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September 30, 2010

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

**VIA HAND DELIVERY**

**RE: 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-2008-2093218**

Dear Secretary Chiavetta:

Please find enclosed for filing with the Pennsylvania Public Utility Commission ("PUC" or "Commission") the original and three (3) copies of the Answer of the West Penn Power Industrial Intervenor ("WPPII") to the Petition of West Penn Power Company d/b/a Allegheny Power to Amend its Energy Efficiency and Conservation Plan, in the above-referenced proceeding.

As evidenced by the attached Certificate of Service, all parties to the proceeding are being served with a copy of this document. Please date stamp the extra copy of this transmittal letter and Answer, and kindly return them to our messenger for our filing purposes.

Very truly yours,

McNEES WALLACE & NURICK LLC

By   
Carl J. Zwick

Counsel to the West Penn Power Industrial Intervenor

CJZ/sds  
Enclosures

- c: Administrative Law Judge Katrina Dunderdale (via E-mail and First-Class Mail)
- Jonathan P. Nase, Office of Special Assistants (via E-mail and Hand Delivery)
- Certificate of Service

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**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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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 : Docket No. M-2008-2093218  
Reconcilable Adjustment Clause and Approval :  
of Matters Relating to the Energy Efficiency and :  
Conservation Plan :

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**ANSWER OF THE WEST PENN POWER INDUSTRIAL INTERVENORS  
TO THE PETITION OF WEST PENN POWER COMPANY d/b/a ALLEGHENY  
POWER TO AMEND ITS ENERGY EFFICIENCY AND CONSERVATION PLAN**

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Pursuant to the provisions of Section 5.61 of the Pennsylvania Public Utility Commission's ("PUC" or "Commission") Regulations,<sup>1</sup> the West Penn Power Industrial Intervenors ("WPPII") submit this Answer to request that the Commission review and investigate the justness and reasonableness of the West Penn Power Company d/b/a Allegheny Power's ("West Penn" or "Company") amended Energy Efficiency and Conservation Plan ("Amended EE&C Plan" or "Amended Plan") and require that the Company present sufficient evidence to support its proposed shift in cost recovery from the Residential class to the Commercial and Industrial ("C&I") classes.<sup>2</sup>

**I. INTRODUCTION AND BACKGROUND**

On June 29, 2009, West Penn submitted a Petition for Approval of an 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 ("EE&C Plan"). To protect its members' interests, WPPII filed a Petition to Intervene in this

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<sup>1</sup> 52 Pa. Code § 5.61.

<sup>2</sup> WPPII intends to expand upon its concerns with the Company's Amended EE&C Plan when it submits comments on the Amended Plan, which, per the Commission's Secretarial Letter, are due on October 11, 2010.

proceeding on July 15, 2009. WPPII's Petition to Intervene was granted by Administrative Law Judge ("ALJ") Katrina L. Dunderdale at the July 28, 2009, Prehearing Conference.

WPPII is an *ad hoc* coalition of large, energy-intensive industrial and institutional customers of electricity located within West Penn's service territory. WPPII members purchase service from West Penn primarily under Rate Schedules 30, 40, 41, 44, and 46. Electricity costs comprise a significant portion of operational costs for all WPPII members. The members of WPPII are therefore concerned with issues regarding the rates, terms, and quality of their electricity service and, as a result, have been actively involved in numerous West Penn proceedings.

On July 23, 2010, the Company's EE&C Plan, as refiled, was approved by the Commission.<sup>3</sup> On September 10, 2010, West Penn filed a Petition to amend its EE&C Plan ("Petition to Amend"). According to the Company, the changes proposed in its Amended EE&C Plan are intended "to meet the requirements of Act 129 [of 2008 ("Act 129")], [and are] based on changes to Smart Meter programs . . . as well as on additional experience gained since the Company filed its original EE&C Plan."<sup>4</sup> At a basic level, West Penn's Amended EE&C Plan seeks to shift substantial costs (*i.e.*, approximately \$8.1 million) from the Residential class to the C&I classes.<sup>5</sup> As a result of West Penn's proposed reallocation of EE&C program costs, the Company proposes to increase the EE&C Surcharge for customers on Rate Schedule 30 (large) by approximately 39% and for customers on Rate Schedules 40, 41, 44 and 46 by approximately 26%.<sup>6</sup>

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<sup>3</sup> The Commission addressed West Penn's EE&C Plan in Orders entered October 23, 2009, March 1, 2010 and June 23, 2010.

<sup>4</sup> Petition to Amend, ¶ 6.

<sup>5</sup> See Amended EE&C Plan, pp. 231-32.

<sup>6</sup> See *id.* at 238.

## II. ANSWER

The Commission should require West Penn to provide substantial and compelling evidence to affirmatively demonstrate that the Company's proposed redistribution of EE&C program costs will not produce discriminatory rates for C&I customers and result in an unreasonable burden. West Penn's EE&C Plan has already undergone PUC scrutiny and has gained the Commission's approval. With the PUC's approval, on June 23, 2010, the Commission ruled that the Company's EE&C Plan meets the requirements of Act 129.

In its Amended EE&C Plan, West Penn seeks to redistribute a substantial amount of EE&C program costs to C&I customers. It is not evident that such reallocation appropriately serves Act 129's objectives, particularly when many large C&I customers have limited capital resources to invest in these programs and often reduced manufacturing and/or production schedules given current economic conditions. WPPII is concerned that the Company's proposed Amended EE&C Plan may produce rates that are not only unjust and unreasonable but also discriminatory against C&I customers. For these reasons, the members of WPPII submit that the Commission should review and investigate the justness and reasonableness of West Penn's Amended EE&C Plan and, to the extent the PUC finds that the Company's proffered evidence does not support such a significant reallocation of EE&C costs, reject the Company's Amended Plan, as filed.

### III. CONCLUSION

**WHEREFORE**, the West Penn Power Industrial Intervenors respectfully request that the Commission consider the foregoing Answer and deny West Penn's Amended EE&C Plan unless the Company produces substantial evidence to support its proposal to shift a significant amount of program costs from the Residential class to the C&I classes.

Respectfully submitted,

McNEES WALLACE & NURICK LLC

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Dated: September 30, 2010

## CERTIFICATE OF SERVICE

I hereby certify that I am this day serving a true copy of the foregoing document upon the participants listed below in accordance with the requirements of 52 Pa. Code Section 1.54 (relating to service by a participant).

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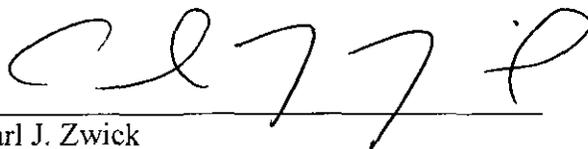
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Dated this 30<sup>th</sup> day of September, 2010, at Harrisburg, Pennsylvania.