

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

555 Walnut Street, 5th Floor, Forum Place
Harrisburg, Pennsylvania 17101-1923
(717) 783-5048
800-684-6560 (in PA only)

FAX (717) 783-7152
consumer@paoca.org

IRWINA. POPOWSKY
Consumer Advocate

July 24, 2009

James J. McNulty
Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

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

Dear Secretary McNulty:

Enclosed for filing is the Prehearing Memorandum of the Office of Consumer Advocate,
in the above-referenced proceeding.

Copies have been served as indicated on the enclosed Certificate of Service.

Respectfully Submitted,

A handwritten signature in cursive script that reads "Christy M. Appleby".

Christy M. Appleby
Assistant Consumer Advocate
PA Attorney I.D. # 85824

Enclosures

cc: Honorable Katrina L. Dunderdale

00115606.docx

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	:	Docket No. M-2009-2093218
Recovery Costs through a Reconcilable	:	
Adjustment Clause and Approval of	:	
Matters Relating to the Energy	:	
Efficiency and Conservation Plan	:	

PREHEARING MEMORANDUM
OF THE
OFFICE OF CONSUMER ADVOCATE

Pursuant to Section 333 of the Public Utility Code, 66 Pa.C.S. § 333, and in response to the Prehearing Conference Order issued in the above-captioned matter, the Office of Consumer Advocate (OCA) provides the following information:

I. INTRODUCTION AND PROCEDURAL HISTORY

On July 1, 2009, Allegheny Power Company (Allegheny Power or the Company) filed its Petition and Energy Efficiency and Conservation (EE&C) Plan with the Pennsylvania Public Utility Commission (Commission) pursuant to Section 2806.1 of the Public Utility Code, 66 Pa. C.S. § 2806.1 129 (Act 129), and pursuant to the Implementation Order entered by the Commission on

January 16, 2009, at Docket No. M-2008-2069887. Petition at 1. Act 129 mandated the filing of an EE&C Plan by July 1, 2009. Allegheny Power requests in the Petition that the Commission approve the Company's proposed EE&C Plan, including cost recovery via the reconcilable surcharge for "reasonable and prudent" costs for the EE&C Plan. Id.

The Company's Plan proposes to address the requirements of Act 129 through the implementation of twenty-two (22) programs for residential, commercial, industrial, and governmental/non-profit customers. Petition at 3. Allegheny Power has proposed residential programs including: (1) Residential Energy Star and High Efficiency Appliance Program; (2) Compact Fluorescent Lighting (CFL) Rewards Program; (3) Residential HVAC Efficiency Program; (4) Residential Home Performance Program; (5) Residential Low-Income Home Performance Check-up Audit and Appliance Replacement Program; (6) Residential Low-Income Joint Utility Usage Management Program; (7) Residential Low-Income Room Air Conditioner Replacement Measure; and (8) Programmable Thermostat Program. Petition at 3-7. The Company has also proposed several new residential rates including: (1) Residential Efficiency Rewards Rate; (2) Pay Ahead Service Rate; (3) Critical Peak Rebate Rate; (4) Time of Use with Critical Peak Pricing Rate; and (5) Hourly Pricing Option Rate. Petition at 5-8. The Company's Petition anticipates a total aggregated cost of \$94.25 million over the four year period.

The Company's filing was assigned to the Office of Administrative Law Judge and further assigned to Administrative Law Judge Katrina L. Dunderdale for investigation. On July 13, 2009, a Prehearing Conference Order was issued by ALJ Dunderdale. On July 27, 2009, a prehearing conference will be held in Pittsburgh and telephonically in Harrisburg. As required by Act 129, on July 31, 2009, a public input hearing will be held in the Company's service territory. On August 19 and 20, 2009, technical evidentiary hearings will be held.

On July 7, 2009, the Office of Consumer Advocate filed its Notice of Intervention and Public Statement in this matter.

The OCA has served two sets of interrogatories to date. The OCA has received no responses, to date. On August 7, 2009, the OCA will file direct testimony and Comments which will set forth the specific issues that the OCA has identified.

II. ISSUES AND SUB-ISSUES

Based upon a preliminary analysis of Allegheny Power's filing, the OCA has compiled a list of issues and sub-issues which it anticipates will be included in its investigation of Allegheny Power's filing. It is anticipated that other issues may arise and may be pursued once the answers to all of OCA's interrogatories have been received and analyzed. The OCA has also participated in informal discovery and several stakeholder meetings with the Company.

The following list sets forth the issues at this time that the OCA anticipates it will examine:

- (1) Reasonableness of the Company's proposed energy conservation and demand response Plan and the individual program design for meeting the requirements of Act 129.
- (2) Reasonableness of the balance of the portfolio of programs and whether the programs are equitably distributed.
- (3) Review whether the Company's Plan meets the requirements of Act 129 for low-income customers and governmental/non-profit customers.
- (4) Review the reasonableness of the Company's proposed program costs, including the proposed budgets.

- (5) Review the reasonableness of the Company's proposed cost recovery mechanisms and allocation of overhead and common costs.
- (6) Review the reasonableness and cost effectiveness of the proposed programs, including whether the Plan meets the requirements of the Total Resource Cost (TRC) test.
- (7) Reasonableness of the Company's proposed measurement and verification and evaluation plans.
- (8) Review the need for an on-going role of a stakeholder group.

The OCA specifically reserves the right to raise additional issues as may be necessary.

III. WITNESSES

The OCA intends to present the direct testimony of the following witness in this proceeding to accompany the OCA's Comments. In order to expedite the resolution of this proceeding, the OCA requests that copies of all interrogatories, comments, and answers to interrogatories be mailed directly to the expert witness as well as mailing a copy to counsel for the OCA.

EE&C Plan and Cost Recovery

Geoffrey Crandall
MSB Energy Associates, Incorporated
Suite 204
1800 Parmenter Street
Middleton, WI 53562-3135
Telephone: (608) 831-1127
E-mail: crandall@msbnrg.com

The OCA specifically reserves the right to call additional witnesses, as necessary. As soon as the OCA has determined whether an additional witness or witnesses will be necessary for any portion of its case, all parties of record will be notified.

IV. SERVICE ON OCA

The OCA will be represented in this case by Assistant Consumer Advocate, Christy M. Appleby and Senior Assistant Consumer Advocate, Tanya J. McCloskey. Two copies of all documents should be served on the OCA as follows:

Christy M. Appleby
Assistant Consumer Advocate
PA Attorney I.D. # 85824
E-Mail: CAappleby@paoca.org
Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101-1923
Phone: (717) 783-5048
Fax: (717) 783-7152

As a courtesy, the OCA requests that all electronic correspondence be copied to Jessica J. Horner (JHorner@paoca.org)

V. PROPOSED DISCOVERY RULES

In order to effectively investigate and adequately develop a record on these issues, the OCA requests a modification of the Commission's procedural rules, as set forth below:

- (1) Answers to written interrogatories shall be served in-hand within seven (7) calendar days of service.
- (2) Objections to interrogatories shall be communicated orally within three (3)

calendar days of the service of interrogatories; unresolved objections shall be served to the ALJ in writing within five (5) days of service of the interrogatories.

(3) Motions to dismiss objections and/or direct the answering of interrogatories shall be filed within three (3) calendar days of service of the written objections.

(4) Answers to motions to dismiss objections and/or answering of interrogatories shall be filed within three (3) calendar days of service of such motions.

(5) Ruling over such motions shall be issued, if possible, within seven (7) calendar days of the filing of the motion.

(6) Responses to requests for document production, entry for inspection, or other purposes must be served in-hand within seven (7) calendar days.

(7) Requests for admissions will be deemed admitted unless answered within seven (7) calendar days or objected to within five (5) calendar days of service.

The OCA reiterates that all time periods established in the foregoing discovery schedule should be calculated using calendar days.

VI. SCHEDULE

The OCA will work with the parties on any scheduling issues.

VII. PUBLIC INPUT HEARINGS

A public input hearing has been scheduled for Friday, July 31, 2009, at 1 p.m. and 7 p.m. in Butler, Pennsylvania. In the event that the OCA receives additional requests for a public input hearing, the OCA will notify the ALJ and the parties immediately. Given the expedited nature of this proceeding, the OCA requests that consideration be given to alternative means of receiving

input from those members of the public who cannot attend the public input hearings. The OCA recommends telephonic public input hearings along with written comments.

Respectfully Submitted,



Christy M. Appleby
Assistant Consumer Advocate
PA Attorney I.D. # 85824
E-Mail: CAppleby@paoca.org
Tanya J. McCloskey
Senior Assistant Consumer Advocate
PA Attorney I.D. # 50044
E-Mail: TMcCloskey@paoca.org
Counsel for:
Irwin A. Popowsky
Consumer Advocate

Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101-1923
Phone: (717) 783-5048
Fax: (717) 783-7152
Dated: July 24, 2009
00115568.docx

CERTIFICATE OF SERVICE

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

I hereby certify that I have this day served a true copy of the foregoing document, the Prehearing Memorandum of the Office of Consumer Advocate, 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 and upon the persons listed below:

Dated this 24th day of July 2009.

SERVICE BY E-MAIL and INTEROFFICE MAIL

Richard A. Kanaskie, Esquire
Adeoulu Bakare, Esquire
Office of Trial Staff
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

SERVICE BY E-MAIL and FIRST CLASS MAIL

John L. Munsch, Esquire
Allegheny Energy
800 Cabin Hill Drive
Greensburg, PA 15601-1689

Lauren Lepkoski
Assistant Small Business Advocate
Office of Small Business Advocate
Commerce Building, Suite 1102
300 North Second Street
Harrisburg, PA 17101

Adam L. Benshoff, Esquire
McNees Wallace & Nurick, LLC
100 Pine Street
P.O. Box 1166
Harrisburg, PA 17108-1166

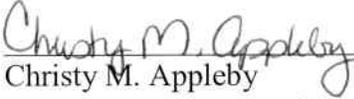
Georg Jugovic, Assistant Counsel
Commonwealth of Pennsylvania
Department of Environmental Protection
400 Waterfront Drive
Pittsburgh, PA 15222-4745

John Povilaitis, Esquire
Ryan Russell Ogden & Seltzer
800 N. Third Street, Suite 101
Harrisburg, PA 17102

Harry Geller
PA Utility Law Project
118 Locust Street
Harrisburg, PA 17101

Lillian S. Harris, Esquire
Thomas J. Sniscak, Esquire
Hawke McKeon & Sniscak, LLP
P.O. Box 1778
100 North Tenth Street
Harrisburg, PA 17101

Scott Perry, Assistant Counsel
Aspassia V. Staevska, Assistant Counsel
Commonwealth of Pennsylvania
RCSOB, 9th Floor
400 Market Street
Harrisburg, PA 17101


Christy M. Appleby
Assistant Consumer Advocate
PA Attorney I.D. # 85824
E-Mail: CAppleby@paoca.org
Tanya J. McCloskey
Senior Assistant Consumer Advocate
PA Attorney I.D. # 50044
E-Mail: TMcCloskey@paoca.org
Counsel for
Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101-1923
Phone: (717) 783-5048
Fax: (717) 783-7152
00114535.docx