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May 13, 2010

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VIA HAND DELIVERY

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
400 North Street - 2nd Floor
Commonwealth Keystone Building
Harrisburg, Pennsylvania 17120

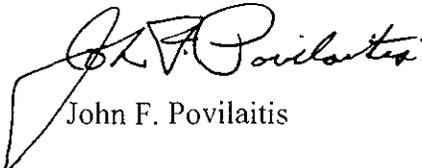
Re: Petition of West Penn Power Company d/b/a Allegheny Power for Expedited Approval of its Smart Meter Technology and Installation Plan, Docket No. M-2009-2123951

Dear Secretary Chiavetta:

Enclosed is the original and three (3) copies of the Petition to Stay the Exceptions Period filed on behalf of West Penn Power Company d/b/a Allegheny Power in the above-referenced proceeding. **Please note that Allegheny Power is requesting that the Answer period for this Petition be shortened to Tuesday, May 18, 2010, in view of the fact that Exceptions are due in this proceeding on May 26, 2010. An expedited ruling in this Petition is also requested.** Copies have been served on each of the parties to this proceeding as indicated on the attached Certificate of Service.

Thank you for your attention to this matter.

Very truly yours,


John F. Povilaitis

JFP:ck
Attachments

SECRETARY'S BUREAU
2010 MAY 13 PM 1:49
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- c. Certificate of Service
 - The Honorable James H. Cawley, Chairman
 - The Honorable Tyrone J. Christy, Vice Chairman
 - The Honorable Robert F. Powelson, Commissioner
 - The Honorable Wayne E. Gardner, Commissioner
 - Cheryl Walker Davis, Director, OSA

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

SECRETARY'S BUREAU

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PETITION TO STAY THE "EXCEPTIONS" PERIOD

TO THE HONORABLE THE MEMBERS OF THE PUBLIC UTILITY COMMISSION:

Pursuant to this Commission's regulations at 52 Pa. Code §§ 5.41 and 5.533(a), West Penn Power Company d/b/a Allegheny Power ("Allegheny Power" or the "Company") respectfully files this Petition in the above-captioned pending proceeding. Through this Petition, the Company seeks to stay the "exceptions" period for the Initial Decision issued by the Presiding Officer on May 6, 2010 ("I.D."). In short, a stay of the Commission's "exceptions" period is necessary and appropriate so that the parties may consider the impact of the proposed merger of Allegheny Power and its affiliates into FirstEnergy Corp ("FirstEnergy" and "Merger") on the Company's proposed Smart Meter Technology Procurement and Installation Plan ("SMIP"). Allegheny Power is authorized to state the following regarding the positions of the parties on this petition. The Office of Consumer Advocate, the Department of Environmental Protection and the West Penn Power Industrial Intervenors concur in this Petition. The Office of Trial Staff does not object to this Petition. Constellation takes no position on the Petition. The Office of Small Business Advocate has not authorized counsel for Allegheny Power to represent any position on its behalf regarding the Petition. ACORN has withdrawn from this case due to its corporate dissolution. In support of its Petition, Allegheny Power avers as follows:

I. Background

1. Allegheny Power is an electric public utility authorized to provide electric service in southwestern, south-central and northern Pennsylvania. The Company serves approximately 713,000 customers in Pennsylvania in an area of about 10,400 square miles with a population of approximately 1.5 million. The Company's corporate headquarters are in the City of Greensburg, Westmoreland County, Pennsylvania.

2. Act 129 of 2008 ("Act 129")¹ requires electric distribution companies with at least 100,000 customers in Pennsylvania to adopt a plan to reduce energy consumption and demand in their service territories.² On June 29, 2009, Allegheny Power filed its Energy Efficiency and Conservation and Demand Response ("EE&C/DR") Plan with the Commission. The EE&C/DR Plan measures, programs, and rate offerings will enable Allegheny Power customers to adjust their energy usage with the aim of reducing overall consumption and decreasing peak demand for electricity. Allegheny Power's EE&C/DR Plan was approved with minor revisions by the Commission, in an Order entered on October 23, 2009 at Docket No. M-2009-2093218.

3. Act 129 also requires filings with the Commission of implementation plans to address the installation of smart meters and associated smart meter technology. On August 14, 2009, Allegheny Power filed its SMIP with the Commission. The Smart Meter Implementation Order, entered by the Commission on June 24, 2009 at Docket No. M-2009-2092655, required the Office of Administrative Law Judge to issue recommendation decisions by no later than January 29, 2010.

¹ Act 129 became effective November 14, 2008.

² Act 129 requires a 1% reduction in energy consumption by May 31, 2011, a 3% reduction in energy consumption by May 31, 2013, and a 4.5% peak demand reduction by May 31, 2013.

4. On or about December 18, 2009, Allegheny Power filed with the Commission a Petition to Modify a Prior Commission Order and to Reopen the Evidentiary Record. With its Petition, the Company sought to modify the Commission's Smart Meter Implementation Order to extend the Recommended Decision due date and allow for the receipt of additional relevant, important evidence in this matter and to allow the Administrative Law Judge (ALJ) to issue one decision in this matter after receipt of that additional evidence and supplemental briefing.³

5. Specifically, Allegheny Power sought alternatives in the following plan areas: Smart Meter deployment, deployment of In-Home Devices ("IHDs"), Asset Book Lives, Return on Equity, and SMT Surcharge Amount. As indicated in the Petition and in the Company's subsequent Supplemental Direct Testimony, Allegheny Power sought to slow down the pace of Smart Meter deployment and to scale back the deployment of IHDs.⁴

6. By Secretarial Letter dated January 13, 2010, the Commission agreed to waive the requirement that an Initial Decision be rendered in this matter on or before January 29, 2010. The Commission then remanded the remaining issues in the Petition (including but not limited to the development of an appropriate procedural schedule) for disposition by the Presiding Officer.

7. The Presiding Officer subsequently adopted a revised litigation schedule for the receipt of supplemental testimony, supplemental briefing and an ALJ decision covering both the initial and supplemental phases of the case that was to culminate with an ALJ Initial Decision by April 23, 2010. The ALJ issued his Initial Decision on May 6, 2010, with exceptions due May 26, 2010 and Replies to Exceptions due June 7, 2010.

³ At the time of the Petition, the record in the proceeding was closed, and the briefing phase of the proceeding was under way, with main briefs due on December 18, 2009 and reply briefs due January 6, 2010. Of note, the ALJ extended the original briefing schedule to permit settlement negotiations among the active parties to the proceeding.

⁴ The term "IHD" when used by the Company includes three types of technologies: (1) the in-home display; (2) the programmable thermostat; and (3) the digital control unit.

II. Basis for Stay Request

8. The Commission's regulations at Sections 5.41 and 5.533 allow a party to petition the Commission to request an alternative "exceptions" period, including an indefinite stay of the "exceptions" period.

9. Here, a stay of the "exceptions" period is necessary and appropriate to allow the parties to consider the impact of a proposed Merger on the SMIP. As discussed in more detail below, the FirstEnergy Pennsylvania electric distribution operating companies (Penn Power Company, Pennsylvania Electric Company, and Metropolitan Edison Company) are taking maximum advantage of the grace period for installation of Smart Meters and do not contemplate beginning to install Smart Meters until 2016. In contrast, Allegheny Power proposed to install a large numbers of Smart Meters during the grace period, and the ALJ in the I.D. approved a plan that permits the installation of 375,000 Smart Meters by mid-2012. In view of the Companies' proposal to merge their operations, serious consideration should be given to re-evaluating the timing of Allegheny Power's installation of Smart Meters so that inefficiencies are avoided and potential cost savings for Allegheny Power's customers can be evaluated.

10. On or about February 11, 2010, it was announced that FirstEnergy and Allegheny Energy, Inc., the parent company of Allegheny Power, entered into an agreement to merge. With the merger, Allegheny Energy, Inc. is to become a wholly-owned subsidiary of FirstEnergy, thereby making FirstEnergy the ultimate corporate parent of Allegheny Power.

11. By motion at the April 15, 2010 public meeting, the Commission approved, with modifications, a SMIP for all three FirstEnergy Pennsylvania operating companies ("FirstEnergy SMIP").

12. Of note, the FirstEnergy SMIP contains a relatively long Smart Meter deployment schedule when compared to Allegheny Power's proposals. Under the FirstEnergy SMIP, the companies will use a 24-month period to assess and create a deployment plan, which is to be approved by the end of the grace period provided for in its Smart Meter Implementation Order. Following approval of the deployment plan, the companies will begin construction of the necessary Smart Meter infrastructure around April 1, 2013 to be completed by around March 31, 2016. Beginning on April 1, 2016, the companies will deploy 60,000 Smart Meters, with full-scale deployment to begin on April 1, 2017 to be completed by no later than March 2022.

13. Besides meter deployment, these different approaches to Smart Meters also have implications for the back office systems, such as the Customer Information System needed to support Smart Meters. For example, FirstEnergy already has an updated CIS, while Allegheny Power's system requires a new CIS to be installed as part of the SMIP.

14. Thus, FirstEnergy's approach to deployment of Smart Meters is more conservative than Allegheny Power's and does not contain the same level of back office investment required under Allegheny Power's SMIP. Therefore, in lieu of the "exceptions" process, Allegheny Power requests an opportunity for the parties to evaluate the compatibility of the SMIP approved in the I.D. with FirstEnergy's Smart Meter deployment approach, including how any changes to the SMIP approved in the I.D. may impact the Company's Energy Efficiency & Conservation Plan. An evaluation of the timing of Allegheny Power's installation of Smart Meters could lead to the avoidance of inefficiencies and an evaluation of potential cost savings for Allegheny Power's customers, and thus, is in the public interest. This Petition does not presume approval of the FirstEnergy merger with Allegheny Energy, Inc., however further evaluation of the SMIP is prudent given the potential for that merger to occur.

III. Requested Relief

15. In light of the proposed merger of Allegheny Power and its affiliates into FirstEnergy and the potential impact of the transaction on the Company's proposed SMIP, Allegheny Power believes that good cause exists to stay the "exceptions" period in the above-captioned matter. Allegheny Power agrees to provide a status report to the Commission 30 days following the entry date of any order granting this Petition.

16. Allegheny Power respectfully requests that the Answer period for this Petition be shortened to May 18, 2010. Good cause exists for shortening the Answer period because Exceptions in this case are due to be filed no later than May 26, 2010. Allegheny Power also requests that the Commission provide an expedited ruling on this Petition via Secretarial Letter given the procedural nature of this request.

WHEREFORE, Allegheny Power respectfully requests the relief requested herein.

Dated: May 13, 2010

Respectfully submitted,



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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing documents in accordance with the requirements of 52 Pa. Code § 1.54 et seq. (relating to service by a participant).

VIA FIRST CLASS AND
ELECTRONIC MAIL

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