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July 24, 2023

**VIA ELECTRONIC FILING**

Michelle Phillips, Secretary to the Commission  
State of New York Public Service Commission  
3 Empire State Plaza, 14<sup>th</sup> Floor  
Albany, NY 12223-1350


**RE: Pennsylvania Electric Company;  
Minor Rate Filing of Pennsylvania Electric Company to Increase  
its Annual Revenues by about \$300,000 or 3.49 Percent  
Case No. 22-E-0668**

Dear Secretary Phillips:

Enclosed please find Pennsylvania Electric Company's Motion for Rehearing and Reconsideration of Order Granting Rate Increase to be filed in the above-referenced matter.

Please contact me if you have any questions regarding this matter.

Very truly yours,

  
Darsh Singh

DS/mlr

Enclosures

**STATE OF NEW YORK  
PUBLIC SERVICE COMMISSION**

<b>Minor Rate Filing of Pennsylvania Electric Company</b>	}	
<b>to Increase its Annual Revenues by about \$300,000</b>	}	<b>Case 22-E-0668</b>
<b>or 3.49 Percent</b>	}	
	}	

**PENNSYLVANIA ELECTRIC COMPANY’S MOTION FOR REHEARING AND  
RECONSIDERATION OF ORDER GRANTING RATE INCREASE**

**I. Introduction**

Pursuant to New York Public Service Law § 22 and Section 3.7 of the Commission’s rule and regulations, 16 NYCRR § 3.7, Pennsylvania Electric Company (“Penelec” or the “Company”) respectfully submits this Motion for Rehearing and Reconsideration of the New York State Public Service Commission (the “Commission” or the “NYPSC”) order authorizing Penelec to increase its annual revenues by \$300,000 per year effective, July 1, 2023 (hereafter “Order”).<sup>1</sup>

The Order largely adopted Penelec’s filed tariff revisions to its electric tariff schedule, P.S.C. No. 7 – Electricity (“Tariff”) proposing to increase its annual revenues by approximately 14.04 percent of base delivery revenues and 3.49 percent of total revenues. In addition to the necessary revisions to the Tariff to effectuate the proposed rate increases, the Company proposed to add tariff provisions to implement new LED street light services, as well as certain clean up revisions to its Tariff as part of its proposal. This change was intended to provide customers with additional lighting options and replace obsolete technologies.

Notably, the Order does not address the new LED rate offering and, as detailed below, its omission from Appendix C, Service Classification No. 7 – Municipal Street Lighting Service

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<sup>1</sup> *In re Minor Rate Filing of Pennsylvania Electric Company to Increase its Annual Revenues by About \$300,000 or 3.49 Percent*, Case 22-E0668 (“Rate Case Filing”), Order Granting Rate Increase (Order entered on June 23, 2023).

appears to have simply been an oversight by Commission Staff. As described in the Procedural Background section, due to the Appendix C approved rates being inadvertently excluded from the Order, Penelec filed its mandated tariff revisions (“Compliance Filing”)<sup>2</sup> without the new LED offering. Rather, Penelec communicated with Commission Staff and it was at Staff’s suggestion that Penelec file this motion.

Penelec respectfully seeks the granting of this motion such that the LED rates proposed in the Rate Case Filing can be properly considered and subsequently approved.

## **II. Background**

### **A. Procedural Background**

On November 28, 2022, Penelec filed revisions to its Tariff, and supporting documents, proposing to increase the total monthly bill of a residential customer using 1000 kilowatt hours from \$138.69 to \$144.52, or 4.20% resulting in a \$300,000 increase to Penelec’s New York jurisdictional normalized annual base rate revenues. The Rate Case Filing was based on a historical test year for the twelve months ending June 30, 2022 and sought a May 1, 2023 effective date.

The comment and intervention period concluded without any intervenors. Discovery from Commission Staff began on December 6, 2022, and proceeded for over three months. Over two dozen questions were asked by staff and most included multiple subparts.

On March 31, 2023, at the request of Commission Staff, Penelec filed a postponement to allow for additional time for review of its Rate Case Filing. By letter issued on April 11, 2023, the Office of Rates and Tariffs approved the postponement to July 1, 2023.

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<sup>2</sup> Rate Case Filing, 22-E-0668, Penelec Waverly District P.S.C. No. 7 – Waverly Compliance (Filed on June 27, 2023).

On June 23, 2023, the Commission issued the Order largely adopting the revisions Penelec had proposed to its Tariff. In its Order the Commission found that the allocation method used by Penelec, specifically the jurisdictional allocation factor, is appropriate and consistent with the method the Commission has adopted in previous New York rate cases for the Waverly District. Further, the Order states that Penelec’s stand-alone capitalization, consisting of a 50.10 percent common equity is reasonable to set rates in this proceeding.<sup>3</sup> In making this finding, the Commission highlights the fact that the Waverly District represents less than one percent of Penelec’s customer base and the fact that the Commission set the rates in the Order based on the allocation of costs between Penelec’s Pennsylvania and New York service territories.<sup>4</sup> Further, it was noted that by limiting its revenue increase request to \$300,000 Penelec is in fact restraining its rate of return even though its cost of service could justify a higher increase.<sup>5</sup>

Ordering paragraph 2 of the Order directs Penelec to file further tariff revisions, on no less than five days’ notice, establishing the rates shown in “Appendix C” of the Order. However, the Order issued was inadvertently missing Appendices B, C, and D.<sup>6</sup> Penelec reached out the Commission Staff to alert them of the oversight. Since the approved rates were not a part of the Order, Commission Staff directly provided Penelec with the appropriate rates to file. It should be noted that the Appendix C provided by Commission Staff for filing varies slightly from the Appendix C in the Erratum Notice issued on June 27, 2023 in that Staff corrected ministerial type labeling errors that were present in the Erratum Notice.

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<sup>3</sup> Rate Case Filing, Order Granting Rate Increase at 10

<sup>4</sup> Id at n.11.

<sup>5</sup> Id.

<sup>6</sup> Appendix B was intended to set forth the revenue requirement, as filed and authorized by the Order; Appendix C was intended to show the newly authorized rates and bill tables of the different customer types and usage levels; Appendix D was intended to provide the responses to information requests referenced in the Order.

Upon receiving the rates for filing from Commission Staff, Penelec was made aware that the LED lighting rates were excluded from the approved rates and could not be included because they had not been considered by Commission Staff. There had been no discovery questions asked about the LED lights and therefore the oversight could not be addressed in the Erratum Notice. Staff advised that Penelec would either need to file a new petition or a motion for rehearing so that the LED lighting rates could be properly considered by Staff and discovery questions with regards to the proposed rates be issued.

### **B. Penelec & The Waverly District**

Penelec, a wholly-owned subsidiary of FirstEnergy, was organized under the laws of the Commonwealth of Pennsylvania in 1919. As noted, its franchise in New York subject to Commission jurisdiction serves approximately 3,800 customers in Waverly, New York and its vicinity. The peak load to serve the Waverly District is approximately 12 megawatts. Penelec distributes approximately 60,000 megawatt-hours of energy to serve the Waverly District annually.

Penelec's primary operations are in Pennsylvania, where it owns property and provides distribution electric service to nearly 588,000 customers across 17,600 square miles of western, northern and south-central Pennsylvania. The area Penelec serves in Pennsylvania has a population of approximately 1.2 million people. Penelec does not own generation assets. It serves Pennsylvania residential and commercial default service customers with supply procured through forward contracts that are approved by the PaPUC, as well as spot market energy from PJM Interconnection, LLC ("PJM"). It provides default service subject to a default service plan ("DSP"), periodically reviewed and approved by the PaPUC pursuant to an administrative process analogous to rate proceedings in New York State.

While physically within New York’s geographic borders, the Waverly District is electrically located in the Penelec Zone of PJM. It is not interconnected to the transmission system operated by the New York Independent System Operator, Inc. consistent with its Pennsylvania operations, Penelec serves its Waverly District customers using its generation supply obtained through PaPUC-approved, competitively sourced forward contracts or PJM administered markets. As detailed, *infra*, its ratemaking to serve Waverly District customers is subject to Commission oversight and regulation. To that end, the Commission has issued a series of orders approving rates for Penelec’s New York customers that generally follow the rate methodology approved by the PaPUC for Penelec’s Pennsylvania customers, as specifically allocated to its New York territory.

### **C. Historic and Current Rate Treatment for the Waverly District**

Consistent with its statutory obligations to ensure safe and adequate service at just and reasonable rates,<sup>7</sup> the unique facts and circumstances of the Waverly District’s physical infrastructure — including its interconnection ties directly to the PJM region and the rural nature of its operations that closely align with operations on its border with Pennsylvania — have guided the Commission’s regulatory approach to the Waverly District and its rates over the years. The NYPSL has historically taken these considerations into account and has consistently found Penelec’s proposal to apply its rates and ratemaking methods approved by the PaPUC for Penelec’s Pennsylvania franchise areas to its Waverly District customers to be just and reasonable.<sup>8</sup> The Commission has thus approved rate increases and changes in ratemaking methodology for Penelec’s Waverly District customers that aligned with its Pennsylvania operations to achieve consistency and administrative efficiencies over its existing footprint.

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<sup>7</sup> See NYPSL § 65.

<sup>8</sup> See *In re Minor Rate Filing of Pennsylvania Electric Company to Increase its Annual Revenues by about \$300,000 or 5.2%*, NYPSL Case 17-E-0685, Order Granting Rate Increase (issued and effective May 18, 2018) (hereinafter, the “2017 Rate Case” and “2017 Rate Case Order,” respectively).

Specifically, prior to Waverly’s proposed rate increase in 2017<sup>9</sup>, base rates adopted by the Commission for the Waverly District became effective on January 1, 1988, consistent with the effective dates set in Penelec’s 1987 Pennsylvania rate proceeding.<sup>10</sup> Even prior to the rate increase approved in 1987, the approach of utilizing the most recently approved Pennsylvania jurisdictional allocation factors for application to the Company’s Waverly District previously had been approved by the NYPSC in the last several rate cases.

Because Penelec was able to control expenses and capital expenditures were not required beyond those then captured in rates, Penelec extended the period between base rate cases for the benefit of its customers for a number of years. As a result, prior to the 2017 Rate Case, the base distribution rates for Waverly District customers had not increased in more than thirty years.<sup>11</sup> Due to the need to make investments in new plant and existing infrastructure to continue to furnish safe and reliable distribution service, Penelec filed a minor rate case in 2017 requesting authorization to increase its annual electric revenues that had been in effect for 30 years by \$300,000 effective July 1, 2018.<sup>12</sup> Finding Penelec’s methodology to be reasonable, the NYPSC authorized the rate increase.<sup>13</sup>

Consistent with the rationale found acceptable by the Commission for its 2017 Rate Case, in its Rate Case Filing Penelec has relied upon the framework embodied in its most current COS. It was on this same basis that the Commission accepted the COS and resulting rates in its Order.

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<sup>9</sup> *In re Pennsylvania Electric Company – General Base Rate Filing*, Docket No. R-2016-2537352 (effective on Jan 27, 2017) (“2017 Rate Case Order”)

<sup>10</sup> *In re Pennsylvania Electric Company – Electric Rates, Proceeding Authorizing Electric Rate Plan*, Case C29667

<sup>11</sup> See 2017 Rate Case Order at 11.

<sup>12</sup> Like its previous rate cases, Penelec based its proposed rate increase on a Cost of Service (“COS”) study that was used to set rates for its Pennsylvania districts in 2017. *Id.*

<sup>13</sup> Like its previous rate cases, Penelec based its proposed rate increase on a Cost of Service (“COS”) study that was used to set rates for its Pennsylvania districts in 2017. *Id.*

### **III. Argument**

#### **A. The Applicable Standard of Review**

New York Public Service Law § 22 allows the Commission to grant and hold a rehearing “if in its judgment sufficient reasons therefore be made to appear.” 16 NYCRR § 3.7(b) states: “Rehearing may be sought only on the grounds that the Commission committed an error of law or fact or that new circumstances warrant a different determination. A petition for rehearing shall separately identify and specifically explain and support each alleged error or new circumstance said to warrant rehearing.”

#### **B. Errors of Fact**

The new LED lighting rates proposed in the Rate Case Filing appear to have not been considered by the Commission and this amounts to an error of fact. In the Affidavit of Stephanie Zieger, paragraphs 17, 18 and 19 describe the newly proposed LED rates. In addition, Penelec Exhibit 7 of the Rate Case Filing is titled “LED Streetlighting Schedule” and presents the LED rates proposed. This new rate offering was not addressed in the Order at all. Further, the rates listed under Appendix C, “LED Units – Cobra Head” in the Errata Notice were not correctly labeled. As described in the Procedural Background section above, this ministerial error was corrected by Staff and, thus, correctly reflected in Penelec’s Compliance Filing. However, Staff indicated in communications, prior to Penelec’s Compliance Filing, that the LED lighting rates could not be fixed as part of the errata along with the other ministerial errors in the Compliance Filing. Rather, in order for Staff to properly consider the proposed LED rates, Staff stated that Penelec would need to file a new petition for the LED rates or file for rehearing of the Order. In sum, the relevant facts were clearly excluded from consideration of the Rate Case Filing, thus constituting an error of fact which can only be corrected by the granting of this motion.

This error should be corrected by a rehearing so that Waverly District's customers can benefit from an additional rate offering supporting enhanced technologies. Waverly District's customers will benefit from the option of LED street lighting services, especially in light of older lighting technologies becoming obsolete. The Standard High Pressure Sodium Lights, for which rates were approved, are no longer produced. Once the Company's inventory of these high pressure sodium vapor lights has been depleted, they must be replaced by LED lights. This LED lighting rate is necessary for that inevitability. It should also be noted that the approval of the LED rates will not impact the \$300,000 rate increase granted to Penelec in the Order, as there are currently no customers being served under the new LED rates. Rather, the LED street lighting services will benefit customers as it will be offered as a lighting option to Waverly District customers moving forward.

**IV. Conclusion**

For the foregoing reasons, Penelec respectfully requests that the Commission grant this Motion for Rehearing and Reconsideration of the Order and approve the addition of LED street lighting services and the LED rates that were included in its Rate Case Filing.

Dated: July 24, 2023

Respectfully submitted,



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