

---

August 31, 2009

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

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

Dear Mr. McNulty:

Enclosed herewith please find an original copy of the “**Main Brief on Behalf of EnerNOC, Inc.**” in the above captioned proceeding. This document has been electronically filed through the PUC’s efilings system. Please enter this into the docket and timestamp the additional five (5) copies. A copy of the Brief will also be served to the parties on the service list.

Should you have any questions, please do not hesitate to contact me at (717) 233-5731.

Sincerely,

RHOADS & SINON LLP

By:   
**Alicia R. Petersen, Esq.**

Enclosures

cc: Service List for Docket M-2009-2093218

**COMMONWEALTH OF PENNSYLVANIA  
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 THROUGH A  
RECONCILABLE ADJUSTMENT CLAUSE  
AND APPROVAL OF MATTERS RELATING  
TO THE ENERGY EFFICIENCY AND  
CONSERVATION PLAN

DOCKET NO. M-2009-2093218

---

**MAIN BRIEF ON BEHALF OF ENERNOC, INC.**

---

**SCOTT H. DEBROFF, ESQUIRE  
ALICIA R. PETERSEN, ESQUIRE**  
RHOADS & SINON LLP  
ONE SOUTH MARKET SQUARE  
P.O. BOX 1146  
HARRISBURG, PA 17108-1146

TEL: (717) 233-5731  
FAX: (717) 231-6626  
EMAIL: [SDEBROFF@RHOADS-SINON.COM](mailto:SDEBROFF@RHOADS-SINON.COM)  
[APETERSEN@RHOADS-SINON.COM](mailto:APETERSEN@RHOADS-SINON.COM)

**DATED: AUGUST 31, 2009**

**COUNSEL FOR ENERNOC, INC.**

## TABLE OF CONTENTS

|      |   |    |
|------|---|----|
| I.   | INTRODUCTION.....   | 1  |
| II.  | PROCEDURAL HISTORY.....   | 2  |
| III. | DESCRIPTION OF ALLEGHENY’S PLAN.....  | 4  |
| IV.  | SUMMARY OF ARGUMENT.....  | 4  |
| V.   | ARGUMENT.....   | 5  |
| A.   | ACT 129’S CONSERVATION AND DEMAND REDUCTION REQUIREMENTS FOR OVERALL CONSERVATION REQUIREMENTS BEYOND THE 2013 REQUIREMENTS: ENERNOC RECOMMENDS THAT ALLEGHENY’S PROPOSED PLAN FOR ITS LOAD CURTAILMENT PROGRAM SHOULD CONTINUE ON PAST MAY 31, 2013..... | 5  |
| B.   | COST ISSUES: ENERNOC SUPPORT’S ALLEGHENY’S COST RECOVERY MECHANISM.....   | 9  |
| C.   | CSP ISSUES.....   | 10 |
| 1.   | ALLEGHENY’S C&I DEMAND RESPONSE TIMELINE SHOULD BE EXTENDED.....  | 10 |
| 2.   | ALLEGHENY SHOULD PURSUE A FULL CONSERVATION SERVICE PROVIDER ENGAGEMENT FROM THE OUTSET OF ITS CONTRACTED DEMAND RESPONSE PROGRAM.....  | 11 |
| 3.   | ENERNOC RECOMMENDS THAT ALLEGHENY’S CUSTOMER LOAD RESPONSE PROGRAM UTILIZES A 50-HOUR TARGET AS A REALISTIC AND COST EFFECTIVE APPROACH .....   | 13 |
| 4.   | ALLEGHENY’S MARKETING STRATEGY FOR THE CUSTOMER LOAD RESPONSE PROGRAM SHOULD BE MODIFIED TO ENSURE PENETRATION IN THE SMALL C&I CUSTOMER CLASS.....   | 14 |
| 5.   | ALLEGHENY SHOULD PURSUE MORE COST EFFECTIVE C&I DEMAND RESPONSE PROGRAMS.....   | 14 |
| VI.  | CONCLUSION.....   | 16 |
| VII. | PROPOSED ORDERING PARAGRAPHS.....   | 17 |

## TABLE OF AUTHORITIES

### STATUTES

|                                |   |
|--------------------------------|---|
| 66 Pa.C.S. § 2801.6(c)(1)..... | 2 |
| 66 Pa.C.S. § 2801.6(c)(2)..... | 2 |
| 66 Pa.C.S. § 2806.1(d)(1)..... | 2 |
| 66 Pa.C.S. § 2806.1.....       | 7 |

## I. INTRODUCTION

EnerNOC, Inc. ("EnerNOC"), a leading demand response ("DR") and energy management services provider throughout the United States, appreciates the opportunity to offer comments on the Petition for Approval of an Energy Efficiency and Conservation Plan, Approval of Recovery of Costs through a Reconcilable Adjustment Clause, and Approval of Matters Relating to the Energy Efficiency and Conservation Plan ("EE&C Plan" or "Plan") submitted by West Penn Power Company d/b/a Allegheny Power ("Allegheny" or "Company").

EnerNOC currently manages over 3,150 MW of demand response resource capability from over 2,400 customers across 5,450 sites nationwide. As an active demand response provider across three Independent System Operators ("ISOs") or Regional Transmission Organizations ("RTOs") (*i.e.*, New York Independent System Operator, Inc., ISO New England, Inc., and PJM) and numerous states with various statutory and regulatory regimes, EnerNOC has a broad base of experience on which to draw and, as a result, has a unique perspective to offer in this proceeding. EnerNOC also has signed contracts with a variety of utilities to provide demand response services, including Southern California Edison, Pacific Gas & Electric, San Diego Gas & Electric, the Tennessee Valley Authority, Tampa Electric Company, Public Service Company of New Mexico, Xcel Energy (Colorado), Salt River Project, Idaho Power, Allegheny Power, Baltimore Gas and Electric, Delmarva Power and PEPCO.

EnerNOC's demand response activities are implemented via automated, aggregated, and intelligent management of end-user lighting, HVAC, distributed generation, and industrial process equipment. Every one of EnerNOC's thousands of sites is connected to its Network Operations Center (the "NOC" in EnerNOC) and communicates real-time load data over a secure Internet connection, allowing its operations staff to monitor and verify facility load reductions in

real time. This customer visibility allows EnerNOC to ensure that customers are delivering their contracted reductions and where they are not to take efforts to "coach" them, or to dispatch technicians to take corrective action. As a result, EnerNOC dispatched emergency demand response resources in its network over 100 times during 2008 and delivered performance that averaged over 100% during the year, based on nominated versus delivered capacity.

## **II. PROCEDURAL HISTORY**

Governor Rendell signed into law House Bill 2200, or Act 129 of 2008 ("Act 129" or "Act"), on October 15, 2008. Among other things, Act 129 expands the Pennsylvania Public Utility Commission's ("PUC" or "Commission") oversight responsibilities and sets forth new requirements on electric distribution companies ("EDCs") for energy conservation. With regard to energy efficiency and conservation, Act 129 requires EDCs to adopt a plan, approved by the Commission, to reduce electric consumption by at least 1% of its expected consumption for June 1, 2009, through May 31, 2010, and by at least 3% by May 31, 2010, adjusted for weather and extraordinary loads.<sup>1</sup> In addition, by May 31, 2013, peak demand is to be reduced by a minimum of 4.5% of the EDC's annual system peak demand in the 100 hours of highest demand,<sup>2</sup> measured against the EDC's peak demand during the period of June 1, 2007 through May 31, 2008.<sup>3</sup> Consistent with the Act's requirements, on July 1, 2009, all Pennsylvania EDCs filed with the Commission proposed energy efficiency and conservation plans ("EE&C Plan") that seek to meet the Act's energy efficiency and conservation requirements.

---

<sup>1</sup> This one percent reduction is to be accomplished by May 31, 2011. See 66 Pa. C.S. § 2801.6(c)(1), (2).

<sup>2</sup> Consistent with the Commission's January 16, 2009, *Energy Efficiency and Conservation Plan Implementation Order* at Docket No. M-2008-2069887 (hereinafter "Implementation Order"), the Commission has adopted the use of 4.5% of the EDC's average of the 100 highest peak hours during the summer months of June, July, August and September in 2007. Implementation Order, p. 21.

<sup>3</sup> See 66 Pa C.S. § 2806.1(d)(1).

On January 16, 2009, the Commission issued an Implementation Order ("Implementation Order") establishing the substantive requirements for EDCs in preparing and submitting their EE&C Plans and outlining the process by which the Commission will consider and review the EE&C Plans. As articulated in the Implementation Order, the PUC review process is structured in a way that "balances the desire to provide all interested parties an opportunity to be heard, with the need to complete the process within the statutory time constraints."<sup>4</sup>

As required by the Implementation Order, on July 1, 2009, the Company submitted its EE&C Plan.

On August 3, 2009, EnerNOC filed a Petition to Intervene in this proceeding. On August 7, 2009, EnerNOC filed its initial comments in this proceeding. EnerNOC is an energy services provider operating throughout the United States, including the Commonwealth of Pennsylvania, and Canada. EnerNOC operates specifically in the Commonwealth of Pennsylvania as a Curtailment Service Provider ("CSP") within the footprint of PJM Interconnection, L.L.C. ("PJM").<sup>5</sup> As a PJM Curtailment Service Provider, EnerNOC provides commercial, industrial and institutional organizations with demand response and energy efficiency services. By letter issued July 2, 2009, the PUC also approved EnerNOC's application to Register as a Conservation Service Provider.<sup>6</sup>

---

<sup>4</sup> Implementation Order, p. 10.

<sup>5</sup> In this context, a Curtailment Service Provider refers to a PJM Member, "which action on or behalf of itself or one or more other Members or non-Members, participates in the PJM Interchange Energy Market by causing a reduction in demand." *See* PJM Operating Agreement, § 1.3.1B.02, available at [www.pjm.com](http://www.pjm.com).

<sup>6</sup> *See generally* Docket No. A-2009-2102368.

### **III. DESCRIPTION OF ALLEGHENY'S PLAN**

The Company's EE&C Plan proposes to fulfill the requirements of Act 129 through the implementation of 22 energy efficiency, conservation, and demand response programs for each of the Company's customer segments – Residential, Commercial, and Industrial.<sup>7</sup> Specifically, the Company has targeted 11 programs for the Residential sector, six programs for the Small C&I sector, four programs for the Large C&I sector, and one program for government, school and non-profit customers.<sup>8</sup> According to the EE&C Plan, the Company also contemplates contracting with a third-party Curtailment Service Provider to interface with C&I customers to carry out certain aspects of the Company's proposed Contracted Demand Response Program.<sup>9</sup>

### **IV. SUMMARY OF ARGUMENT**

As discussed in more detail herein, EnerNOC supports several aspects of Allegheny's Petition, specifically its plan to leverage the existing PJM demand response infrastructure. However, EnerNOC also offers some recommended enhancements to Allegheny's EE&C Plan to improve the potential for realizing Act 129's objectives in Allegheny's service territory, specifically: 1) it would be more cost effective if Allegheny propose a plan that would have these programs continue to run after the statutory deadline of May 31, 2013. 2) the timeline for the Commercial and Industrial ("C&I") demand response programs should be extended; 3) the Company should pursue a full conservation service provider ("CSP") engagement from the outset of its contracted Demand Response program; 4) the Company's proposed marketing

---

<sup>7</sup> See EE&C Plan at 11.

<sup>8</sup> See *id.*

<sup>9</sup> See *id.* at 116.

strategy for the load response program should be modified to ensure penetration in the small C&I customers class; and, 5) Allegheny should pursue more cost effective C&I Demand Response Programs.

## V. ARGUMENT

### A. **Act 129's Conservation and Demand Reduction Requirements for Overall Conservation Requirements beyond the 2013 Requirements: EnerNOC Recommends That Allegheny's Proposed Plan For Its Load Curtailment Program should Continue on Past May 31, 2013.**

Each of the EDCs has proposed C&I DR plans that have one thing in common: they all end after the 2012/2013 delivery year. This completely distorts the legislative intent of requiring utilities to achieve a peak load reduction requirement in 2012/2013. The notion that the Legislature would then intend that the utility allow a successful peak load reduction to snap back in the following year is absurd. If that is what is allowed to occur here, the Governor and Legislators, indeed electric customers in the Commonwealth, will be justifiably outraged.

If the pre-Act 129 activities of DR providers are resumed, peak load will snap back to pre-Act 129 levels and the success of Act 129 and the large investments made into the Demand Response programs will be completely erased. Without certainty beyond 2012-2013, Pennsylvania customers will lose the program benefits that flow directly from the direct incentives to participants, specifically the impact of demand reductions on reducing capacity and energy prices.

It is important to consider the impact of certainty on both the cost of delivering C&I DR on an annual basis, and the ability to recruit providers. From a cost standpoint, recruiting and enabling demand response providers requires up-front investment. To the extent that a CSP can amortize these costs over an extended contractual term, the annual incentives required are reduced, thus benefiting all stakeholders. Regarding the EDC's Act 129 requirements, the use of a 3 year program term versus a longer term will likely have the following significant impacts.

First, where prices will be determined through an RFP process, CSPs will likely require higher incentives for a 3 year (or shorter) contract term than for a 5 to 7 year term, for example. There are business decisions made by the CSP to invest time and resources in a program, and the utility commitment for a longer term makes a difference.

Second, where prices have been set through the Act 129 planning process, the capacity available to the EDC will be impacted by term length, with less capacity available for a 3 year (or shorter) term than for a 5 to 7 year contract.

From a Demand Response participant's perspective, length is also an important consideration. Particularly in EDC territories where participants can receive attractive PJM payments for participation in emergency-only programs, the desirability of providing 50 to 100 hours of dispatch will be weighed against the potential incentive stream over the life of a program. A participant must consider the impact of the business process changes required for 50 to 100 hours of dispatch, and weigh that impact against either 1-3 years of compensation, or

weigh that impact against 5-7 years or more of compensation. The longer option (5-7 years or more of certain incentives) will deliver more providers, and therefore more capacity.

Furthermore, Act 129 states that the proposed cost-recovery tariff mechanism for the plans will only allow recovery of the “prudent and reasonable costs of the plan including administrative costs.” 66 Pa. C.S. §2806.1. EDCs in the Commonwealth are charged with making prudent investments. It would not be “prudent or reasonable” for the utility to invest money in a short term program that would eventually have to be expanded again at higher costs and ultimately result in greater expenses for the ratepayers. It would be prudent if the program was originally designed to go on for a longer initial period.

In regards to demand reduction, Act 129 indicates that as long as it is cost effective, the Commission can allow for continued reductions of peak demand:

By November 30, 2013, the Commission shall compare the total costs of energy efficiency and conservation plans implemented under this section to the total savings in energy and capacity costs to retail customers in this Commonwealth or other costs determined by the Commission. If the Commission determines that the benefits of the plans exceed the costs, the Commission shall set additional incremental requirements for reduction in peak demand for the 100 hours of greatest demand or an alternative reduction approved by the Commission. Reductions from demand shall be measured from the Electric Distribution Company’s peak demand for the period from June 1, 2011, through May 31, 2012. The reductions in consumption required by the Commission shall be accomplished no later than May 31, 2017.

66 Pa. C.S. 2806.1.

It appears thus that the intent of the Legislature was to have the EDCs maintain the status quo while the potential for further reductions was assessed. Unlike energy efficiency

investments, demand response programs will only work if the EDCs initiate an active role. It would be prudent and most beneficial to the ratepayers if the EDCs maintained the current demand response and peak load reductions during the time of the Commission review. If these levels are not maintained, the EDCs will have to incur more costs to meet the new requirements beyond the 4.5% demand reduction goal for 2013.

Furthermore, other elements of the EE&C plan, like smart meters that work in conjunction with the Load Control Program will continue to be in service long after the May 31, 2013 deadline. Ultimately, Allegheny will be modernizing its entire infrastructure, like much of the rest of the country, in order to develop and support a Smart Grid. To achieve a Smart Grid, it will take a combination of programs and technology. Energy Efficiency Programs and Demand Response Programs work together in the same demand side management spectrum, and in conjunction with Smart Metering, which contributes the platform for measurement, verification and evaluation of such programs. With this Commonwealth's commitment to the deployment of advanced metering and the creation of a Smart Grid, there is every reason to infer that the Demand Response and Energy Efficiency programming once started, was meant to endure. It will be more cost effective to plan now for the continuation of a program that will be important to aid in these future reductions that the Commission may require.

Finally, it is important to note that most programs envision resources enrolled in both the EDC Act 129 program and PJM demand response programs. As the PJM Base Residual Actions (BRA) for 2013-2014 approaches, it is possible that CSPs will consider their ability to enroll those resources in Act 129 programs when determining capacity commitment levels. The

absence of such an assurance will reduce the demand response capacity available for the 2013-2014 and subsequent BRAs, impacting prices in the PJM market to the detriment of Pennsylvania ratepayers.

The Commission should state its expectation that demand reductions achieved by the summer of 2012 will continue to persist for some reasonable period of time and certainly through its consideration of the second phase of Act 129. Second, it should provide the EDCs with assurances that prudently incurred costs for demand response not in excess of those expended in 2012, will be recoverable on a full and current basis until such time as the Commission determines otherwise. By the same token, the Commission should make clear that imprudently incurred costs will not be recoverable.

We are encouraged by the law in this Commonwealth that recognizes the importance of a well-planned and effective Demand Response Program as a component of a well-planned and effective overall Act 129 implementation. We contend that the conservation of energy requires effective programming that lasts and we encourage this Commission to see the forest through the trees.

**B. Cost Issues: EnerNOC supports Allegheny's Cost Recovery Mechanism**

EnerNOC supports Allegheny's proposal to recover the costs of its EE&C Plan through an Energy Efficiency & Conservation Program Charge ("EEPC") that will be imposed under Section 1307 of the Public Utility Code and will be reconcilable and non-bypassable.

## C. CSP ISSUES

### 1. Allegheny's C&I Demand Response Timeline Should Be Extended.

For the Customer Load Response Program<sup>10</sup> and the Contracted Demand Response Program,<sup>11</sup> Allegheny proposes only to operate each program for a single year or less, June 1, 2012 to May 31, 2013 and June 1, 2012 to September 31, 2012, respectively.<sup>12</sup> In other words, the Company will only provide customers incentive payments for one year. As discussed below, a ramp-up period would provide considerable benefits in light of the Company's proposed approach.

Regardless of whether a program is CSP- or utility-run, it has been EnerNOC's experience that providing only one year of incentives presents a challenge on two fronts. First, the economic case for customers is harder to make for only a single year, considering the ramp up involved, which likely will result in either lower participation on a customer basis, or less capacity reduction from those customers who do participate. Second, providing multiple years of incentives will allow Allegheny to ramp up the program over a period of at least two years, not just months, and test and calibrate resources to make sure capacity will be available when called upon in 2012 to meet the requirements of Act 129.

It is important for the Commission to recognize that, unlike energy efficiency initiatives, which are often installed and remain in place after a program twilight, demand response resources often immediately disappear in the absence of incentives. Committing to multiple

---

<sup>10</sup> *Id.* at 139-143.

<sup>11</sup> *Id.* at 116-119.

<sup>12</sup> *Id.* at 116 and 141.

years allows the implementing party (either utility or CSP) and the participants to make the requisite up-front investments with certainty around future return. As indicated previously, this will likely increase both participation in numbers as well as amount of load.

Additionally, the timing associated with Allegheny's decision on the Contracted Demand Response Program is highly problematic. As discussed in more detail in Section II.B., *infra*, Allegheny indicates that they will make a determination in the fourth quarter of 2011 as to whether or not they will roll out the program.<sup>13</sup> Given that target demand reductions need to happen during summer of 2012, it is very unlikely that even the most experienced CSP could move quickly enough to provide Allegheny with the assurance it needs that the resources will be there when called upon. In EnerNOC's view, the Company's proposal to wait is a recipe for failure.

**2. Allegheny Should Pursue a Full Conservation Service Provider Engagement from the Outset of Its Contracted Demand Response Program.**

As filed, it does not appear that Allegheny is planning to pursue a Contracted Demand Response Program under the EE&C plan unless the Company determines a need to achieve additional demand reductions due to the utility-run programs lagging behind.<sup>14</sup> This "wait and see" approach is problematic, however, for a number of reasons.

In general, EnerNOC believes that the involvement of experienced CSPs from the outset will allow Allegheny to maximize cost-effective demand response capacity. In addition to numerous other benefits, CSPs bring a wealth of experience and expertise in program design,

---

<sup>13</sup> *Id.* at 118.

<sup>14</sup> *Id.* at 116.

implementation and management. In fact, many CSPs, including EnerNOC, are already working with a multitude of customers in the Allegheny service territory through the PJM programs discussed in Section II.A, *supra*. A well-qualified CSP can provide significant help to Allegheny in managing the risks associated with achieving Act 129 goals by constructing a portfolio that will reliably deliver when called upon.

In addition, EnerNOC believes that the alignment of participant, CSP, and utility interests is a key component of a successful conservation plan, particularly for higher hour programs proposed by the Company (*i.e.*, the Customer Load Response Program which suggests up to 100 hours of participation).<sup>15</sup> In this case, with Allegheny serving as both the CSP and the EDC, the interests of Allegheny as the EDC (*i.e.*, to provide customers with reliable, cost-efficient service) will not necessarily align with those of Allegheny as the CSP (*i.e.*, to deliver reliable, cost-effective demand response) or those of the customer (*i.e.*, to maximize value through demand response participation). While the threat of financial penalties under Act 129 likely provides the requisite incentive for Allegheny to hit the target, an independent CSP's interest is certainly more in-line with the intent of the Act, achieving the greatest level of demand response participation possible. Such a paradigm is considerably more likely to lead to a successful demand response structure for customers.

As a result, EnerNOC recommends that Allegheny pursue at least one CSP-run C&I program for the duration of the Plan. In the event that the Commission permits the Company to adopt a "wait and see" approach, EnerNOC recommends that the evaluation of the available

---

<sup>15</sup> As discussed below, it is EnerNOC's view that a 50-hour target represents a more realistic and cost-effective program parameter.

programs takes place far in advance of fourth quarter of 2011. An earlier evaluation period will help to maximize the value that a CSP-run C&I demand response resource can provide during summer 2012.

**3. EnerNOC Recommends that Allegheny's Customer Load Response Program Utilize a 50-Hour Target As a Realistic and Cost-Effective Approach.**

In its Customer Load Response program, Allegheny proposes to require up to 100 hours of participation.<sup>16</sup> EnerNOC recommends that this target be revised, consistent with the 50-hour target proposed by Allegheny.

In EnerNOC's view, a 50-hour target has two distinct advantages. First, the 50-hour target reflects a realistic assessment of the uncertainty associated with accurately predicting the top 100 peak load hours and obtaining capacity related to C&I load. By affording a more reasonable "cushion," Allegheny and the curtailment service provider would be better positioned to assure that the hours dispatched occur within Allegheny's top 100 hours. Second, it is EnerNOC's experience across several markets that the cost to induce customer response, relative to the hours of response sought, is non-linear. In other words the cost of having 100 MW of customers respond for 100 hours will far exceed the cost of having 200 MW of customers respond for 50 hours.

With this important modification, Allegheny's proposed program is not only more likely to achieve Act 129's goals but also serves as a cost-effective approach for doing so.

---

<sup>16</sup> *Id.* at 140.

**4. Allegheny's Marketing Strategy for the Customer Load Response Program Should Be Modified To Ensure Penetration in the Small C&I Customer Class.**

With respect to the Customer Load Response Program, Allegheny proposes to target its largest customers through the current Account Manager relationships, while identifying and enrolling C&I customers not served at the Account Manager level through the use of call-center communications, direct mail and email.<sup>17</sup> EnerNOC believes that, while such a strategy is likely to garner reasonable participation levels by Allegheny's largest customers, it will not prove as successful in accessing the medium to small C&I customer class. In fact, this may very well place in jeopardy the Act 129 mandate of providing program opportunities equitably to all customer classes.<sup>18</sup> As indicated in Section II.B, *supra*, this represents a key area where contracting with an experienced CSP may prove beneficial to both the Company and its customers by providing not only operational, but also significant marketing experience.

**5. Allegheny Should Pursue More Cost Effective C&I Demand Response Programs.**

It is EnerNOC's position, again based on years of experience operating load management portfolios, that C&I demand response programs provide a more cost effective option than the distributed generation program proposed by Allegheny.<sup>19</sup> In fact, Allegheny's own cost benefit analysis, as set forth in Table 7D (Total Resource Cost Test ("TRC") Benefits By Program Year), corroborates this experience, indicating that the Company's proposed Distributed

---

<sup>17</sup> EE&C Plan at 140.

<sup>18</sup> See 66 Pa. C.S. § 2806.1(a)(5.)

<sup>19</sup> EE&C Plan at 144-148.

Generation Program is projected to provide a negative TRC result in each year of operation.<sup>20</sup> From a purely economic standpoint, and based on the Company's own data in Table 7D, not even considering the potentially significant environmental downsides, EnerNOC believes that Allegheny, and its customers, would be better served to pursue additional cost-effective commercial and industrial demand response programs.

---

<sup>20</sup> *Id.* at 247.

## VI. CONCLUSION

For all of the foregoing reasons as well as the reasons expressed in EnerNOC's initial comments, EnerNOC proposes that these changes be made to Allegheny's EE&C Plan.

## VII. PROPOSED ORDERING PARAGRAPHS

IT IS ORDERED:

1. That Allegheny's Load Curtailment Program be structured in a way in which it can continue on successfully after the statutory deadline of May 31, 2009.
2. That Allegheny's timeline for its Demand Response program should be extended.
3. That Allegheny must pursue a full Conservation Service Provider Engagement from the outset of its Contracted Demand Response Program.
4. That Allegheny's Customer Load Response Program utilize a 50- hour target.
5. Allegheny's marketing strategy must target the Small C&I customer class.
6. Allegheny should invest in a program that is more cost effective program than its Distributed Generation Program

Respectfully submitted,

By: 

**SCOTT H. DEBROFF, ESQUIRE**

Attorney ID No. 61170

**ALICIA R. PETERSEN, ESQUIRE**

Attorney ID No. 209672

RHOADS & SINON LLP  
ONE SOUTH MARKET SQUARE  
P.O. BOX 1146  
HARRISBURG, PA 17108-1146

TEL: (717) 233-5731

FAX: (717) 231-6626

EMAIL: [SDEBROFF@RHOADS-SINON.COM](mailto:SDEBROFF@RHOADS-SINON.COM)

EMAIL: [APETERSEN@RHOADS-SINON.COM](mailto:APETERSEN@RHOADS-SINON.COM)

**DATED: AUGUST 31, 2009**

**COUNSEL FOR ENERNOC, INC.**

**COMMONWEALTH OF PENNSYLVANIA  
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 THROUGH A  
RECONCILABLE ADJUSTMENT CLAUSE  
AND APPROVAL OF MATTERS RELATING  
TO THE ENERGY EFFICIENCY AND  
CONSERVATION PLAN

DOCKET NO. M-2009-2093218

---

**CERTIFICATE OF SERVICE**

---

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

Dated: **August 31, 2009**

By:



**SCOTT H. DEBROFF, ESQUIRE**  
**ALICIA R. PETERSEN, ESQUIRE**  
RHOADS & SINON LLP  
ONE SOUTH MARKET SQUARE  
P.O. Box 1146  
HARRISBURG, PA 17108-1146

TEL: (717) 233-5731

FAX: (717) 231-6626

EMAIL: [SDEBROFF@RHOADS-SINON.COM](mailto:SDEBROFF@RHOADS-SINON.COM)

EMAIL: [APETERSEN@RHOADS-SINON.COM](mailto:APETERSEN@RHOADS-SINON.COM)

**COUNSEL FOR ENERNOC, INC.**

CERTIFICATE OF SERVICE - M-2009-2093218

VIA EMAIL OR FIRST CLASS MAIL

|  |  |
|--|--|
| <p>TANYA MCCLOSKEY, ESQ.<br/>CHRISTY M. APPLEBY, ESQ.<br/>OFFICE OF CONSUMER ADVOCATE<br/>555 WALNUT STREET<br/>FORUM PLACE, 5<sup>TH</sup> FLOOR<br/>HARRISBURG, PA 17101-1923<br/><a href="mailto:TMCCLOSKEY@PAOCA.ORG">TMCCLOSKEY@PAOCA.ORG</a><br/><a href="mailto:CAPPLEBY@PAOCA.ORG">CAPPLEBY@PAOCA.ORG</a></p>  | <p>JOHN F. POVILAITIS, ESQ.<br/>RYAN, RUSSELL, OGDEN &amp; SELTZER P.C.<br/>800 NORTH THIRD STREET, SUITE 101<br/>HARRISBURG, PA 17102-2026<br/><a href="mailto:JPOVILAITIS@RYANRUSSELL.COM">JPOVILAITIS@RYANRUSSELL.COM</a></p>   |
| <p>RICHARD A. KANASKIE, ESQ.<br/>JOHNNIE E. SIMMS, ESQ.<br/>ADEOLU A. BAKARE, ESQ.<br/>PENNSYLVANIA PUBLIC UTILITY COMMISSION<br/>OFFICE OF TRIAL STAFF<br/>P.O. BOX 3265<br/>HARRISBURG, PA 17105-3265<br/><a href="mailto:RKANASKIE@STATE.PA.US">RKANASKIE@STATE.PA.US</a><br/><a href="mailto:JESIMMS@STATE.PA.US">JESIMMS@STATE.PA.US</a><br/><a href="mailto:ABAKARE@STATE.PA.US">ABAKARE@STATE.PA.US</a></p> | <p>JOHN L. MUNSCH, ESQ.<br/>WEST PENN POWER COMPANY<br/>800 CABIN HILL DRIVE<br/>GREENSBURG, PA 15601-1689<br/><a href="mailto:JMUNSCH@ALLEGHENYENERGY.COM">JMUNSCH@ALLEGHENYENERGY.COM</a></p>  |
| <p>LILLIAN S. HARRIS, ESQ.<br/>THOMAS J. SNISCAK, ESQ.<br/>HAWKE MCKEON &amp; SNISCAK LLP<br/>P.O. BOX 1778<br/>100 NORTH TENTH STREET<br/>HARRISBURG, PA 17101<br/><a href="mailto:LSHARRIS@HMSLEGAL.COM">LSHARRIS@HMSLEGAL.COM</a><br/><a href="mailto:TJSNISCAK@HMSLEGAL.COM">TJSNISCAK@HMSLEGAL.COM</a></p>  | <p>HARRY S. GELLER, ESQ.<br/>JOHN C. GERHARD, ESQ.<br/>PENNSYLVANIA UTILITY LAW PROJECT<br/>118 LOCUST STREET<br/>HARRISBURG, PA 17101<br/><a href="mailto:HGELLERPULP@PALEGALAID.NET">HGELLERPULP@PALEGALAID.NET</a><br/><a href="mailto:JGERHARDPULP@PALEGALAID.NET">JGERHARDPULP@PALEGALAID.NET</a></p> |
| <p>GEORGE JUGOVIC, ESQ.<br/>ASSISTANT COUNSEL<br/>COMMONWEALTH OF PENNSYLVANIA<br/>DEPARTMENT OF ENVIRONMENTAL<br/>PROTECTION<br/>400 WATERFRONT DRIVE<br/>PITTSBURGH, PA 15222-4745<br/><a href="mailto:GJUGOVIC@STATE.PA.US">GJUGOVIC@STATE.PA.US</a></p>  | <p>CAROLYN PENGIDORE, ESQ.<br/>PRESIDENT/CEO<br/>CLEARCHOICE ENERGY<br/>180 FORT COUCH ROAD, SUITE 265<br/>PITTSBURGH, PA 15241<br/><a href="mailto:CAROLYN@CLEARCHOICE-ENERGY.COM">CAROLYN@CLEARCHOICE-ENERGY.COM</a></p>   |

|   |   |
|---|---|
| <p>THEODORE J. GALLAGHER, ESQ.<br/> SENIOR COUNSEL<br/> NiSOURCE CORPORATE SERVICES COMPANY<br/> 501 TECHNOLOGY DRIVE<br/> CANONSBURG, PA 15317<br/> <a href="mailto:TJGALLAGHER@NISOURCE.COM">TJGALLAGHER@NISOURCE.COM</a></p>   | <p>CHRISTOPHER A. LEWIS, ESQ.<br/> CHRISTOPHER R. SHARP, ESQ.<br/> MELANIE J. TAMBOLAS, ESQ.<br/> BLANK ROME, LLP<br/> ONE LOGAN SQUARE<br/> PHILADELPHIA, PA 19103<br/> <a href="mailto:LEWIS@BLANKROME.COM">LEWIS@BLANKROME.COM</a><br/> <a href="mailto:SHARP@BLANKROME.COM">SHARP@BLANKROME.COM</a><br/> <a href="mailto:TAMBOLAS@BLANKROME.COM">TAMBOLAS@BLANKROME.COM</a></p>                     |
| <p>CHARLES E. THOMAS, JR., ESQ.<br/> THOMAS T. NIESEN, ESQ.<br/> THOMAS, LONG, NIESEN &amp; KENNARD<br/> P.O. Box 9500<br/> 212 LOCUST STREET, SUITE 500<br/> HARRISBURG, PA 17108-9500<br/> <a href="mailto:CTHOMASJR@TTANLAW.COM">CTHOMASJR@TTANLAW.COM</a><br/> <a href="mailto:TNIESEN@TTANLAW.COM">TNIESEN@TTANLAW.COM</a></p>                                     | <p>DERRICK PRICE WILLIAMSON, ESQ.<br/> ADAM L. BENSHOFF, ESQ.<br/> SHELBY LINTON-KEDDIE, ESQ.<br/> MCNEES WALLACE &amp; NURICK LLC<br/> 100 PINE STREET<br/> P.O. BOX 1166<br/> HARRISBURG, PA 17108-1166<br/> <a href="mailto:DWILLIAMSON@MWN.COM">DWILLIAMSON@MWN.COM</a><br/> <a href="mailto:ABENSHOFF@MWN.COM">ABENSHOFF@MWN.COM</a><br/> <a href="mailto:SKEDDIE@MWN.COM">SKEDDIE@MWN.COM</a></p> |
| <p>DANIEL CLEARFIELD, ESQ.<br/> KEVIN J. MOODY, ESQ.<br/> ECKERT SEAMANS CHERIN &amp; MELLOTT, LLC<br/> 213 MARKET STREET, 8<sup>TH</sup> FLOOR<br/> P.O. Box 1248<br/> HARRISBURG, PA 17108-1248<br/> <a href="mailto:DCLEARFIELD@ECKERTSEAMANS.COM">DCLEARFIELD@ECKERTSEAMANS.COM</a><br/> <a href="mailto:KMOODY@ECKERTSEAMANS.COM">KMOODY@ECKERTSEAMANS.COM</a></p> | <p>MARK C. MORROW, ESQ.<br/> UGI CORPORATION<br/> 460 NORTH GULPH ROAD<br/> KING OF PRUSSIA, PA 19406-2807<br/> <a href="mailto:MORROWM@UGICORP.COM">MORROWM@UGICORP.COM</a></p>  |
| <p>LEE E. HARTZ, ESQ.<br/> ASSISTANT GENERAL COUNSEL<br/> NATIONAL FUEL GAS DISTRIBUTION<br/> CORPORATION<br/> P.O. Box 2081<br/> ERIE, PA 16512<br/> <a href="mailto:HARTZL@NATFUEL.COM">HARTZL@NATFUEL.COM</a></p>  | <p>PAMELA C. POLACEK, ESQ.<br/> MCNEES WALLACE &amp; NURICK LLC<br/> 100 PINE STREET<br/> P.O. BOX 1166<br/> HARRISBURG, PA 17108-1166<br/> <a href="mailto:PPOLACEK@MWN.COM">PPOLACEK@MWN.COM</a></p>  |

|  |  |
|--|--|
| <p>JONATHAN P. NASE, ESQ.<br/> KATHRYN G. SOPHY, ESQ.<br/> OFFICE OF SPECIAL ASSISTANTS<br/> PENNSYLVANIA PUBLIC UTILITY COMMISSION<br/> 400 NORTH STREET<br/> COMMONWEALTH KEYSTONE BUILDING<br/> HARRISBURG, PA 17120-3265<br/> <a href="mailto:JNASE@STATE.PA.US">JNASE@STATE.PA.US</a><br/> <a href="mailto:KSOPHY@STATE.PA.US">KSOPHY@STATE.PA.US</a></p> | <p>THE HONORABLE KATRINA DUNDERDALE<br/> ADMINISTRATIVE LAW JUDGE<br/> COMMONWEALTH OF PENNSYLVANIA<br/> PENNSYLVANIA PUBLIC UTILITY COMMISSION<br/> 1103 PITTSBURGH STATE OFFICE BUILDING<br/> 300 LIBERTY AVENUE<br/> PITTSBURGH, PA 15222<br/> <a href="mailto:KDUNDERDALE@STATE.PA.US">KDUNDERDALE@STATE.PA.US</a></p> |
| <p>LAUREN M. LEPKOSKI, ESQ.<br/> OFFICE OF SMALL BUSINESS ADVOCATE<br/> COMMERCE BUILDING, SUITE 1102<br/> 300 NORTH SECOND STREET<br/> HARRISBURG, PA 17101<br/> <a href="mailto:LLEPKOSKI@STATE.PA.US">LLEPKOSKI@STATE.PA.US</a></p>   | <p>SCOTT PERRY, ESQ.<br/> ASPASSIA V. STAEVSKA, ESQ.<br/> COMMONWEALTH OF PENNSYLVANIA<br/> DEPARTMENT OF ENVIRONMENTAL<br/> PROTECTION<br/> RCSOB, 9<sup>TH</sup> FLOOR<br/> 400 MARKET STREET<br/> HARRISBURG, PA 17101-2301<br/> <a href="mailto:SCPERRY@STATE.PA.US">SCPERRY@STATE.PA.US</a></p>                       |