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December 17, 2024

Via Electronic Filing

Rosemary Chiavetta, Secretary
PA Public Utility Commission
400 North Street
Harrisburg, PA 17120

Re: Petition for Declaratory Order of the Retail Energy Supply Association and NRG Energy,
Inc. – Docket No. P-2022-3036985

Dear Secretary Chiavetta:

On behalf of the Retail Energy Supply Association ("RESA"), enclosed for electronic filing is RESA's Unopposed Petition for Leave to Withdraw.

Copies to be served in accordance with the attached Certificate of Service.

Sincerely,

Karen O. Moury
Karen O. Moury

KMO/lww
Enclosure

cc: Hon. Christopher P. Pell w/enc.
Hon. Chad Allensworth w/enc.
Cert. of Service w/enc.

CERTIFICATE OF SERVICE

I hereby certify that this day I served a copy of RESA's Petition for Leave to Withdraw
Petition for Declaratory Order upon the persons listed below in the manner indicated in accordance
with the requirements of 52 Pa. Code Section 1.54.

Via Email Only

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December 17, 2024

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition for Declaratory Order of the :
Retail Energy Supply Association : Docket No. P-2022-3036985

**UNOPPOSED PETITION OF RETAIL ENERGY SUPPLY ASSOCIATION
FOR LEAVE TO WITHDRAW**

TO THE HONORABLE CHRISTOPHER P. PELL AND THE HONORABLE CHAD
ALLENSWORTH:

Pursuant to Section 5.94 of the Commission’s regulations, 52 Pa. Code § 5.94, the Retail Energy Supply Association (“RESA”) files this Unopposed Petition for Leave to Withdraw (“Withdrawal Petition”), respectfully requesting leave to withdraw the above-captioned Petition for Declaratory Order. In support hereof, RESA avers as follows:

I. BACKGROUND

1. On November 30, 2022, RESA and NRG Energy, Inc. (“NRG”) filed a Petition for Declaratory Order (“Declaratory Order Petition”) pursuant to Section 331(f) of the Public Utility Code and Section 5.42 of the Commission’s regulations, requesting that the Commission issue a declaratory order to terminate a controversy. The controversy sought to be terminated relates to communications independently sent by PPL Electric Utilities Corporation (“PPL”) to customers of electric generation suppliers (“EGSs”) about their supply contracts and prices. Questions raised by the Petition concern whether the PPL communications violate prior Commission orders, improperly promote default service and constitute anticompetitive conduct.

2. On December 8, 2022, the Office of Consumer Advocate filed a Notice of Intervention and Public Statement. On December 15, 2022, OCA filed an Answer to the Petition.

3. On December 20, 2022, PPL filed an Answer to the Petition.

4. On December 20, 2022, the Coalition for Affordable Utility Service and Energy Efficiency in Pennsylvania (“CAUSE-PA”) filed an Answer to the Petition and a Petition to Intervene.

5. A Prehearing Conference convened on May 11, 2023, at which time the parties proposed a litigation schedule, and CAUSE-PA’s unopposed intervention was granted.

6. Deputy Chief Administrative Law Judge Christopher P. Pell and Administrative Law Judge Chad Allensworth issued Prehearing Order #1 establishing the litigation schedule for this proceeding. Consistent with that schedule, RESA and NRG submitted the Direct Testimony of Joseph Olikar on July 25, 2023, pre-marked as RESA/NRG Statement No. 1, along with three exhibits pre-marked as RESA/NRG Exhibits 1 through 3.

7. Direct Testimony of Other Parties was due on September 26, 2023.

8. On August 28, 2023, NRG filed a Petition for Leave to Withdraw from the proceeding.

9. By Interim Order dated September 12, 2023, ALJs Pell and Allensworth granted the request of PPL, OCA and CAUSE-PA, to which RESA did not object, to suspend the litigation schedule pending final disposition of NRG’s Petition for Leave to Withdraw.

10. On November 15, 2023, the ALJs issued an Initial Decision granting NRG’s Petition for Leave to Withdraw. No parties filed Exceptions to the Initial Decision.

11. On January 9, 2024, the ALJs reached out to the parties via electronic mail for the purpose of establishing a revised litigation schedule.

12. The parties consulted regarding a revised litigation schedule in the context of PPL's Default Service Plan ("DSP") proceeding, which was expected to be filed in or near the first quarter of 2024.

13. Because of the DSP proceeding, which must be adjudicated within nine months under the Public Utility Code,¹ RESA consulted with the other parties about holding this matter in abeyance. No party objected to holding the Petition in abeyance pending resolution of the DSP proceeding.

14. On March 4, 2024, RESA filed an unopposed Motion to Hold in Abeyance the Petition for Declaratory Order.

15. By Interim Order dated April 10, 2024, ALJ Pell issued an Interim Order granting RESA's Motion to Hold the Petition for Declaratory Order in Abeyance, pending resolution of the DSP VI Program.

II. PURPOSE OF SEEKING LEAVE TO WITHDRAW

16. On March 12, 2024 PPL filed a Petition for Approval of a Default Service Program and Procurement Plan for the Period from June 1, 2025 through May 31, 2029 ("DSP VI Program") at Docket No. P-2024-3047290.

17. By Order entered on November 7, 2024, the Commission adopted the Recommended Decision of ALJ F. Joseph Brady, approving without modification the Joint Petition for Approval of Settlement ("DSP VI Settlement") filed by the parties, including RESA as a signatory, to resolve PPL's DSP VI Program.

¹ 66 Pa. C.S. §2807(e).

18. Paragraphs 24 and 25 of the DSP VI Settlement address communications by PPL with shopping customers, providing for a collaborative to be held within 60 days of a Final Order. Those provisions also set forth a process to be followed if the parties are unable to reach a consensus.

19. Under Paragraph 27 of the DSP VI Settlement, RESA agreed to withdraw the Declaratory Order Petition with prejudice as to the specific communications identified in this proceeding.

20. On December 7, 2024, the Commission's Order adopted on November 7, 2024 approving the DSP VI Settlement became final and non-appealable.

21. Consistent with the terms of the DSP VI Settlement, RESA seeks to withdraw the Declaratory Order Petition through the filing of this Withdrawal Petition. Such withdrawal is sought with prejudice as to the specific communications identified in the Declaratory Order Petition proceeding.

III. APPLICABLE LEGAL STANDARDS

22. A party desiring to withdraw a pleading in a contested proceeding may file a petition for leave to withdraw with the Commission and serve it upon the other parties. The petition must set forth the reasons for the withdrawal, to which any party may object within 10 days of service. 52 Pa. Code § 5.94(a).

23. The Commission has found that allowing a party to withdraw litigation saves resources that would otherwise be incurred. *Pa. P.U.C. v. Capital City Cab Service, Inc.*, Docket No. C-2015-2462735 (Initial Decision issued March 25, 2016, adopted by Final Order entered May 12, 2016), 2015 WL 1559257 (Pa.P.U.C.).

IV. CONCLUSION

WHEREFORE, the Retail Energy Supply Association respectfully requests that the Pennsylvania Public Utility Commission grant its Petition for Leave to Withdraw.

Respectfully submitted,

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Date: December 17, 2024

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