

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

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December 31, 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 Expedited
Approval of its Smart Meter Technology
Procurement and Installation Plan
Docket No. M-2009-2123951

Dear Secretary McNulty:

Enclosed for filing is the Answer 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 "Tanya J. McCloskey".

Tanya J. McCloskey
Senior Assistant Consumer Advocate
PA Attorney I.D. # 50044

cc: Honorable Mark A. Hoyer
Office of Special Assistants

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of West Penn Power Company	:	
d/b/a Allegheny Power For	:	Docket No. M-2009-2123951
Expedited Approval Of Its Smart Meter	:	
Technology and Installation Plan	:	

ANSWER OF THE
OFFICE OF CONSUMER ADVOCATE

On December 18, 2009, West Penn Power Company d/b/a Allegheny Power (Allegheny Power or the Company) filed with the Pennsylvania Public Utility Commission (Commission) its Petition to Modify a Prior Commission Order and to Reopen the Evidentiary Record (Petition). The Company seeks to place “limited additional evidence” into the record and requests an extension of the due date for the ALJ’s Recommended Decision in this matter as previously set by the Commission’s June 24, 2009 Smart Meter Procurement and Installation Implementation Order. Petition at 1; Smart Meter Procurement and Installation, Docket No. M-2009-2092655 (Order entered June 24, 2009)(Smart Meter Implementation Order). The Smart Meter Implementation Order required that the Administrative Law Judge issue a Recommended Decision on the Smart Meter Installation and Procurement Plan by no later than January 29, 2010. Smart Meter Implementation Order at 4.

The OCA fully supports Allegheny Power’s request to reopen the record as part of its efforts to develop a more reasonable Smart Meter Procurement and Installation Plan (SMIP or Plan) that fully addresses the concerns raised by the parties in this case. The OCA submits, however, that the Company’s proposed schedule does not provide adequate time for the

intervening parties to properly analyze the Company's modified plan and prepare testimony. The schedule must be extended to allow for a thorough and reasoned consideration of the revised Plan.

In its Petition, Allegheny Power requests, pursuant to 52 Pa. Code §§ 5.572 and 5.431, modification of the date for the ALJ's Recommended Decision as set by the Commission's Smart Meter Implementation Order and that the Commission accept additional evidence into the record. Petition at ¶ 5. Given the circumstances of this case, and the significant issues raised by the OCA and other parties with Allegheny Power's Plan, the OCA fully supports Allegheny Power's proposal to develop a revised Plan and to reopen the record to present the revised Plan. Although Allegheny Power states that it proposes the admission of "limited additional evidence," the OCA submits that a review of the brief description contained in the Company's Petition reveals that the Company is proposing significant changes to its SMIP Plan. Of particular note, Allegheny Power proposes to modify several critical areas of its Plan including Smart Meter Deployment; deployment of In-Home Devices; Asset Book Lives; Return on Equity; and the SMT Surcharge Amount. Petition at ¶¶ 11-17. Allegheny Power states that the Company also plans to indicate a willingness to file a back-up plan in its Energy Efficiency and Conservation Plan (EE&C Plan) compliance filing at Docket No. M-2009-2093218.¹ Allegheny Power avers that this back-up plan would be less reliant upon Smart Meters. Petition at ¶ 8.

The OCA welcomes these changes, but submits that these significant changes will need to be thoroughly evaluated and considered by the parties. Moreover, the OCA submits that additional changes will be needed in order to ensure that Allegheny Power's revised Plan does

¹ Allegheny Power's EE&C Plan compliance filing was made on December 18, 2009 and Comments by the parties are due by January 8, 2010.

not impose unreasonable costs on consumers and is consistent with the requirements of Act 129. The potential impacts of Allegheny Power's alternative proposal must be explored, and the OCA must evaluate the Company's alternative proposal in terms of the OCA's overall concerns regarding Allegheny Power's original Plan. While several of the changes identified by the Company are clearly intended to address concerns raised by the OCA regarding Allegheny Power's SMIP, these changes alone do not address all of the OCA's concerns with the Company's original Plan.

The OCA submits that the Company's proposed schedule for the reopened proceeding is not sufficient given the complexity of these matters. The Company has provided itself with six weeks from the filing of its Petition to prepare its additional evidence. Yet the Company allows only 17 days for the intervening parties to respond to this evidence. During the 17 day period allotted in the Company's schedule, the parties will have to conduct discovery, evaluate the new plan, and prepare testimony. This time frame is inadequate given the magnitude and complexity of the proposed changes as well as the additional changes that may be required. The OCA submits that the intervening parties should be given a period of no less than six weeks to conduct discovery and prepare testimony responding to the Company's revised SMIP.²

At this juncture, the OCA recommends that the Commission return this matter to ALJ and establish a date for the filing of the Company's evidence that is no later than the January 29, 2010 date proposed by the Company and establish a due date for the ALJ's Recommended Decision that is no earlier than mid-May of 2010. The ALJ and the parties can

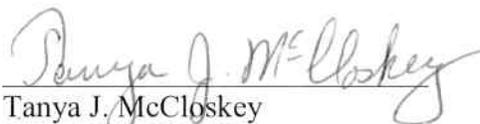
² Section 2807(f) of Act 129 does not provide a statutory timeline by which the Commission must complete its review of the Smart Meter Plans unlike the statutory 120-day time frame for review of the energy efficiency and conservation plans under Section 2806.1. Given the magnitude of the costs and the complexity of the issues, the OCA submits that it is important that the parties have adequate time to review this proposal.

then develop an appropriate schedule that meets all parties' needs with this additional time. Such schedule should allow at least six weeks for the intervening parties to conduct their review of the revised SMIP and prepare their response.

The OCA also notes that it is willing and anxious to continue to engage in good faith settlement negotiations that are enabled by the necessary exchange of information while the Company prepares its additional evidence and while the reopened proceeding continues. The OCA supports the Commission's Smart Meter Implementation Order that encouraged the use of a collaborative approach to the development of the smart meter plans. As evidenced by Allegheny Power's Petition, some progress was made through the settlement process, but time did run short. The reopening of the record and continued good faith negotiations may provide the best resolution possible of this difficult proceeding.

WHEREFORE, the Office of Consumer Advocate supports Allegheny Power's request to re-open the record and extend the due date for the ALJ's Recommended Decision. The Office of Consumer Advocate respectfully requests, however, that adequate time for review be permitted to allow for thorough analysis of the Company's revised Smart Meter Procurement and Installation Plan, for the preparation of testimony, and for the preparation of a Recommended Decision.

Respectfully submitted,



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DATE: December 31, 2009
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CERTIFICATE OF SERVICE

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

I hereby certify that I have this day served a true copy of the foregoing document, the Answer 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 31st day of December 2009.

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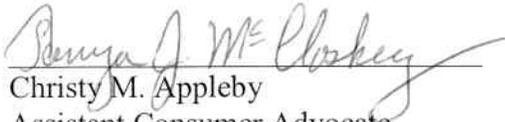
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