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September 18, 2009

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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
Expedited Approval of its Smart Meter Technology
Procurement and Installation Plan
PUC Docket No. M-2009-2123951

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 Expedited :
Approval of its Smart Meter Technology : Docket No. M-2009-2123951
Procurement and Installation 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 Expedited Approval of its Smart Meter Technology Procurement and Installation Plan (“Smart Meter Plan”) the Department avers as follows:

1. Pursuant to Act 129 of 2008 and the Pennsylvania Public Utility Commission’s (“Commission”) Smart Meter Procurement and Installation Order (“Implementation Order”) at Docket No. M-2009-2092655, on August 14, 2009, Allegheny filed its Petition for Approval of its Smart Meter Plan with the Commission.
2. Allegheny seeks expedited approval of its Smart Meter Plan because implementation of its Smart Meter Plan is necessary to implement Allegheny’s Energy Efficiency and Conservation Plan (“EEC Plan”), filed at docket number M-2009-2093218. Petition at 6. To that end, Allegheny requests Commission approval of its Smart Meter Plan by January 29, 2010. Petition at 10.

3. Allegheny contends that implementation of its Smart Meter Plan in conjunction with its EEC Plan is the most cost effective means of satisfying the energy conservation and Smart Meter requirements of Act 129 and that Act 129 assumes a link between use of smart meters and energy efficiency and peak demand reduction. Petition at 7.

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

5. The Department administers several energy and environmental protection programs established by state law that provide the Department with a right or interests of such nature that participation of the Department is in the public interest. 52 P.S. § 52.72(a)(1),(3).

6. 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).

7. As indicated in Allegheny's Smart Meter Petition at page 5, an effective smart meter plan and the time sensitive pricing programs smart meters are required to support can result in significant savings for consumers, reduce grid congestion, and promote grid reliability. These beneficial aspects of effective smart meter plans directly affect the Department's interests as administrator of the Pennsylvania Energy Office.

8. The Department administers several provisions of the Alternative Energy Investment Act ("AEPS") Act and is to work cooperatively with the Commission to monitor the performance of all aspects of AEPS. 73 P.S. § 1648.7(c). As indicated in Allegheny's Smart

Meter Petition at page 5, smart meters and the time sensitive pricing plans they promote encourage the use of demand-side management technologies and practices. These demand-side management technologies and practices have the potential to create Tier II alternative energy credits and affect the Department's duties under AEPS. See, 73 P.S. § 1648.1.

9. 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 smart meter plan and the time sensitive pricing plans they promote can reduce fossil fuel consumption, improve air quality, reduce greenhouse gas emissions and improve water quality.

10. 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: September 18, 2009

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

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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

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

Dated: September 18, 2009

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of West Penn Power Company :
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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:

SERVICE BY FIRST CLASS MAIL

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Respectfully submitted,

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