



July 27, 2009

James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
400 North Street – 2<sup>nd</sup> Floor  
Commonwealth Keystone Building  
Harrisburg, PA 17120

**RE: Petition of West Penn Power Company d/b/a Allegheny Power for Approval of its Energy Efficiency and Conservation Plan.**

Dear Secretary McNulty:

Please find for electronic filing the Petition of ClearChoice Energy in the above referenced mater. Copies of this document have been served in accordance with the attached Certificate of Service.

Sincerely,

Carolyn Pengidore  
President/CEO  
ClearChoice Energy

c: Administrative Law Judge Susan Colwell (via E-Mail and First Class Mail)

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

In re: West Penn Power Company : Docket No.  
Energy Efficiency and Conservation : M-2009-2093218  
Plan :

**PETITION TO INTERVENE OF CLEARCHOICE ENERGY**

Comperio Energy LLC, d/b/a ClearChoice Energy, hereby petitions to intervene in the above-captioned matter pursuant to 52 Pa. Code §§ 5.71-5.75 and in connection therewith represent as follows:

1. On or about July 18, 2009, notice of the Petition of West Penn Power Company for approval of its Energy Efficiency and Conservation Plan was published in the Pennsylvania Bulletin. The notice established an intervention deadline of July 28<sup>th</sup>, 2009.
2. ClearChoice Energy is a Pennsylvania L.L.C. with a business address of 180 Fort Couch Road, Suite 265, Pittsburgh, PA 15241.
3. ClearChoice Energy is a registered conservation service provider (“CSP”) in Pennsylvania and member of PJM Interconnection, L.L.C. providing curtailment services to commercial, industrial and governmental customers in Pennsylvania, including the Allegheny Power service territory.
4. Notices and information regarding this matter for ClearChoice Energy should be sent to:

Carolyn Pengidore  
President/CEO  
ClearChoice Energy  
180 Fort Couch Road, Suite 265

Pittsburgh, PA 15241  
Phone: (724) 825-5391  
Email: [Carolyn@ClearChoice-Energy.com](mailto:Carolyn@ClearChoice-Energy.com)

5. Consistent with the requirements of Act 129 and the Commission's Implementation Order entered on January 16, 2009, at Docket No. M-2009-2069887, on July 1, 2009, West Penn Power Company d/b/a Allegheny Power filed its Act 129 Energy Efficiency and Conservation Plan ("EE&C Plan") with the Commission. Among other things, the EE&C Plan proposes to finance the EE&C Plan through a non-bypassable line-item surcharge on the customer's monthly bills entitled "EE&C Surcharge" which would be reconciled on an annual basis. Among the costs being financed by the EE&C Surcharge are costs for Allegheny Power's Customer Load Response Program. Under the EE&C Plan, Allegheny Power seeks to extend the Customer Load Response Program to include Allegheny Power or a third party contractor acting as an agent to Allegheny Power, providing services as a Curtailment Service Provider with PJM Interconnection, L.L.C.<sup>1</sup> The EE&C plan proposes the program to be jointly marketed between a contracted demand response provider and Allegheny Power through direct selling and direct mail pieces.<sup>2</sup>

6. We are concerned about how Allegheny Power's proposed Customer Load Response Program will impact our ability to compete for customers to participate in demand response programs offered by ClearChoice Energy through the PJM Interconnection, L.L.C. As a privately owned and financed Pennsylvania company, it would be unjust and unreasonable to put us in a position of competing against a rate-

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<sup>1</sup> EE&C Plan, §3.3.d

<sup>2</sup> EE&C Plan, p 117.

payer funded utility (or their contracted agent), for customers who wish to participate in demand response programs offered by PJM Interconnection, L.L.C.

7. Participation in demand response programs offered by PJM Interconnection, L.L.C. requires the sale of energy, capacity or ancillary services from a retail electric customer into the wholesale electric market. Such a sale represents a new supply of power that directly competes with power supplied from power generators and lowers the cost of wholesale electricity in the competitive generation market. Pennsylvania's Electric Generation and Competition Act, passed in 1996, expressly states the legislature's policy objective that Pennsylvania's retail customers have direct access to a competitive generation market, including stating that "competitive market forces are more effective than economic regulation in controlling the cost of generating electricity."<sup>3</sup> Competition in the demand response business is vital to the public's interest in providing low cost power supply from demand side resources into the wholesale electric market to mitigate prices for energy, capacity and ancillary services. By extending the Customer Load Response program to include wholesale market programs offered through PJM Interconnection L.L.C., Allegheny Power will substantially lessen competition for the participation of demand side resources in the wholesale electric market within their service territory.

8. We are confident that the Commission will consider all issues attendant to whether the Company's EE&C Plan and proposed programs are in accordance with Act 129 and other applicable statutes including the state's Electric Generation and Competition Act.

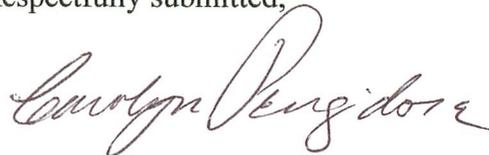
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<sup>3</sup> 66 Pa C.S. §2802.

9. ClearChoice Energy may suffer an adverse impact on its ability to compete for demand side resources in the Allegheny Power service territory under the Customer Load Response program proposed in the EE&C Plan. According, ClearChoice Energy has an interest in this proceeding that is not represented by any other party of record; consequently, ClearChoice Energy satisfies the standards for intervention under Section 5.72 of the Commission's regulations. See 52 Pa. Code §5.72.

**WHEREFORE**, ClearChoice Energy respectfully requests that the Pennsylvania Public Utility Commission grant this Petition to Intervene and provide ClearChoice Energy with full-party status in this proceeding.

Respectfully submitted,



Carolyn Pengidore  
President/CEO  
ClearChoice Energy  
180 Fort Couch Road, Suite 265  
Pittsburgh, PA 15241  
Phone: (724) 825-5391  
Email: [Carolyn@ClearChoice-Energy.com](mailto:Carolyn@ClearChoice-Energy.com)

## CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing Petition to Intervene upon the parties, listed below, in accordance with the requirements of §1.54 (relating to service by a party.)

### Via First Class Mail & Electronic Mail

Honorable Katrina Dunderdale  
Administrative Law Judge  
Pennsylvania Public Utility Commission  
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By:

A handwritten signature in cursive script, reading "Carolyn Pengidore", written over a horizontal line.

Carolyn Pengidore  
President/CEO  
ClearChoice Energy  
180 Fort Couch Road, Suite 265  
Pittsburgh, PA 15241

Dated this 27<sup>th</sup> day of July, 2009 at Pittsburgh, Pennsylvania.