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February 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;  
Docket Nos. P-2017-2637855, P-2017-2637857, P-2017-2637858 &  
P-2017-2637866

Dear Secretary Chiavetta:

Enclosed for electronic filing please find Direct Energy Services, LLC's Petition to Intervene  
with regard to the above-referenced matter. Copies to be served in accordance with the attached  
Certificate of Service.

If you have any questions, please contact me at your convenience.

Sincerely,



Carl R. Shultz

CRS/jls  
Enclosure

cc: Certificate of Service w/enc.

## CERTIFICATE OF SERVICE

I hereby certify that this day I served a copy of Direct Energy Services, LLC'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: February 12, 2018



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Carl R. Shultz, Esq.

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

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**DIRECT ENERGY SERVICES, LLC'S  
PETITION TO INTERVENE**

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Pursuant to 52 Pa. Code §§ 5.72-5.75, Direct Energy Services, LLC (“Direct Energy”) petitions to intervene in the Joint Petition of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company (“the Companies”) for Approval of Their Default Service Programs (“DSP Petition”). In support of its intervention, Direct Energy states as follows:

1. On December 11, 2017, the Companies filed a petition proposing to establish the terms and conditions under which they will procure default service supplies, provide default service to non-shopping customers, satisfy requirements imposed by the Alternative Energy Portfolio Standards Act ("AEPS Act") and recover all associated costs on a full and current basis for the period from June 1, 2019 through May 31, 2023.

2. By public notices published in the Pennsylvania Bulletin on December 23, 2017, the Commission established a deadline of January 12, 2018 for formal protests, petitions to intervene and answers. By Prehearing Conference Order dated December 21, 2017, Administrative Law Judge Mary D. Long scheduled an Initial Prehearing Conference for January 17, 2018 and, subsequently, issued a pre-hearing order dated January 19, 2018, which

established, *inter alia*, modifications to the Commission's procedures for formal discovery and a litigation schedule.

3. Direct Energy is an electric generation supplier ("EGS") licensed by the Commission at A-110164 to provide electricity and related services to retail customers throughout Pennsylvania. Direct Energy is a North American affiliate of Centrica plc, a leading international provider of energy and other energy-related services, with over 30 million customer relationships worldwide. Direct Energy provides electricity, natural gas and other energy services to more than 5 million residential homes and businesses across North America. Direct Energy has a unique business model, and extensive experience in providing innovative gas and electricity products and services to residential, small and large commercial and industrial customers, utilities and government entities.

4. Direct Energy's attorneys in this matter are:

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5. 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 parties, and as to which the person may be bound by the action of the Commission in the proceeding. 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.

6. Direct Energy meets the standards for intervention set forth in 52 Pa. Code § 5.72(a). As an EGS in the Companies' service territories and in the Commonwealth, Direct Energy satisfies the standard for intervention because Direct Energy possesses an "interest 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 in the proceeding." 52 Pa. Code § 5.72(a)(1). In addition, Direct Energy has participated in the Companies' prior DSP proceedings.

7. Here, the subject petitions address various issues directly related to the ability of EGSs to provide competitive alternative service to retail customers. These include proposed changes to the Price to Compare Default Service Rate Riders and the hourly-priced threshold. The Companies' proposed continuation, without modification, of the Companies' current purchase of receivables clawback clause includes assessing charges on specific EGSs. The Companies' proposal to continue the Customer Referral Programs without modification also impacts the ability of EGSs to provide service through the program.

8. Direct Energy's interests in this proceeding are unique from and not adequately represented by other parties that may seek to intervene, including individual EGSs or other organizations interested in electric competition in Pennsylvania in general and in these service territories in particular. Direct Energy is licensed by the Commission to provide service to customers in the Companies' service territories and has an interest in ensuring that the default service structure approved by the Commission will continue to do so as long as the market structure supports sustained and robust electric competition, especially among residential and small commercial customers. The Companies' proposed plans must be implemented in a competitively neutral manner to ensure that the market environment is conducive to Direct

Energy's ability to offer competitive service in the Commonwealth. In view of Direct Energy's unique business model, Direct Energy's interests in this proceeding cannot be adequately represented by other EGS parties with different business models and different customer target markets.

9. Direct Energy will be bound by the action of the Commission in this proceeding, which will determine the Companies' default service rates, terms and conditions effective June 1, 2021. Direct Energy must compete against these rates, and how they are structured will have a significant effect on the level of retail competition that will be experienced in the service territories during this period and, thus, on the ability of Direct Energy to continue to do business in these service territories. Thus, the Commission's actions regarding the Companies' proposals will have a substantial impact on Direct Energy's future involvement in the market.

10. Direct Energy's intervention is in the public interest. As a member of the Centrica group of companies providing energy and energy related services through over 30 million customer relationships worldwide, Direct Energy has the experience and resources to aid the Commission in carrying out its duties and responsibilities under the Electricity Generation Customer Choice and Competition Act to ensure that the goals of the Act are met. Direct Energy would not be representing any party other than itself. Accordingly, Direct Energy's participation in this proceeding is clearly in the public interest. *See* 52 Pa. Code § 5.72(a)(3).

11. **Intervention may be granted, even if late-filed, for good cause shown.** *See* 52 Pa.Code § 5.74(b)(1), (2).<sup>1</sup> In determining whether to grant a late-filed petition for intervention,

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<sup>1</sup> "Petitions to intervene shall be filed: (1) No later than the date fixed for the filing of responsive pleadings in an order or notice with respect to the proceedings but not less than the notice and protest period established under § § 5.14 and 5.53 (relating to applications requiring notice; and time of filing) absent good cause shown. (2) No later than the date fixed for filing protests as published in the Pennsylvania Bulletin except for good cause shown." 52 Pa.Code § 5.74(b)(1), (2).

the two key factors are: (1) whether the entity has standing to intervene; and if so, (2) whether there is good cause shown for the late filing? The Commission has been liberal in interpreting this “good cause” requirement, particularly where the grant of intervention will not delay the orderly progress of the case, significantly broaden the issues or shift the burden of proof. *See Application of Penn Access Corporation*, 1992 Pa.P.U.C. LEXIS 56; *Re Milton Transportation, Inc.* 56 Pa.P.U.C. 623 (1982); *STS Motor Freight, Inc.* 54 Pa.P.U.C. 343 (1980); 52 Pa.Code § 1.2.

12. **Direct Energy’s request for intervention in these proceedings meets the above requirements for late-filed intervention.** First, as discussed above, Direct Energy has standing to intervene. Second, Direct Energy has good cause for the late filing. Direct Energy only recently determined that its interest in this proceeding may be different from those that might be advanced by the Retail Energy Supply Association (of which Direct Energy is a member). In order to preserve its ability to independently pursue its interest apart from RESA, Direct Energy determined that a separate intervention in this proceeding is necessary. Prior to filing this Petition, Counsel for Direct Energy reached out to Counsel for the Companies. As of the time of this filing, Direct Energy had not heard back from Counsel for the Companies. Direct Energy understands that the Companies do not oppose this intervention. No party will be prejudiced by granting this intervention. The introduction of another party at this point will not affect the schedule or litigation itself. Direct Energy is prepared to comply with all previously-established deadlines for discovery and for the filing of testimony and is prepared to participate in this proceeding in a manner that does not interfere with the prompt adjudication of these proceedings. The Companies’ DSP Petitions are contested at the time of this filing and Direct Energy’s participation in these proceedings will not affect the nature of these proceedings.

Furthermore, Direct Energy's intervention will not shift the burden of proof. Here, the issues are still being developed by the parties. Direct Energy's participation in these proceedings will add Direct Energy's unique interests, but Direct Energy's participation would not significantly broaden the issues. That being said, Direct Energy does not intend to broaden the scope of these proceeding beyond the Commission's statutorily-prescribed duties and responsibilities with respect to the approval of default service procurement plans.

Respectfully submitted,



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Date: February 12, 2018

Attorney for  
Direct Energy Services, LLC

## Verification

I, Carl R. Shultz state that I am an Attorney of Record for Direct Energy Services, LLC (“Direct Energy”) and that as such I am authorized to make this verification on its behalf. I hereby state that the facts contained in the foregoing document are true and correct (or are true and correct to the best of my knowledge, information and belief). I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904, relating to unsworn falsification to authorities.



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Carl R. Shultz, Esquire