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July 9, 2018

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, Filing Room  
Harrisburg, PA 17120

**VIA ELECTRONIC FILING**

**RE: 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 Nos. P-2017-2637855, P-2017-2637857, P-2017-2637858, P-2017-2637866**

Dear Secretary Chiavetta:

Please find enclosed for filing with the Pennsylvania Public Utility Commission ("PUC" or "Commission") the Reply Exceptions on behalf of the Met-Ed Industrial Users Group ("MEIUG"), the Penelec Industrial Customer Alliance ("PICA"), and the West Penn Power Industrial Intervenors ("WPPII") (collectively, "the Industrials") in the above-referenced proceeding.

As evidenced by the attached Certificate of Service, all parties to the proceeding are being duly served with a copy of this document.

Sincerely,

McNEES WALLACE & NURICK LLC

By

A handwritten signature in blue ink that reads 'Alessandra L. Hylander'.

Alessandra L. Hylander

Counsel to the Met-Ed Industrial Users Group,  
the Penelec Industrial Customer Alliance, and  
the West Penn Power Industrial Intervenors

Enclosure

c: Administrative Law Judge Mary D. Long (via e-mail and First-Class Mail)  
Stephen Jakab, Bureau of Technical Utility Service (via e-mail and First-Class Mail)  
Office of Special Assistants (via e-mail)  
Certificate of Service

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## CERTIFICATE OF SERVICE

I hereby certify that I am this day serving a true copy of the foregoing document upon the participants listed below in accordance with the requirements of 52 Pa. Code Section 1.54 (relating to service by a participant).

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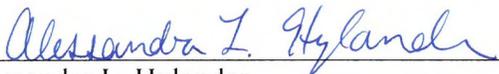
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and the West Penn Power Industrial Intervenors

Dated this 9<sup>th</sup> day of July, 2018, at Harrisburg, Pennsylvania

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

**REPLY EXCEPTIONS OF  
THE MET-ED INDUSTRIAL USERS GROUP,  
THE PENELEC INDUSTRIAL CUSTOMER ALLIANCE, AND  
THE WEST PENN POWER INDUSTRIAL INTERVENORS**

Airgas USA, LLC  
Appvion, Inc.  
Carpenter Technology Corporation  
East Penn Manufacturing Company  
Electralloy, a G.O. Carlson, Inc., Co.  
Ellwood National Steel  
Erie Forge & Steel, Inc.  
Ervin Industries  
Glen-Gery Corporation  
Hanover Foods Corporation  
Indiana Regional Medical Center  
Knouse Foods Cooperative, Inc.  
Latrobe Specialty Metals  
Lebanon Valley College

Lehigh Specialty Melting (Whemco)  
Magnesita Refractories Co.  
MERSEN USA St Marys-PA Corp.  
Pittsburgh Glass Works  
Royal Green LLC  
Sheetz, Inc.  
Standard Steel  
Sweet Street Desserts, Inc.  
Team Ten, LLC - American Eagle Paper Mills  
The Plastek Group  
The Proctor & Gamble Paper Products Co.  
U.S. Silica Company  
Wegmans Food Markets, Inc.

Susan E. Bruce (Pa. I.D. No. 80146)  
Charis Mincavage (Pa. I.D. No. 82039)  
Vasiliki Karandrikas (Pa. I.D. No. 89711)  
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Dated: July 9, 2018

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## **I. INTRODUCTION**

On June 28, 2018, the Office of Consumer Advocate ("OCA") and the Retail Energy Supply Association ("RESA") filed Exceptions to the Recommended Decision ("R.D.") of Administrative Law Judge ("ALJ") Mary D. Long, issued in the above-referenced proceeding. The OCA's Exceptions addressed the ALJ's recommendations regarding the OCA's alternative residential procurement schedule, the provision of customer-specific payment information to Electric Generation Suppliers ("EGSs") without affirmative customer consent, and the extension of the term of the Customer Referral Program. RESA's Exceptions responded to the R.D.'s recommendation that there is no justification for implementing a Bypassable Retail Market Enhancement mechanism ("PTC Adder") and the R.D.'s recommendation regarding Customer Assistance Program ("CAP") customer shopping.

The Met-Ed Industrial Users Group ("MEIUG"), the Penelec Industrial Customer Alliance ("PICA"), and the West Penn Power Industrial Intervenors ("WPPII") (collectively, "Industrials") seek to respond to RESA's Exception relating to the PTC Adder. Although the PTC Adder was not proposed to be applied to large commercial and industrial ("Large C&I") customers, the Industrials are concerned about incorporating the PTC Adder into the FirstEnergy Companies<sup>1</sup> Default Service Plan ("DSP") V from a policy perspective, including any implications that the adder could be broadened at some point to include Large C&I customers. As a result, the Industrials submit the following Reply Exception in support of the R.D.'s recommendation that the

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<sup>1</sup> The term "FirstEnergy Companies" refers collectively to, Metropolitan Edison Company, Pennsylvania Power Company, Pennsylvania Electric Company, and West Penn Power Company.

Pennsylvania Public Utility Commission ("PUC" or "Commission") reject the proposed PTC Adder.<sup>2</sup>

## II. REPLY EXCEPTION

### A. Reply Exception No. 1. The R.D. correctly held that the PTC Adder should be rejected on the basis that it is unjust and unreasonable.

Consistent with precedent, the Commission should accept the R.D.'s conclusion that the PTC Adder be rejected. The PTC Adder is wholly unjust and unreasonable and conflicts with applicable law. R.D., pp. 51-56. Attempts by RESA to seek approval of a PTC Adder should be rejected by the Commission based on its prior findings and the basis set forth in the ALJ's R.D. Similarly, the record evidence does not warrant adoption of RESA's alternative request that the PUC consider taking other action to address perceived market inequities between EGSs and default service providers.

- i. The PTC Adder is Unjust and Unreasonable and Conflicts with Prevailing Law. None of the Arguments in RESA's Exceptions Overcome Those Deficiencies.*

RESA speculates that the PTC Adder would address perceived market inequities in today's retail market design, but RESA fails to prove that the PTC Adder itself would be a just and reasonable mechanism to do so in light of applicable law. The PTC Adder itself is unjust and unreasonable because it conflicts with prevailing law, sets forth bad policy, and hinders the ability of natural market forces to create a truly competitive market for generation supply services. *See, e.g.*, Industrials Main Brief ("M.B."), pp. 5-9 and R.D. pp. 51-56. Furthermore, the PUC previously rejected a similar proposal to implement a bypassable charge on non-shopping residential customers and commercial customers (the "Market Adjustment Charge") in the

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<sup>2</sup> The Industrials' Reply Exceptions will not respond to every argument contained in parties' Exceptions but only those issues necessitating additional response. The Industrials' decision not to respond to all arguments should not be construed as agreement with the positions of any party on any of the outstanding issues in this proceeding.

FirstEnergy Companies' second DSP proceeding. R.D., p. 53; *see also* Industrials' R.B., pp. 4-5. Mitigating the alleged anti-competitive advantage enjoyed by EDCs' default service product cannot serve as sufficient justification for imposing the PTC Adder in light of the fact that the PTC Adder contravenes PUC precedent. Industrials M.B., pp. 5-9. While maintaining a competitive market for energy supply is undeniably vital to achieving the Commonwealth's policy goals, the PTC Adder, which arbitrarily increases customers costs, is not the vehicle to achieve that goal. Applying a PTC Adder to a specific subset of customers without extensive analysis and evidence to support the adder constitutes an unacceptable form of "rough justice."

Furthermore, RESA's allegation that the ALJ did not consider how the PTC Adder could positively benefit all customers (including low-income customers) lacks merit. RESA proposes that the PUC could direct a portion of the revenues from the PTC Adder to low-income customer assistance programs. However, the detriments of the PTC Adder outweigh any perceived benefits of it. Simply put, low-income customers would benefit further from not paying the PTC Adder than from receiving 5% of the PTC Adder's proceeds.

*ii. RESA Fails to Present Sufficient Evidence Regarding Perceived Market Inequities.*

RESA proposes that if the Commission denies its Exceptions, then the PUC should "consider taking other action focused on addressing the concerns raised in this docket." RESA Exceptions, p. 3. To address concerns relating to the PTC, RESA suggests that the PUC could: "(1) initiate cost-allocation cases for the electric distribution companies ("EDCs") similar to what is contemplated in 52 Pa. Code § 69.1808; (2) direct staff from the Office of Competitive Market Oversight ("OCMO") to undertake a review of utility rates and submit a report and recommendation regarding potential reforms to the PTC to create better parity with competitive market price offerings; and/or, (3) open a generic proceeding to focus specifically on how to

ameliorate the current competitive advantages that EDCs have in the retail market." *Id.* Considering the lack of evidence in the record of this proceeding about specific market inequities beyond broad allegations and the timing of this request, these issues should not be disposed of in the DSP V docket. Rather, RESA should provide evidence underlying its concerns about the competitive market and raise these issues in a separate filing.

### **III. CONCLUSION**

Consistent with the foregoing Reply Exceptions, the PUC should affirm the R.D.'s recommendation to reject the PTC Adder. As explained by the Industrials throughout this proceeding, as well as by nearly all other parties, the PTC Adder is unjust and unreasonable and cannot be adopted. The proposed PTC Adder violates the Competition Act, Commission regulations, and explicit Commission precedent. These concerns more than warrant rejection of the PTC Adder proposal.

**WHEREFORE**, the Met-Ed Industrial Users Group, Penelec Industrial Customer Alliance, and West Penn Power Industrial Intervenors respectfully request that the Pennsylvania Public Utility Commission deny RESA's Exception pertaining to the PTC Adder and approve the R.D. with respect to its holding that the PTC Adder should be rejected.

Respectfully submitted,

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