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July 16, 2009

**Bureau of Regulatory Counsel**

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Honorable James McNulty  
Secretary, Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265

RE: Petition of West Penn Power Company d/b/a Allegheny Power for  
Approval of its Energy Efficiency and Conservation Plan,  
Approval of Recovery of its Cost through a Reconcilable  
Adjustment Clause and Approval of Matters Relating to the  
Energy Efficiency and Conservation Plan  
PUC Docket No. M-2009-2093218

Dear Secretary McNulty:

Please find attached for electronic filing the Petition to Intervene of the Commonwealth of Pennsylvania, Department of Environmental Protection in the above referenced matter. Copies have been served on all parties listed on the enclosed Certificate of Service.

Sincerely,

*/s/ Scott Perry*

Scott Perry  
Assistant Counsel

cc: Service List

**BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Petition of West Penn Power Company :  
d/b/a Allegheny Power for Approval of :  
its Energy Efficiency and Conservation :  
Plan, Approval of Recovery of Costs :     **Docket No. M-2009-2093218**  
through a Reconcilable Adjustment :  
Clause and Approval of Matters :  
Relating to the Energy Efficiency and :  
Conservation Plan :**

**PETITION TO INTERVENE OF THE  
COMMONWEALTH OF PENNSYLVANIA,  
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

The Commonwealth of Pennsylvania, Department of Environmental Protection (the “Department”) files this Petition to Intervene in the above referenced matter pursuant to 52 Pa. Code §§ 5.71 and 5.72. In support of its Petition to Intervene in the Petition of West Penn Power Company d/b/a Allegheny Power (“Allegheny”) for Approval of its Energy Efficiency and Conservation Plan (“EEC Plan”) the Department avers as follows:

1. Pursuant to Act 129 of 2008 and the Pennsylvania Public Utility Commission’s (“Commission”) Energy Efficiency and Conservation Program Implementation Order at Docket No. M-2008-2069887, on June 29, 2009, Allegheny filed its Petition for Approval of its EEC Plan with the Commission.

2. Allegheny’s EEC Plan includes 22 energy efficiency, conservation, demand response and rate offerings intended to meet Act 129’s energy conservation and peak demand reduction requirements. Petition at 2.

3. The Department is an agency of the Commonwealth, and it is entitled to intervene as of right under 52 Pa. Code § 5.72(b).

4. The Department administers several energy and environmental protection programs established by state law that provide the Department with interests of such nature that participation of the Department is in the public interest. 52 P.S. § 52.72(a)(3).

5. The Department is the primary agency under the Governor's jurisdiction charged with managing energy matters. The Department performs and administers the functions of the Pennsylvania Energy Office. 71 P.S. § 1340.504(d). The Department also has the powers and duties previously vested in the Governor's Energy Council by the Building Energy Conservation Act, 35 P.S. §§ 7201.101 *et seq.*, and the Energy Conservation and Assistance Act, 62 P.S. §§ 3011 *et seq.* 71 P.S. § 1340.504(a)-(b). The Department is responsible for the management of the Pennsylvania Energy Development Authority which, *inter alia*, provides financial support to promote clean, advanced indigenous energy resources and projects in Pennsylvania. 71 P.S. §§ 720.1 *et seq.*

6. The Department has regulatory responsibilities under the Alternative Energy Portfolio Standards Act and is to work cooperatively with the Commission to monitor the performance of all aspects of the Act. 73 P.S. § 1648.7(c). The demand-side management programs in Allegheny's EEC Plan have the potential to create Tier II alternative energy credits. See, 73 P.S. § 1648.1.

7. The Department administers several provisions of the Alternative Energy Investment Act (73 P.S. § 1649.101 *et seq.*), and provides financial incentives for the purchase and installation of residential energy conservation measures. Programs implemented through Allegheny's EEC Plan can overlap with the Department's programs and, if not properly harmonized, lead to inefficient expenditures of ratepayer and taxpayer funds.

8. The Department administers the Air Pollution Control Act (35 P.S. § 4001 *et seq.*) and the Clean Streams Law (35 P.S. § 691.1 *et seq.*). The purpose of these statutes is to protect and restore Pennsylvania's air and water resources. A properly designed and implemented EEC Plan can reduce fossil fuel consumption, improve air quality, reduce greenhouse gas emissions and improve water quality.

9. Individually and collectively, the Department's statutory duties create an interest that will be directly affected by this proceeding but are not adequately represented by existing participants and are of such a nature that participation of the Department is in the public interest. Thus, Department has a right to intervene under 52 P.S. § 5.72(a)(3).

WHEREFORE, the Commonwealth of Pennsylvania, Department of Environmental Protection respectfully requests that the Commission grant its Petition to Intervene.

Respectfully submitted,

*/s/ Scott Perry*

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Dated: July 16, 2009

**BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Petition of West Penn Power Company** :  
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**through a Reconcilable Adjustment** :  
**Clause and Approval of Matters** :  
**Relating to the Energy Efficiency and** :  
**Conservation Plan** :

**VERIFICATION**

I, Daniel Griffiths, hereby state that the facts above set forth in the Petition to Intervene of the Commonwealth of Pennsylvania, Department of Environmental Protection are true and correct to the best of my knowledge, information and belief and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).

/s/ Daniel Griffiths

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Daniel Griffiths  
Deputy Secretary  
Office of Energy, Innovations  
and Technology Deployment  
Department of Environmental Protection

Dated: July 16, 2009

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**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a true copy of the foregoing document, Petition to Intervene of the Commonwealth of Pennsylvania, Department of Environmental Protection, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code Section 1.54 (relating to service by a participant), in the manner upon the persons listed below:

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Respectfully submitted,

*/s/ Scott Perry*

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