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September 19, 2018

**VIA ELECTRONIC FILING**

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2<sup>nd</sup> Floor  
Harrisburg, PA 17120

**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:

Enclosed for filing please find the Petition for Reconsideration of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company the in the above-referenced matter.

As indicated on the attached Certificate of Service, copies have been served on the parties in the manner indicated.

Please contact me with any questions regarding this matter.

Very truly yours,

  
Tori L. Giesler

dIm  
Enclosures

c: As Per Certificate of Service

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

<b>Joint Petition of Metropolitan Edison</b>	<b>:</b>	
<b>Company, Pennsylvania Electric</b>	<b>:</b>	<b>Docket No. P-2017-2637855</b>
<b>Company, Pennsylvania Power Company</b>	<b>:</b>	<b><del>P-2017-2637857</del></b>
<b>and West Penn Power Company for</b>	<b>:</b>	<b>P-2017-2637858</b>
<b>Approval of their Default Service</b>	<b>:</b>	<b>P-2017-2637866</b>
<b>Programs</b>	<b>:</b>	

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**PETITION FOR RECONSIDERATION OF  
METROPOLITAN EDISON COMPANY, PENNSYLVANIA  
ELECTRIC COMPANY, PENNSYLVANIA POWER COMPANY AND  
WEST PENN POWER COMPANY**

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**I. INTRODUCTION**

On September 4, 2018, the Pennsylvania Public Utility Commission (“Commission”) issued a Final Order approving the proposed default service programs (“DSPs”) of Metropolitan Edison Company (“Met-Ed”), Pennsylvania Electric Company (“Penelec”), Pennsylvania Power Company (“Penn Power”), and West Penn Power Company (“West Penn”) (hereinafter individually a “Company” and collectively “Companies”) for the period June 1, 2019 through May 31, 2023. In nearly all respects, the Commission adopted the Recommended Decision issued by Administrative Law Judge (“ALJ”) Mary D. Long on May 31, 2018. However, while the Commission approved ALJ Long’s recommendation that the Companies should adopt procedures that prevent customers enrolled in the Companies’ Pennsylvania Customer Assistance Program (“PCAP”) from shopping with electric generation suppliers (“EGSs”) at prices above the price-to-compare (“PTC”) beginning June 1, 2019, the Commission also held that insufficient information existed within the record of the proceeding regarding the implementation of such PCAP shopping procedures. As a result, the Commission ordered its Office of Competitive Market Oversight

(“OCMO”) to lead a working group process to develop the Companies’ PCAP shopping rules. OCMO is tasked with developing recommendations for submission to the Commission on or before January 31, 2019.

The Companies’ Petition for Reconsideration is limited to the Commission’s holding related to PCAP shopping procedures. Specifically, the Companies respectfully request that the Commission reconsider its finding that insufficient record evidence exists to support a rate ready percentage off product that ensures PCAP shopping customers’ prices remain below the currently-effective PTC. In order to implement the information technology (“IT”) changes that are necessary to ensure PCAP customer prices do not exceed the PTC, the Companies will need Commission approval of a rate ready percentage off product in advance of the OCMO working group process. Relatedly, for all remaining PCAP shopping changes, the Companies are seeking to accelerate the OCMO process by one month to ensure sufficient implementation time exists before the June 1, 2019 effective date.

## **II. PROCEDURAL HISTORY**

On December 4, 2017, the Companies filed the above-captioned Petition at the Commission.

On January 17, 2018, ALJ Long held a prehearing conference establishing the proceeding schedule and addressing certain preliminary matters.

On January 19, 2018, a Prehearing Order was issued memorializing the ALJ’s findings at the conference.

On March 13, 2018, public input hearings were conducted in Erie, Pennsylvania.

On April 10, 2018, an evidentiary hearing was conducted where parties’ written testimony and certain stipulations were moved into the record.

Main Briefs were submitted on May 2, 2018, followed by Reply Briefs on May 15, 2018.

On May 31, 2018, ALJ Long issued a Recommended Decision, which recommended approval of the Companies' proposed DSPs subject to limited modifications.

Exceptions were filed on June 28, 2018, followed by Reply Exceptions on July 9, 2018.

The Commission's Final Order approving the Companies' DSPs was entered on September 4, 2018. This Petition for Reconsideration is being timely filed consistent with 52 Pa. Code § 5.572(c).

### **III. ARGUMENT**

#### **A. Legal Standard of Reconsideration**

Under Section 703(g) of the Public Utility Code, the Commission may rescind or amend any prior Commission order in whole or in part.<sup>1</sup> A petition for reconsideration may raise matters that may convince the Commission to wield its authority under Section 703(g), but should not be treated as a second motion to review the same questions that were previously decided.<sup>2</sup> Instead, a petition for reconsideration should raise new and novel arguments not previously heard by the Commission, including newly discovered information, alleged errors of law, or changes in circumstances that justify reconsideration.<sup>3</sup>

#### **B. The Commission Should Approve a Rate Ready Percentage Off Product Ensuring that PCAP Shopping Customers Do Not Pay Rates Exceeding the Currently-Effective PTC Ahead of the OCMO Working Group Process.**

Reconsideration of the Commission's Final Order is justified for both legal and factual reasons. First, while substantial evidence exists in the record in support of limiting PCAP shopping prices based on the currently-effective PTC, little to no evidence supports the establishment of PCAP shopping prices based on the PTC at the time of supplier contracting. Therefore, in order

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<sup>1</sup> 66 Pa.C.S. § 703(g).

<sup>2</sup> *Duick v. Pa. Gas and Water Co.*, Docket No. C-R0597001, *et al.*, 56 Pa. P.U.C. 553, 559, (1982); *see also Pa. Pub. Util. Comm'n v. City of Bethlehem*, 2009 Pa. PUC LEXIS 2092, \*8-9 (Pa. P.U.C. Dec. 3, 2009).

<sup>3</sup> *See id.*

to comply with the Commission's directive to adopt a PCAP shopping program with rates at or below the PTC, the Companies must adopt a rate ready percentage off product that follows the PTC as it changes, because this is the only mechanism supported by substantial evidence in the proceeding. Further consideration of this issue by OCMO would be inappropriate, as the Commission cannot approve a PCAP shopping price based on the PTC at the time of supplier contracting where it is not supported by substantial record evidence. Second, both the Companies and other parties laid out implementation procedures in their testimony that could be feasibly adopted if the Commission ultimately agreed to adopt PCAP shopping changes. The Companies determined that a Final Order issued in September 2018 would provide sufficient time to make all necessary IT changes to implement a rate ready percentage off product based on the currently-effective PTC. Unfortunately, the Commission's decision to begin a working group process led by OCMO will delay this implementation timeline significantly and likely prevent the Companies from adopting necessary IT changes before June 1, 2019. Accordingly, the Companies respectfully request that the Commission approve the Companies' adoption of a rate ready percentage off product in advance of the prescribed OCMO working group process.

In the Final Order, the Commission held that parties established their burden of proof that PCAP shopping customers should pay "a rate that is at or below the utility's PTC."<sup>4</sup> However, the Commission further held that the mechanics of such PCAP shopping rules were not fully developed within the record of the proceeding, and as a result, the Commission referred the issues for further evaluation by OCMO, including "the issue of whether the EGS rate must be below the PTC at the time of contracting, or below that and all future PTCs."<sup>5</sup> The Companies respectfully disagree that the record is unclear or undeveloped related to which PTC-based product should be

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<sup>4</sup> Final Order, p. 58.

<sup>5</sup> *Id.* at n. 19.

available to PCAP customers. The only mechanism supported by the testimony of this proceeding which would achieve PCAP shopping customers not shopping at prices above the PTC is a rate ready percentage off product.

A substantial evidentiary record exists in support of a Commission decision to approve a rate ready percentage off product that ensures PCAP shopping customers are not subject to prices exceeding the currently-effective PTC. Throughout this proceeding, the Companies indicated that if the Commission deemed PCAP shopping restrictions appropriate, they could implement a PCAP shopping program that permits suppliers to only offer PCAP customers a rate ready percentage off product based on the currently-effective PTC.<sup>6</sup> Any attempted enrollments of PCAP customers by suppliers that do not adhere to the rate ready percentage off rules would automatically be rejected by the Companies' system. The Companies will add a PCAP participation flag to their eligible customer lists to notify suppliers that a customer is enrolled in PCAP and would only be eligible to receive a rate ready percentage off product.<sup>7</sup> Other parties including the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania ("CAUSE-PA"), the Office of Consumer Advocate ("OCA"), and the Bureau of Investigation and Enforcement ("I&E") also submitted voluminous testimony in favor of a mechanism like the rate ready percentage off product, which permits that Companies to adjust PCAP customers' shopping prices to never exceed the currently-effective PTC.<sup>8</sup>

By contrast, there is no evidence in the record supporting an approach in which the PCAP customer's price would be established based on the PTC at the time of the PCAP customer's contracting with the EGS. The only party that opposed PCAP shopping rules, the Retail Energy

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<sup>6</sup> Met-Ed/Penelec/Penn Power/West Penn Statement No. 1-R, p. 34; Met-Ed/Penelec/Penn Power/West Penn Statement No. 1-SR, p. 8.

<sup>7</sup> Met-Ed/Penelec/Penn Power/West Penn Statement No. 1-R, p. 32.

<sup>8</sup> CAUSE-PA Statement No. 1, p. 30; OCA Statement No. 2, p. 38; I&E Statement No. 1-SR, p. 24.

Supply Association (“RESA”), did not offer any evidence in support of a mechanism that would limit PCAP shopping prices to the PTC at any particular point in time. RESA’s suggested PCAP shopping rules only included increased education of PCAP customers, the prohibition of early termination fees, and suggested changes to universal service program funding and the purchase of receivables clawback mechanism.<sup>9</sup>

“Any finding of fact necessary to support the Commission's adjudication must be based upon substantial evidence.”<sup>10</sup> The Commonwealth Court is tasked with reversing decisions of the Commission where the Commission makes findings of fact that are not supported by substantial evidence.<sup>11</sup> Here, the Commission held that the appropriate PCAP shopping limitation is ensuring PCAP customer prices are at or below the PTC.<sup>12</sup> However, the Commission leaves open the question of whether the EGS rate should be below the currently-effective PTC or based on the PTC at the time of supplier enrollment.<sup>13</sup> The problem is, the only PCAP shopping protection supported by substantial evidence in this proceeding is one based on the currently-effective PTC. All parties who advocated in favor of price-based PCAP shopping protections supported PCAP shopping prices based on the currently-effective PTC.<sup>14</sup> In response, the Companies provided evidence stating that they could implement functionality for a rate ready percentage off product, which would ensure that PCAP shopping prices do not exceed the currently-effective PTC.<sup>15</sup>

The Companies are familiar with PPL Electric Utilities’ standard offer program (“SOP”)

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<sup>9</sup> RESA St. No. 1-SR, p. 12.

<sup>10</sup> *Petition of the West Penn Power Company d/b/a Allegheny Power for Approval of its retail Electric Default Service Program and Competitive Procurement Plan for Service at the Conclusion of the Restructuring Transition Period*, Docket No. P-000723 (Opinion and Order dated May 21, 2008), citing *Mill v. Commw.*, 447 A.2d 1100 (Pa. Commw. Ct. 1982); *Edan Transportation Corp. v. PA Public Utility Comm'n*, 623 A.2d 6 (Pa Commw. Ct. 1993).

<sup>11</sup> 2 Pa.C.S. § 704.

<sup>12</sup> Final Order, p. 58.

<sup>13</sup> Final Order, n. 19.

<sup>14</sup> CAUSE-PA Statement No. 1, p. 30; OCA Statement No. 2, p. 38; I&E Statement No. 1-SR, p. 24.

<sup>15</sup> Met-Ed/Penelec/Penn Power/West Penn Statement No. 1-R, p. 34; Met-Ed/Penelec/Penn Power/West Penn Statement No. 1-SR, p. 8.

in which PCAP customer prices are based on the PTC at the time of their enrollment with a supplier. During the proceeding, the Companies opposed a PCAP SOP primarily based on the increased implementation challenges associated with a PCAP SOP.<sup>16</sup> In addition, CAUSE-PA and OCA both specifically opposed a PCAP SOP.<sup>17</sup> Although I&E initially supported an SOP, I&E ultimately advocated in favor of “a program that would prohibit CAP customers from shopping for electricity where rates are greater than the PTC at any time throughout the term of the agreement.”<sup>18</sup> Not a single party to the proceeding maintained a position in testimony in favor of a PCAP SOP, or any other mechanism that would base PCAP shopping prices on the PTC at the time of contracting. As a result, there is simply no way substantial evidence could support the adoption of a PCAP shopping mechanism based on the PTC at the time of supplier contracting. An OCMO process will not change the evidentiary record. The only PCAP shopping mechanism supported by substantial evidence that would satisfy the Commission’s holding is one based on the currently-effective PTC, which the Companies would achieve through the introduction of a rate ready percentage off product.<sup>19</sup>

Although the Companies believe a rate ready percentage off product is the best and only appropriate option for ensuring PCAP shopping prices are at or below the PTC, for the Commission’s benefit, the Companies will highlight the numerous implementation issues associated with a PCAP SOP. The Companies can impose a rate ready percentage off product by modifying their electronic data exchange to ensure that a supplier’s attempted enrollment of a PCAP customer is automatically rejected if the supplier does not agree to provide a rate ready percentage off product. This change could be implemented through an IT transport and would

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<sup>16</sup> See Met-Ed/Penelec/Penn Power/West Penn Statement No. 1-SR, p. 8.

<sup>17</sup> OCA Statement. No. 2R, p. 14; CAUSE-PA Statement. No. 1-R, pp. 2-3.

<sup>18</sup> I&E Statement No. 1, p. 23; I&E Statement No. 1-SR, p. 24.

<sup>19</sup> See 66 Pa.C.S. 332(a).

impose only minor additional administrative responsibilities on the Companies. By contrast, the establishment of a PCAP SOP would require the Companies to develop an entirely new SOP program with large scale IT changes, contact center process changes, and supplier services obligations. Similar to the Companies' customer-referral program ("CRP"), the Companies also would need to hire a third-party vendor to implement the PCAP SOP, which would mean higher administrative costs. Further, rather than simply adopting automatic changes to adjust the price to all PCAP shopping customers based on the current PTC, all PCAP shopping customers would be charged different prices based on the PTC at the time of their supplier enrollment. Due to the increased complexity of a PCAP SOP, the likelihood of implementation issues and errors is higher and the timeline for implementation would be significantly longer. In light of the numerous implementation issues and lack of evidentiary support for a PCAP SOP, a PCAP SOP should be rejected without further deliberation during the OCMO working group process.

In addition, the Companies are requesting the Commission's approval of a rate ready percentage off product before November 2018. The Companies only have two IT transports scheduled before June 1, 2019, which will occur in December 2018 and April 2019. IT transports deploy new billing changes into the Companies' customer information systems. Even if the Commission grants the Companies' Petition for Reconsideration, the Companies will not be in a position to take advantage of the December 2018 IT transport. To ensure sufficient time exists in advance of the April 2019 transport for IT planning and programming, the Companies are seeking Commission approval of the rate ready percentage off product by November 2018. This approval timeline is necessary for the Companies to apply the rate ready percentage off product to PCAP shopping customers' accounts by June 1, 2019.

The Companies urge the Commission to approve the rate ready percentage off product in advance of the OCMO process to ensure the necessary IT changes may be adopted in time for a

June 1, 2019 implementation. An OCMO process, even following an expedited timeline, would likely prevent the Companies from adopting the necessary IT functionality to implement a rate ready percentage off product before June 1, 2019. The record of this proceeding clearly supports a rate ready percentage off product that ensures PCAP shopping customers are charged no more than the currently-effective PTC. No alternative pricing mechanism, such as a PCAP SOP, is supported by the evidentiary record of this proceeding. The Companies respectfully request that the Commission reconsider their Final Order and approve a rate ready percentage off product in advance of the OCMO working group process.

**C. To Determine the Remaining PCAP Shopping Rules, the OCMO Working Group Process Should Be Accelerated.**

The Companies agree that the remaining PCAP shopping program mechanics, such as the appropriate percentage off the PTC amount and the transitional rules applicable to current PCAP shopping customers, would benefit from further discussion at an OCMO working group. However, the Companies remain concerned with the timeline associated with the OCMO process. For the following reasons, the Companies request that the Commission accelerate the OCMO working group process by one month to allow for Commission approval of all PCAP shopping rules by March 2019.

The Companies expect the OCMO working group to discuss process changes that may require customer and supplier notifications, minor system changes, and scripting changes. Both customers and suppliers likely will need to be notified regarding the PCAP shopping changes. The appropriate percentage off the PTC amount (e.g., 100% of the PTC or a discounted PTC rate), which the Companies have confirmed will require only minor system changes to adopt, could also be a subject for the OCMO working group. In addition, there are a few PCAP shopping changes that will require EGS time and implementation, such as the transition plan rules for current PCAP shopping customers and the elimination of early termination fees.

The first OCMO working group meeting is scheduled for November 5, 2018. The Commission is seeking final recommendations from OCMO based on the working group process by January 31, 2019. Based on the current timeline, the Companies do not expect final Commission approval of all PCAP shopping rules until April or May 2019 after the Commission receives comments and reply comments from stakeholders. Although it may be physically possible to issue all required notifications and adopt all system, scripting, and process changes ahead of the June 1, 2019 implementation, the Companies are concerned that this turnaround time will be too fast to ensure a successful implementation. As a result, the Companies request that the Commission expedite the working group process by at least one month with OCMO recommendations due at the end of 2018 followed by a comment process that allows for a final Commission decision by March 2019. Acceleration of the process by even a single month would provide the Companies the clarity necessary prior to their April 2019 IT transport, thereby better ensuring their ability to fully and successfully implement all PCAP shopping changes by June 1, 2019.

#### IV. CONCLUSION

WHEREFORE, Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company, and West Penn Power Company respectfully request that the Pennsylvania Public Utility Commission grant this Petition for Reconsideration and issue an order approving: a) the adoption of a rate ready percentage off product preventing the shopping prices of PCAP customers from exceeding the currently-effective PTC; and b) a one-month acceleration of the Office of Competitive Market Oversight working group timeline as further described herein.

Respectfully Submitted

Dated: September 19, 2018



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Counsel for Metropolitan Edison Company,  
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Pennsylvania Power Company, and West  
Penn Power Company

## Leonard, Allyson

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**From:** Spunaugle, Shirley A  
**Sent:** Friday, September 21, 2018 9:36 AM  
**To:** 'Giesler, Tori'; Leonard, Allyson  
**Subject:** RE: [EXTERNAL] Question Re E-Filed Petition for Reconsideration-E-Confirmation No 1739921

Good morning Tori,

As per our instructions from Rosemary, we are required to verify there are not new averments of fact if a verification statement is not filed with Petitions for Reconsideration. Since you state the argument that the existing record was overlooked and citing the evidence already at the docket, this is verification enough for us to proceed with processing.

Thank you,

*Shirley Spunaugle  
Secretary's Bureau  
Compliance & Assignment  
Legal Assistant Supervisor  
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**From:** Giesler, Tori <tgiesler@firstenergycorp.com>  
**Sent:** Friday, September 21, 2018 9:23 AM  
**To:** Leonard, Allyson <alleonard@pa.gov>  
**Cc:** Spunaugle, Shirley A <sspunaugle@pa.gov>  
**Subject:** Re: [EXTERNAL] Question Re E-Filed Petition for Reconsideration-E-Confirmation No 1739921

Hi Allyson, I'm sorry, my admin should have mentioned I'm largely out of pocket Wed-Fri afternoon this week with limited ability to make calls. I can call this afternoon to discuss, but as a petition for reconsideration arguing that the existing record was overlooked and citing to the record evidence already at the docket, we didn't see a verification as being required here.

I will call you this afternoon to discuss, apologies for the delay!

Sent from my iPhone

On Sep 21, 2018, at 8:42 AM, Leonard, Allyson <alleonard@pa.gov> wrote:

Good Morning Tori,

We received this enclosed Petition for Reconsideration on Wednesday afternoon. There is no verification statement included in the petition. I noticed that you didn't state that there were "no new averments of fact". Therefore, I attempted to call you a couple of times. I left a voicemail for you on late Wednesday afternoon. I called your receptionist yesterday around 11 AM when I didn't get a response from you. She told me that she would relay the message to you. I am e-mailing you now because I still haven't received a response & I would like to process this Petition in a timely matter for you. Please contact me at your earliest convenience by telephone. My phone number is 717-783-1202.

Thanks,  
Allyson

**Allyson E. Leonard**  
**Legal Assistant 2**  
**PUC Secretary's Bureau-C&A**

<Petition for Reconsideration-Metropolitan Edison Company et al.pdf>

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**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Joint Petition of Metropolitan Edison** :  
**Company, Pennsylvania Electric Company,** : **Docket No. P-2017-2637855, et al.**  
**Pennsylvania Power Company and West** :  
**Penn Power Company for Approval of** :  
**their Default Service Programs** :  
:

**CERTIFICATE OF SERVICE**

I hereby certify and affirm that I have this day served a copy of the Petition for Reconsideration of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company on the following persons in the matter specified in accordance with the requirements of 52 Pa. Code § 1.54:

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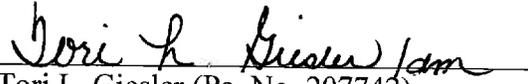
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Date: September 19, 2018

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