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January 31, 2023

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

VIA ELECTRONIC FILING

**RE: Use of Fully Projected Future Test Year, 52 Pa. Code Chapter 53.51-53.56a;
Docket No. L-2012-2317273**

Dear Secretary Chiavetta:

Attached for filing with the Pennsylvania Public Utility Commission are the Reply Comments of the Pennsylvania Energy Consumer Alliance ("PECA"), Met-Ed Industrial Users Group ("MEIUG"), Penelec Industrial Customer Alliance ("PICA"), Philadelphia Area Industrial Energy Users Group ("PAIEUG"), PP&L Industrial Customer Alliance ("PPLICA"), and West Penn Power Industrial Intervenor ("WPPII") (collectively, "Large Users Groups"), in the above-referenced proceeding.

Sincerely,

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CERTIFICATE OF SERVICE

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

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Dated this 31st day of January, 2023, at Harrisburg, Pennsylvania.

Use of Fully Projected Future Test Year,)
52 Pa. Code Chapter 53.51-53.56a) Docket No. L-2012-2317273

² See *Notice of Proposed Rulemaking Order*, Pa. Pub. Util. Comm'n, Docket No. L-2012-2317273 (June 17, 2021).

accessibility of rate case proceedings for stakeholders and stakeholder representatives. However, in reviewing the Comments filed by stakeholders, the Large Users Groups have identified concerns with certain proposals submitted in response to the Proposed Rulemaking, and the Large Users Groups respectfully request that the Commission consider these Reply Comments in developing its final regulations.

II. BACKGROUND

On December 22, 2017, the Commission entered an ANOPR Order inviting stakeholder Comments on the proposed Fully Projected Future Test Year ("FPFTY") Rulemaking. Subsequently, numerous stakeholder meetings were held throughout 2018 and 2019 before proceedings were delayed due to the Covid-19 pandemic.

On June 17, 2021, the Commission entered a Notice of Proposed Rulemaking Order ("NOPR") setting forth the proposed FPFTY Rulemaking and soliciting Comments to be filed within 45 days of publication of the NOPR in the Pennsylvania Bulletin ("Bulletin"). The NOPR was published in the Bulletin on October 1, 2022, with Comments due on November 16, 2022, and Reply Comments due on December 30, 2022. Following publication of the NOPR in the Bulletin, the Office of Consumer Advocate ("OCA") requested that the Reply Comment period be extended. This extension was granted, and the due date for Reply Comments was changed to January 31, 2023.

On or before November 16, 2022, several parties filed Comments on the NOPR. Because the Large Users Groups participated in the prior stakeholder meetings and provided input consistent with the Comments to the ANOPR submitted by OCA and the Bureau of Investigation and Enforcement ("I&E"), the Large Users Groups did not submit Comments to the NOPR. The

Large Users Groups now submit these Reply Comments setting forth their recommendations in response to specific Comments filed by certain other parties.

III. COMMENTS

The Large Users Groups appreciate this opportunity to respond to Comments to the Proposed Rulemaking. In response, the Large Users Groups offer the following recommendations:

- In its comments on the Proposed Rulemaking, Aqua Pennsylvania, Inc. ("Aqua PA") opposes a requirement for utilities to provide workpapers with formulae intact on grounds that such workpapers may include sensitive information.³ Aqua PA alternatively proposes that such material be treated confidentially. The Large Users Groups support the addition of a filing requirement for utilities to provide workpapers with the formulae intact, with the opportunity to classify those formulae as privileged or confidential if necessary. The production of workpaper formulae is necessary information for witnesses retained by the Large Users Groups for purposes of rate case litigation to begin their analyses. Providing this information at the time of the utility's initial rate increase request would save significant time and effort for the parties to any rate case litigation before the Commission. The proposed requirement should be preserved with the ability to designate workpapers with formulae intact as confidential.
- The Industrial Energy Consumers of Pennsylvania ("IECPA") recommend that, after a utility submits its FPFTY projections, the PUC initiate a "just and reasonable rate review proceeding" to assess the accuracy of the Future Test Year ("FTY") or FPFTY

³ See Comments of Aqua Pennsylvania, Inc., *Use of Fully Projected Future Test Year*, 52 Pa. Code Chapter 53.51–53.56a, Pa. Pub. Util. Comm'n, Docket No. L-2012-2317273 (Nov. 15, 2022), available at <https://www.puc.pa.gov/pcdocs/1764939.pdf>.

projections and the need for refunds of overcollections.⁴ The Large Users Groups note that IECPA proposes the additional rate review proceeding as a process for addressing only overcollections, rather than addressing both over and undercollections. IECPA's narrow request is appropriate, as the authority to utilize a FPFTY expands the scope of revenue and expense adjustments available to support utilities' proposed rate increases.⁵ Additionally, while public utilities can always initiate additional rate proceedings in the event projected expenses substantially exceed projected revenues, customers do not have any parallel recourse for circumstances where projected revenues substantially exceed projected expenses. As such, the Large Users Groups request that IECPA's proposal be considered solely for purposes of adjusting FPFTY rates to address overcollections.

- The Office of Small Business Advocate ("OSBA") proposes creating a requirement for utilities to provide a basis and specific evidence supporting negotiated rates for any customer under a special contract with a utility.⁶ Importantly, including such a requirement in a utility's initial rate filing could result in the disclosure of a customer's confidential information. Therefore, any approval of the OSBA's proposal must include a requirement for public utilities to provide advance written notice to any impacted customer, as well as mark the special contract (and any accompanying information regarding the contract) privileged and confidential in order to ensure protection of sensitive customer data.

⁴ See Comments of Industrial Energy Consumers of Pennsylvania, *Use of Fully Projected Future Test Year*, 52 Pa. Code Chapter 53.51–53.56a, Pa. Pub. Util. Comm'n, Docket No. L-2012-2317273 (Nov. 15, 2022), available at <https://www.puc.pa.gov/pcdocs/1764910.pdf>.

⁵ See *Advance Notice of Proposed Rulemaking Order*, Pa. Pub. Util. Comm'n, Docket No. L-2012-2317273 (December 22, 2017) at 2.

⁶ See Comments of the Office of Small Business Advocate, *Use of Fully Projected Future Test Year*, 52 Pa. Code Chapter 53.51–53.56a, Pa. Pub. Util. Comm'n, Docket No. L-2012-2317273 (Nov. 15, 2022), available at <https://www.puc.pa.gov/pcdocs/1764917.pdf>.

IV. CONCLUSION

PECA, MEIUG, PICA, PAIEUG, PPLICA, and WPPII appreciate the opportunity to provide these Reply Comments and respectfully request that the Commission take these Reply Comments into consideration in the development of its final regulations.

Respectfully submitted,

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By 

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