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**VIA ELECTRONIC FILING**

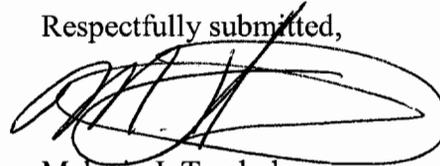
James J. McNulty  
Secretary  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265

**Re: Petition of West Penn Power Company d/b/a Allegheny Power for Expedited Approval of its Smart Meter Technology Procurement and Installation Plan; Docket No. M-2009-2123951**

Dear Secretary McNulty:

Enclosed for filing with the Commission in the above-captioned matter is the Main Brief of Constellation Energy Commodities Group, Inc. and Constellation NewEnergy, Inc. The e-filing receipt is attached to the paper copy. Copies of this filing are being served per the attached certificate of service. If you have any questions, please contact me.

Respectfully submitted,



Melanie J. Tambolas

MJT/dc  
Enclosure

cc: The Honorable Louis G. Cocheres (w/enclosure) (via Federal Express)  
Certificate of Service (w/enclosure)



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## I. INTRODUCTION

Constellation Energy Commodities Group, Inc. and Constellation NewEnergy, Inc. (collectively, “Constellation”) hereby submit their Main Brief for consideration by the Pennsylvania Public Utility Commission (“Commission”), with regard to the *Petition and Smart Meter Technology Procurement and Installation Plan* (“Smart Meter Plan” or “Plan”) filed by the West Penn Power Company d/b/a Allegheny Power (“Allegheny-West Penn”) on August 14, 2009,<sup>1</sup> in accordance with the Commission’s June 24, 2009 *Implementation Order*.<sup>2</sup>

## II. PROCEDURAL HISTORY

Allegheny-West Penn on August 14, 2009 filed its Petition along with its Plan, in accordance with the Implementation Order. On September 30, 2009, a Prehearing Conference was held, with the Honorable Administrative Law Judge Mark A. Hoyer (“ALJ”) presiding. At the Prehearing Conference, the ALJ adopted the procedural schedule (“Procedural Schedule”) agreed to by the parties.

In addition to Allegheny-West Penn, Appearances and/or Petitions to Intervene were filed by the Office of Consumer Advocate, the Office of Small Business Advocate, the Office of Trial Staff, the Commonwealth of Pennsylvania Department of Environmental Protection, the West Penn Power Industrial Intervenors, Citizen Power, Inc., the Pennsylvania Association of Community Organizations for Reform Now, and Constellation.

On October 5, 2009, the Honorable Administrative Law Judge Kandace F. Melillo presided over a Technical Conference in this matter.

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<sup>1</sup> *Petition of West Penn Power Company d/b/a Allegheny Power for Expedited Approval of its Smart Meter Technology Procurement and Installation Plan*, Commission Docket No. M-2009-2123951 (Aug. 14, 2009) (“Allegheny-West Penn Petition” or “Petition”); and *West Penn Power Company d/b/a Allegheny Power Smart Meter Technology Procurement and Installation Plan*, Commission Docket No. M-2009-2123951 (Aug. 14, 2009) (the “Smart Meter Plan” or “Plan” or “SMIP”).

<sup>2</sup> *Implementation Order*, Commission Docket No. M-2009-2092655 (entered June 24, 2009) (“Implementation Order”).

Pursuant to the Procedural Schedule, direct testimony was submitted by intervening parties on October 16, 2009. Subsequently, rebuttal testimony was submitted by parties on October 27, 2009, and surrebuttal testimony was filed on November 3, 2009. Constellation submitted and circulated to parties only direct testimony for the Commission's consideration, in order to provide an analysis of the Smart Meter Plan.<sup>3</sup> Allegheny-West Penn submitted rebuttal testimony from John C. Ahr related to the issues raised by Constellation.<sup>4</sup>

A hearing was held on November 9, 2009, at which time pre-filed written testimony and exhibits were admitted into the record, and parties conducted cross-examination of witnesses.

### **III. DESCRIPTION OF WEST PENN'S PLAN**

As part of its Smart Meter Plan, Allegheny-West Penn discusses, generally, methods for customer's and third-party suppliers' ("TPSs") access to data and the types and frequency of data that will be available under the technologies rolled out through Allegheny-West Penn's Plan. Allegheny-West Penn in its Plan, however, provides only limited details surrounding these topics that are particularly important to Electric Generation Suppliers ("EGSs") and other TPSs.

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

#### **A. OVERVIEW OF ARGUMENT**

Constellation herein responds only to issues under Section V.A.3. of the common brief outline agreed to by parties to this proceeding, which topic deals with "Smart Meter and Data Access," and particularly "Customer and Third-Party Access." The lack of details with respect to these topics represents the sole issue that Constellation addresses. Constellation submits that it is critical that each electric distribution company's ("EDC") Smart Meter plan includes

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<sup>3</sup> See *Direct Testimony of David I. Fein on Behalf of Intervenors Constellation Energy Commodities Group, Inc. and Constellation NewEnergy, Inc.*, Commission Docket No. M-2009-2123951 (Oct. 16, 2009) ("Constellation St. 1").

<sup>4</sup> See *Rebuttal Testimony of John C. Arr on Behalf of West Penn Power Company d/b/a Allegheny Power*, Commission Docket No. M-2009-2123951 (Oct. 26, 2009) ("AP Statement No. 2-R").

sufficient detail with respect to: (a) how a customer and/or its EGS or other TPSs will access data; and (b) what specific frequencies, types and formats of data will be provided through such EDC's Smart Meters. Adopting Constellation's suggested improvements with respect to each of these topics will best ensure that Allegheny-West Penn's Smart Meter Plan is likely to effectively meet the goals of the Commission's Implementation Order and *Act 129 of 2008* ("Act 129"),<sup>5</sup> and will be in the public interest.

## **B. APPLICABLE LEGAL STANDARDS**

### **1. BURDEN OF PROOF**

Section 332(a) of the Public Utility Code, 66 Pa.C.S. § 332(a), provides that the party seeking a rule or order from the Commission has the burden of proof in that proceeding. Further, it is axiomatic that "[a] litigant's burden of proof before administrative tribunals as well as before most civil proceedings is satisfied by establishing a preponderance of evidence which is substantial and legally credible."<sup>6</sup>

### **2. STANDARDS APPLICABLE TO SMART METER PLANS**

The requirements for EDCs' Smart Meter technology Implementation Plans can be found in the Commission's June 2009 Implementation Order and Act 129's revisions to Section 2807, *Duties of Electric Distribution Companies*, of Title 66 of the Pennsylvania Consolidated Statutes (66 Pa.C.S. § 2807). With respect to Smart Meter technology and its capabilities for data access, forms and frequency in each EDC's plan, Act 129 provides that Smart Meter technology:

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<sup>5</sup> *Press Release, Governor Rendell Signs Energy Conservation Bill to Save Consumers Millions on Electricity; Urges Legislature to Pass Rate Mitigation Bill*, Pennsylvania Office of the Governor (Oct. 15, 2008) ([http://www.portal.state.pa.us/portal/server.pt?open=512&objID=2999&PageID=431162&mode=2&contentid=http://pubcontent.state.pa.us/publishedcontent/publish/global/news\\_releases/governor\\_s\\_office/news\\_releases/governor\\_rendell\\_signs\\_energy\\_conservation\\_bill\\_to\\_save\\_consumers\\_millions\\_on\\_electricity\\_urgues\\_legislature\\_to\\_pass\\_rate\\_mitigation\\_bill.html](http://www.portal.state.pa.us/portal/server.pt?open=512&objID=2999&PageID=431162&mode=2&contentid=http://pubcontent.state.pa.us/publishedcontent/publish/global/news_releases/governor_s_office/news_releases/governor_rendell_signs_energy_conservation_bill_to_save_consumers_millions_on_electricity_urgues_legislature_to_pass_rate_mitigation_bill.html)).

<sup>6</sup> *Samuel J. Lansberry, Inc. v. Pa. PUC*, 578 A. 2d 600, 602 (Pa. Cmwlth. 1990).

- (a) “means technology, including metering technology and network communications technology capable of bidirectional communication, that records electricity usage on at least an hourly basis, including related electric distribution system upgrades to enable the technology;”<sup>7</sup>
- (b) “shall provide customers with direct access to and use of price and consumption information;”<sup>8</sup> and
- (c) “shall also:
  - (1) Directly provide customers with information on their hourly consumption.
  - (2) Enable time-of-use rates and real-time price programs.
  - (3) Effectively support the automatic control of the customer's electricity consumption by one or more of the following as selected by the customer:
    - (i) the customer;
    - (ii) the customer's utility; or
    - (iii) a third party engaged by the customer or the customer's utility.”<sup>9</sup>

With respect to these same issues, the Commission’s Implementation Order provides additional details, laying out, in part, that “[t]he Commission believes that the smart meter capability requirements set out in Act 129 are minimal requirements,”<sup>10</sup> and that:

a covered EDC’s smart meter technology *must* support the following capabilities:

1. Bidirectional data communications capability.
2. Remote disconnection and reconnection.
3. Ability to provide 15 minute or shorter interval data to customers, EGSs, third parties and the regional transmission organization

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<sup>7</sup> Act 129 at 66 Pa.C.S. § 2807(g).

<sup>8</sup> Act 129 at 66 Pa.C.S. § 2807(g).

<sup>9</sup> Act 129 at 66 Pa.C.S. § 2807(g).

<sup>10</sup> Implementation Order at p.16.

(“RTO”) on a daily basis, consistent with the data availability, transfer and security standards adopted by the RTO.

4. A minimum of hourly reads delivered at least once per day.
5. On board meter storage of meter data that complies with nationally recognized non proprietary standards such as ANSI C12.19 and C12.22 tables.
6. Open standards and protocols that comply with nationally recognized non proprietary standards, such as IEEE 802.15.4.
7. Ability to upgrade these minimum capabilities as technology advances and becomes economically feasible.
8. Ability to monitor voltage at each meter and report data in a manner that allows EDC to react to the information.
9. Remote programming capability.
10. Communicate outages and restorations.
11. Ability to support net metering of customer generators.
12. Support automatic load control by EDC, customer and third parties, with customer consent.
13. Support time of use and real time pricing programs.
14. Provide customer direct access to consumption and pricing information.<sup>11</sup>

## **V. ARGUMENT**

### **A. ACT 129 SMIP REQUIREMENTS**

#### **1. DEPLOYMENT SCHEDULE**

##### **a. COMPANY PROPOSAL**

Constellation offers no position on this issue.

##### **b. OTHER PARTIES' POSITIONS**

Constellation offers no position on this issue.

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<sup>11</sup> Implementation Order at pp.16-17 (*emph. added*).

**2. SMART METER CAPABILITIES AND RELATED TECHNOLOGIES**

**a. COMPANY PROPOSAL**

Constellation offers no position on this issue.

**b. USE OF IN-HOME DISPLAYS/DEVICES (IHDS)**

Constellation offers no position on this issue.

**c. REMOTE DISCONNECTION**

Constellation offers no position on this issue.

**d. PREPAYMENT SERVICE**

Constellation offers no position on this issue.

**3. SMART METER AND DATA ACCESS**

**a. COMPANY PROPOSAL**

As described above, as part of its Smart Meter Plan, Allegheny-West Penn discusses only generally the methods for customers' and TPSs' access to data and the types and frequency of data that will be available under the technologies rolled out through Allegheny-West Penn's Plan. Allegheny-West Penn provided only limited details surrounding these topics in its Plan. However, as described in more detail herein, Allegheny-West Penn's rebuttal testimony in this proceeding provided additional details and/or commitments with respect to certain of these deficiencies.

**b. CUSTOMER AND THIRD-PARTY ACCESS**

Act 129 and the Commission's Implementation Order specifically lay out requirements and goals for all EDCs' Smart Meter technologies, including the way in which customers and their TPS designees may access data, and the granularity of the data that can be accessed. For instance, Act 129 states that Smart Meter technologies must provide "direct access to and use of

price and consumption information,”<sup>12</sup> and must “[d]irectly provide customers with information on their hourly consumption.”<sup>13</sup> The Implementation Order adds that Smart Meter technology implemented by an EDC must include the “[a]bility to provide 15 minute or shorter interval data to customers, EGSs, third parties and the [RTO] on a daily basis,”<sup>14</sup> and must be able to provide “[a] minimum of hourly reads delivered at least once per day.”<sup>15</sup> Moreover, the Implementation Order makes clear that these are only “minimum capabilities” and suggests that Smart Meters should provide additional capabilities if it is technologically and economically feasible.<sup>16</sup>

*(1) EGSS' AND OTHER TPSS' ACCESS TO CUSTOMER DATA FROM ALLEGHENY-WEST PENN'S SMART METERS*

Act 129 and the Commission’s Implementation Order specifically lay out requirements and goals for all EDCs’ Smart Meter technologies, including the way in which customers and their TPS designees may access data, and the granularity of the data that can be accessed. For instance, Act 129 states that Smart Meter technologies must provide “direct access to and use of price and consumption information,”<sup>17</sup> and must “[d]irectly provide customers with information on their hourly consumption.”<sup>18</sup> The Implementation Order adds that Smart Meter technology implemented by an EDC must include the “[a]bility to provide 15 minute or shorter interval data to customers, EGSs, third parties and the [RTO] on a daily basis,”<sup>19</sup> and must be able to provide

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<sup>12</sup> Act 129 at 66 Pa.C.S. § 2807(g).

<sup>13</sup> Act 129 at 66 Pa.C.S. § 2807(g).

<sup>14</sup> Implementation Order at pp.16-17.

<sup>15</sup> Implementation Order at pp.16-17.

<sup>16</sup> Implementation Order at pp.16-17 (stating that EDCs should be able “to upgrade these minimum capabilities as technology advances and becomes economically feasible”).

<sup>17</sup> Act 129 at 66 Pa.C.S. § 2807(g).

<sup>18</sup> Act 129 at 66 Pa.C.S. § 2807(g).

<sup>19</sup> Implementation Order at pp.16-17.

“[a] minimum of hourly reads delivered at least once per day.”<sup>20</sup> Moreover, the Implementation Order makes clear that these are only “minimum capabilities” and suggests that Smart Meters should provide additional capabilities if it is technologically and economically feasible.<sup>21</sup>

Through direct testimony, Constellation – as an EGS and TPS familiar with retail customers’ needs as they shop and look for new and well-tailored products – sought additional detail with respect to data access and frequency, and provided suggestions as to the level of granularity that Allegheny-West Penn’s Smart Meters should provide to customers in order to empower them in a developing competitive marketplace. Through additional testimony, it became clear that Allegheny-West Penn’s Smart Meter Plan included some of these capabilities, but that it failed to provide certain valuable characteristics that could benefit Allegheny-West Penn’s customers.

Adopting Allegheny-West Penn’s Smart Meter Plan, as clarified in AP Statement No. 2-R, along with Constellation’s limited and narrow suggested improvements, will be in the public interest.

*(a) The Commission should approve the electronic access capabilities of the Smart Meter Plan, as clarified by Allegheny-West Penn witness Ahr*

Act 129 and the Implementation Order both require that Smart Meter technology provide Allegheny-West Penn’s customers with direct access to and use of price and consumption information.<sup>22</sup> Constellation witness David I. Fein recommends that “any Smart Meter Plan should allow a customer to electronically grant access to [TPSs] that are registered with the

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<sup>20</sup> Implementation Order at pp.16-17.

<sup>21</sup> Implementation Order at pp.16-17 (stating that EDCs should be able “to upgrade these minimum capabilities as technology advances and becomes economically feasible”).

<sup>22</sup> See Act 129 at 66 Pa.C.S. § 2807(g) (stating that Smart Meter technology “shall provide customers with direct access to and use of price and consumption information”); see also Implementation Order at p.17 (stating that Smart Meter technology should “[p]rovide customer direct access to consumption and pricing information”).

[EDC] through some sort of pre-registration process,”<sup>23</sup> and expects that through Allegheny-West Penn’s Plan, “customers’ EGSs or other [TPSSs] will be allowed to *directly* utilize Allegheny-West Penn’s ‘web portal’ to obtain the customers’ data . . . .”<sup>24</sup>

With respect to the first of these points, Allegheny-West Penn witness John C. Ahr explains that:

[Constellation’s] proposed pre-registration process sounds reasonable as long as the EGS is licensed as a Retail Supplier in Pennsylvania and is a registered with [Allegheny-West Penn] to do business in PA. [Allegheny-West Penn] would prefer a common agreement regarding third party access to customer data among all EDCs and EGSs, as the parties have done similarly for customer choice requirements in [Pennsylvania].<sup>25</sup>

In addition, Mr. Ahr confirms that Allegheny-West Penn “will provide the required customer and authorized party access to Smart Meter data and meters through its web portal.”<sup>26</sup>

As Allegheny-West Penn’s Smart Meter Plan was unclear on these details, but Allegheny-West Penn has provided necessary clarification and agreement to these points through its testimony, Constellation asks that the Commission approve these aspects of the Smart Meter Plan as clarified and proposed by Allegheny-West Penn. Constellation proposes the following three (3) Ordering Paragraphs:

The Commission hereby **APPROVES** Allegheny-West Penn’s proposal to work with EGSs to develop a pre-registration process for EGSs that are licensed as retail suppliers in Pennsylvania and that are registered with Allegheny-West Penn to do business in the Commonwealth, as agreed to by Allegheny-West Penn in AP Statement No. 2-R at p.6 (lines 4-9).

The Commission hereby **APPROVES** Allegheny-West Penn’s proposal to work with EGSs to develop a common agreement regarding third party access to customer data among all EDCs and EGSs, as the parties have done similarly for customer choice requirements in the Commonwealth, as

<sup>23</sup> Constellation St. 1 at pp.6 (line 21) – 7 (line 1).

<sup>24</sup> Constellation St. 1 at p.7 (lines 4-6).

<sup>25</sup> AP Statement No. 2-R at p.6 (lines 4-9).

<sup>26</sup> AP Statement No. 2-R at p.6 (lines 18-20).

agreed to by Allegheny-West Penn in AP Statement No. 2-R at p.6 (lines 4-9).

The Commission hereby **APPROVES** the electronic access provisions of the Smart Meter Plan, as clarified in AP Statement No. 2-R at p.6 (lines 18-20).

*(b) The Commission should require Allegheny-West Penn to provide for all Commercial and Industrial customers 15-minute interval data updated and made available on an hourly basis or, at a minimum, on a daily (24-hour) basis*

The Implementation Order states specifically that each EDC's Smart Meter technology must support the:

[a]bility to provide 15 minute or shorter interval data to customers, EGSs, third parties and the [RTO] on a daily basis, consistent with the data availability, transfer and security standards adopted by the RTO.<sup>27</sup>

In addition, the Commission states that such technology should provide “[a] minimum of hourly reads delivered at least once per day,”<sup>28</sup> and that Smart Meters should provide additional capabilities – over and above these requirements – if it is technologically and economically feasible.<sup>29</sup>

It seems clear, then, that a minimum, the Implementation Order requires that Allegheny-West Penn's Smart Meter Plan provide for the implementation of Smart Meters that “provide 15 minute . . . interval data . . . on a daily basis,” as noted above. While a commitment to this requirement was not apparent to Constellation in the Plan, Allegheny-West Penn witness Ahr provided necessary clarification, affirming that:

[Allegheny Power] is compliant with the directive on the ability to provide 15 minute or shorter interval data to customers, EGSs, third parties and the

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<sup>27</sup> Implementation Order at p.16.

<sup>28</sup> Implementation Order at p.16.

<sup>29</sup> Implementation Order at pp.16-17 (stating that EDCs should be able “to upgrade these minimum capabilities as technology advances and becomes economically feasible”).

regional transmission organization ("RTO) on a daily basis . . . [and] will provide the usage data within 24 hours of its capture by the Smart Meter.<sup>30</sup>

The Commission should approve this aspect of Allegheny-West Penn's plan, as it is in the public interest to provide this 15-minute interval data access to customers on a daily basis, at a minimum.

With respect to the timeliness of making such 15-minute interval data available, though, Constellation witness Fein explains in detail why 15-minute data on an *hourly* basis is important to all sizes of Commercial and Industrial ("C&I") customers, and provides evidence as to why going beyond the Implementation Order's minimum frequency – providing 15-minute data *on an hourly basis* rather than only on the Commission's minimum *daily* basis recommendation – is also in the public interest for C&I customers. Specifically, Mr. Fein explains that:

In today's competitive business environment, all sizes of [C&I] customers are thinking about energy as a strategic asset integral to every aspect of the bottom line. The capacity to actively monitor and manage usage and adjust operations accordingly reflects the increasingly sophisticated energy strategies now available. Load response solutions, for instance, are particularly attractive to businesses that have already invested in intelligent building designs, and wish to leverage the full spectrum of the energy chain to maximize these energy investment decisions. [Constellation] and other EGSs are helping customers adapt successfully to this new energy paradigm and positioning them to make the most of the opportunity to participate in the emerging energy marketplace of the 21st Century. Overlaying Smart Meter technologies onto existing open platforms makes it possible to more successfully harness and shape load whether the load is distributed across a single facility, college campus, or retail chain with multiple locations throughout a large geographic area. This ability to shift and shape load across multiple buildings is going to reveal itself to be the smartest and most efficient way to create the virtual peaking plants and intelligent buildings of the greener energy grid of the future. Innovations of this magnitude in our built environment, by virtue of its role in consumption, have the potential to shift our understanding of energy generation, demand and load allocation in an entirely new direction. This shift in direction, however, while *possible* is only *likely* to occur if the proper access to data is available to customers and their EGSs

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<sup>30</sup> AP Statement No. 2-R at p.7 (lines 9-14).

in quick, easy and straightforward manners, and if the data provided by such new Smart Meter technologies is as specific and frequent as possible.<sup>31</sup>

This is consistent with the Commission's own statements in the Implementation Order, recognizing that it is important to think beyond Act 129's minimum requirements, because:

smart meter technology can support more than demand response and pricing programs. Smart meters have the ability to support maintenance and repair functions, theft detection, system security, consumer assistance programs, customer generator net metering, and other programs that increase an EDC's efficiencies and reduce operating costs.<sup>32</sup>

In this way, while providing 15-minute data *on a daily basis at a minimum* will encourage new innovation and efficiencies in energy use, going beyond this minimum in order to provide such 15-minute data *on an hourly basis* will go even further to allow all C&I customers to take advantage of new energy infrastructure and shape new energy and resource management innovation. Allegheny-West Penn and its witness Mr. Ahr did not address this proposal by Constellation.

As Constellation has provided sufficient evidence to support going beyond the Implementation Order's *minimum* goal, which evidence has not been rebutted, Constellation proposes the following Ordering Paragraph:

The Commission hereby **ORDERS** Allegheny-West Penn to revise its Smart Meter Plan to provide to all Commercial and Industrial customers and their designated EGSs and TPSs 15-minute interval data on an hourly basis.

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<sup>31</sup> Constellation St. 1 at pp.8 (line 14) – 9 (line 12).

<sup>32</sup> Implementation Order at p.16.

Alternatively, if the Commission does not move to require Allegheny-West Penn to provide 15-minute data on an hourly basis, despite the evidence in the record, Constellation proposes the following Ordering Paragraph:

The Commission hereby **APPROVES** the Allegheny-West Penn Plan's provision of 15-minute interval data on a daily (24-hour) basis, as clarified in AP Statement No. 2-R at p.7 (lines 9-14).

*(2) DEFAULT SERVICE WHOLESAL SUPPLIER ACCESS TO UP-TO-DATE, AGGREGATE, CLASS-BY-CLASS DATA DURING AND AFTER ALLEGHENY-WEST PENN'S SMART METER PLAN IMPLEMENTATION*

With respect to the Smart Meter requirements under Act 129, Governor Rendell's office explains that:

A smart meter gives consumers the information they need to better control their energy consumption, such as the current cost of power or whether they are in a peak rate period. Armed with this information, consumers can choose to use energy when it is cheapest and cut back at times when it is most expensive.<sup>33</sup>

In this way, as Constellation witness Fein explains, "it is clear that one intention of Smart Meter proliferation is to *change* the way that consumers use energy from the manner in which they typically may use it today – i.e., to change customers' usage patterns and profiles."<sup>34</sup> In order to help Allegheny-West Penn's Default Service suppliers to best predict and accordingly plan for new patterns in energy usage, Mr. Fein recommended "that Allegheny-West Penn provide to such suppliers the most up-to-date and accurate information available with respect to both its progress in implementing its Smart Meter Plan," and the amount of energy used by each

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<sup>33</sup> See Constellation St. 1 at pp.9-10 (quoting *Governor Rendell Signs Energy Conservation Bill to Save Consumers Millions on Electricity; Urges Legislature to Pass Rate Mitigation Bill*, Press Release, Pennsylvania Office of the Governor (issued Oct. 15, 2008)).

<sup>34</sup> Constellation St. 1 at p.10 (lines 14-16).

customer class – in the aggregate.<sup>35</sup> Specifically, Constellation recommended that Allegheny-West Penn provide:

- Monthly updates on the numbers of Smart Meters installed by customer class pursuant to Allegheny-West Penn’s Smart Meter Plan; and
- As soon in time as possible, but no later than after 48 hours (as required under the Implementation Order with respect to customer access to Smart Meter data), validated aggregate customer consumption data, by customer class, for every hour of every day.<sup>36</sup>

In response to Mr. Fein’s suggestions, Allegheny-West Penn witness Ahr stated that “[p]roviding monthly updates on the number of smart meters installed appears reasonable,”<sup>37</sup> and suggested that:

the EDCs, Constellation and other EGSs form a working group to address this issue and others associated with data access by third parties so a uniform and consistent process can be followed across the Commonwealth so as not to burden consumers with added expenses by EDCs and EGSs having to follow unique procedures.<sup>38</sup>

In light of Allegheny-West Penn witness Ahr’s testimony, Constellation asks that the Commission approve these two proposals agreed to and suggested by Allegheny-West Penn and proposes the following two (2) Ordering Paragraphs:

The Commission hereby **APPROVES** Constellation’s proposal and **ORDERS** Allegheny-West Penn to revise its Plan in order to provide monthly updates on the number of Smart Meters installed, as agreed to by Allegheny-West Penn in AP Statement No. 2-R at p.8 (line 9).

The Commission hereby **APPROVES** Allegheny-West Penn’s proposal to form a working group to address issues associated with data access by Default Service suppliers, EGSs and other third parties so that a uniform and consistent process can be followed across the Commonwealth, as

<sup>35</sup> Constellation St. 1 at pp.10 (line 23) – 11 (line 4).

<sup>36</sup> Constellation St. 1 at p.11 (lines 13-18).

<sup>37</sup> AP Statement No. 2-R at p.8 (line 9).

<sup>38</sup> AP Statement No. 2-R at p.8 (lines 3-7).

agreed to by Allegheny-West Penn in AP Statement No. 2-R at p.8 (lines 3-7).

**c. SECURITY AND PRIVACY**

Constellation offers no position on this issue.

**B. COST ISSUES**

**1. REASONABLENESS/PRUDENCY**

**a. COMPANY POSITION**

Constellation offers no position on this issue.

**b. TOTAL BENEFITS AND COSTS**

Constellation offers no position on this issue.

**c. INDIVIDUAL PLAN COMPONENT COSTS (INCLUDING IHDS)**

Constellation offers no position on this issue.

**d. LOW INCOME IMPACT**

Constellation offers no position on this issue.

**2. COST ALLOCATION**

**a. COMPANY PROPOSAL (INCLUDING SINGLE VERSUS THREE PHASE NON-RESIDENTIAL PROPOSAL)**

Constellation offers no position on this issue.

**b. COST OF SERVICE STUDY**

Constellation offers no position on this issue.

**c. ALLOCATION OF JOINT AND COMMON COSTS**

Constellation offers no position on this issue.

**d. ALLOCATION OF COSTS TO WV AND MD**

Constellation offers no position on this issue.

**3. RATE DESIGN**

**a. COMPANY PROPOSAL, INCLUDING VARIABLE RATE PROPOSAL REGARDING RESIDENTIAL CUSTOMERS**

Constellation offers no position on this issue.

**b. COST OF SERVICE STUDY**

Constellation offers no position on this issue.

**4. REVENUE REQUIREMENT**

**a. COMPANY PROPOSAL**

Constellation offers no position on this issue.

**b. RATE OF RETURN**

Constellation offers no position on this issue.

**c. METER ASSET LIFE**

Constellation offers no position on this issue.

**d. RECOVERY OF STRANDED INVESTMENT**

Constellation offers no position on this issue.

**e. CAPITAL STRUCTURE**

Constellation offers no position on this issue.

**f. COST RATE FOR DEBT AND PREFERRED STOCK**

Constellation offers no position on this issue.

**5. INTEREST**

**a. COMPANY PROPOSAL**

Constellation offers no position on this issue.

**b. INTEREST FOR OVER- AND UNDER-COLLECTIONS**

Constellation offers no position on this issue.

**c. APPLICABLE RATE AND COMPUTATION OF RATE**

Constellation offers no position on this issue.

**d. ONE DIRECTIONAL INTEREST**

Constellation offers no position on this issue.

**e. DEFERRAL**

Constellation offers no position on this issue.

**6. COST RECOVERY MECHANISM REVIEW PROCESS**

**a. ANNUAL REVIEW SCHEDULE PROPOSED BY OTS**

Constellation offers no position on this issue.

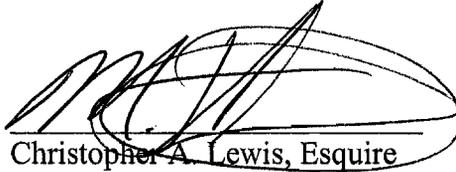
**b. QUARTERLY UPDATES PROPOSED BY OTS**

Constellation offers no position on this issue.

**VI. CONCLUSION**

Allegheny-West Penn's Smart Meter Plan, including Constellation's proposed improvements to data access and frequency herein, is supported by substantial evidence in the record before the Commission. The Smart Meter Plan, coupled with improved access to and frequency of customer data, will encourage customers to adapt successfully to the new energy paradigm in the Commonwealth and, in turn, will better assure that Allegheny-West Penn's customers are well positioned to make the most of the opportunity to participate in the emerging energy marketplace of the 21<sup>st</sup> Century.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'C. Lewis', is written over a horizontal line. The signature is enclosed within a hand-drawn oval shape.

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*On Behalf of Intervenors Constellation Energy  
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December 18, 2009

## CERTIFICATE OF SERVICE

I hereby certify that this day I have served a true copy of the foregoing Main Brief of Constellation Energy Commodities Group, Inc. and Constellation NewEnergy, Inc. upon the persons listed below in the manner indicated in accordance with the requirements of 52 Pa. Code § 1.54.

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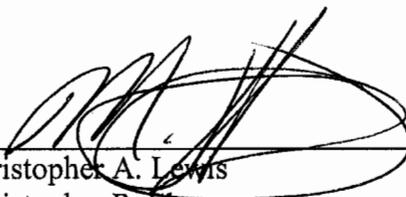
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