currently the only EGS actively challenging the application of these charges on the basis that they are unlawful, unjust and unreasonable, Respond Power has unique perspectives regarding the proper way in which to structure clawback charges to produce the desired results while being fair and reasonable for the affected EGSs.

12. Respond Power further submits that its participation in this proceeding is in the public interest. Intervention by Respond Power would enable the Commission to benefit from the real-world experience of an EGS on which clawback charges have been assessed. A better understanding of the scenarios that can lead to imposition of such charges, as well as the inability

of EGSs to insulate themselves from being assessed clawback charges due to various features of the Companies' existing mechanisms, would facilitate modification of the Companies' proposal to produce a just and reasonable tool that can effectively be used by the Companies to address concerns with uncollectible expenses.

13. Respond Power will be bound and directly affected by the Commission's order in this proceeding. If the Commission approves the continuation of the existing clawback charges, as proposed by the Companies, Respond Power will be subject to the assessment of clawback charges in the future. Although an entity may file a complaint against an existing tariff provision at any time it is applied, that entity must carry the burden of establishing that the provision is unlawful, unjust and unreasonable.

14. Accordingly, pursuant to Section 5.72 of the Commission's regulations, 52 Pa. Code § 5.72, Respond Power should be permitted to intervene in this proceeding.

IV. CONCLUSION

WHEREFORE, Respond Power LLC respectfully requests that the Pennsylvania Public Utility Commission grant this Petition to Intervene, allowing it to participate in the above-captioned matter.

Respectfully submitted,



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Date: January 12, 2018

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