

May 10, 2010

Rosemary Chiavetta, 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 Secretary Chiavetta:

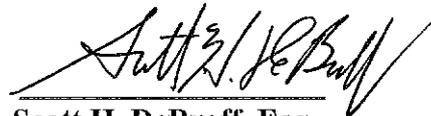
Enclosed herewith please find an original copy of the “**Comments on Behalf of EnerNOC, Inc.**” in the above captioned proceeding. This document has been electronically filed through the PUC’s efilings system. Please enter this into the docket and timestamp the additional two (2) copies.

Should you have any questions, please do not hesitate to contact me at (717) 237-6716.

Sincerely,

RHOADS & SINON LLP

By:

  
Scott H. DeBroff, 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

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**COMMENTS ON BEHALF OF ENERNOC, INC.**

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**DATED: MAY 10, 2010**

**COUNSEL FOR ENERNOC, INC.**

**COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PETITION OF WEST PENN POWER  
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**COMMENTS ON BEHALF OF ENERNOC, INC.**

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AND NOW COMES, **EnerNOC, Inc.** ("EnerNOC"), a leading demand response ("DR") and energy management services provider throughout the United States, by and through its counsel, **Scott H. DeBroff, Esquire** and **Alicia R. Petersen, Esquire** of Rhoads & Sinon LLP, for the purpose of these "Comments" with respect to this proceeding before the Commonwealth of Pennsylvania Public Utility Commission ("PUC" or the "Commission"). In support of this docket, EnerNOC avers the following:

1. On July 1, 2009 Allegheny Power filed its Petition for Approval of its Act 129 Energy Efficiency and Conservation Plan with the Pennsylvania Public Utility Commission ("Commission") pursuant to the January 16, 2009 Implementation Order in Docket M-2009-2093218.

2. On August 3, 2009 EnerNOC filed a Petition to Intervene in this proceeding. On August 7, 2009, EnerNOC filed its initial comments to this proceeding.

3. On August 31, 2010 EnerNOC filed its Main Brief in this matter and on September 10, 2010 EnerNOC filed its Reply Brief in this matter.

4. On March 1, 2010, an Order was entered by the Public Utilities Commission approving in part and rejecting in part the Revised Energy Efficiency and Conservation Plan that was filed on December 21, 2009, by West Penn Power Company d/b/a Allegheny Power.

5. Allegheny Power was directed to file a further revised Energy Efficiency and Conservation Plan within sixty (60) days of the entry of the March 1, 2010 Order, with parties having ten (10) days to file comments on the revised portions of the Energy Efficiency and Conservation Plan, with reply comments due ten (10) days thereafter.

6. Allegheny Power filed its revised Energy Efficiency and Conservation Plan on April 30, 2010.

7. EnerNOC is the largest demand response provider in the world and currently manages over 4,350 MW of demand response resource capability from over 3,100 customers across 7,200 sites nationwide. As an active demand response provider across all Independent System Operators (“ISO”) or Regional Transmission Organizations (“RTOs”) in the United States and

numerous states with various statutory regulatory regimes, EnerNOC has a broad base of experience on which to draw from and as a result, has a unique perspective to offer in this proceeding.

8. EnerNOC operates specifically in the Commonwealth of Pennsylvania as a Curtailment Service Provider within the footprint of PJM Interconnection, L.L.C. ("PJM"). As a PJM Curtailment Service Provider, EnerNOC provides commercial, industrial and institutional organizations with demand response and energy efficiency services. A primary focus of EnerNOC's service is support for small to medium size commercial and small industrial and institutional customers. By letter dated July 2, 2009, the PUC also approved EnerNOC's Application to register as an Act 129 Conservation Service Provider.

9. EnerNOC has reviewed Allegheny's revised plan and appreciates the opportunity to submit the following comments to the plan.

## COMMENTS

10. EnerNOC appreciates the diligent efforts made by Allegheny to reach out to the Conservation Service Provider (CSP) community through stakeholder meetings. The revised plan filed on April 30, 2010 represents a significant improvement over the previous version and has the potential to meet the Company's peak demand reduction goals in a way that the previous version did not.

11. We remain concerned that the budget allocated to the Customer Resources Demand Response Program may be insufficient to attract the needed megawatts, but we understand that it is the Company's responsibility to determine program budgets and allocate funds. We understand that the Commission has consistently refrained from micro-managing the utilities' efforts to comply with the requirements of Act 129 and expect that the Company will be granted the latitude to revise program budgets as dictated by the evolving results of its programs.

12. EnerNOC supports the Revised Plan's reliance on market mechanisms to determine the prices that will be paid to CSPs in place of the previous administrative approach. Also, basing the payments to customers under the Customer Load Response Program on a competitively determined price (adjusted for marketing cost differences) is certain to lead to a more accurate and comparable result. EnerNOC also supports the Company's even-handed and comparable treatment of CSPs with respect to marketing the Customer Resources Demand Response Program.

13. Particularly important to the credibility of the program is Allegheny's proposal to impose penalties for non-performance. It is also our understanding that another critical element, financial assurances, will be required as part of the contracting process. This is another element we strongly support.

14. Credible nominations require the provider to stand behind its commitments. The Company faces significant financial penalties in the event that the demand reductions promised by CSPs do not appear. Requiring financial assurances and imposing penalties is essential. Not doing so exposes this entire enterprise to the risk of failure.

15. Having placed the burden of compliance squarely on the Company, the Commission cannot now force the Company to accept the risk of non-performance by CSPs without allowing it to mitigate that risk through reasonable security and penalty provisions.

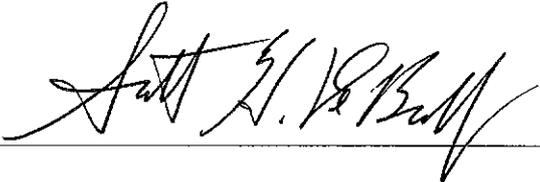
16. Allegheny's current proposal provides all CSPs with an equal opportunity to compete on a level playing field and EnerNOC supports it. Some CSPs may complain that they cannot post the required security or face the possibility of non-performance penalties. If so, it may be that these CSPs must have a role other than directly contracting with Allegheny.

17. The Commission's expression of support for competition should not be interpreted as a guarantee that every CSP, will receive a contract regardless of its ability to deliver a reliable resource at a competitive price. Those CSPs that cannot meet the performance provisions required by the Company will have the opportunity to negotiate to contract with whatever CSP(s)

are selected by the Company on commercially reasonable terms. Allegheny's goals are very aggressive and CSPs whose nominations are accepted will have need for every economic MW they can get.

Wherefore, EnerNOC appreciates the opportunity to participate in this docket and respectfully requests that its comments to Allegheny's revised EE&C plan be taken into consideration in this proceeding.

Respectfully submitted,

By: 

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**DATED: MAY 10, 2010**

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**COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PETITION OF WEST PENN POWER  
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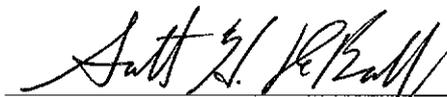
**CERTIFICATE OF SERVICE**

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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: **May 10, 2010**

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CERTIFICATE OF SERVICE - M-2009-2093218

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