



McNees
Wallace & Nurick LLC

100 Pine Street • PO Box 1166 • Harrisburg, PA 17108-1166
Tel: 717.232.8000 • Fax: 717.237.5300

Shelby A. Linton-Keddie
Direct Dial: 717.237.5459
Direct Fax: 717.260.1763
skeddie@mwn.com

October 12, 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-2009-2093218

Dear Secretary Chiavetta:

Please find enclosed for filing with the Pennsylvania Public Utility Commission ("PUC" or "Commission") are the original and fifteen (15) copies of the Comments of the West Penn Power Industrial Intervenors ("WPPII") in the above-referenced proceeding.

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

Very truly yours,

McNEES WALLACE & NURICK LLC

By 
Shelby A. Linton-Keddie

Counsel to the West Penn Power Industrial Intervenors

SLK

c: Certificate of Service
Jonathan P. Nase, Office of Special Assistants (via E-mail and Hand Delivery)
Kathryn G. Sophy, Office of Special Assistants (via E-mail and Hand Delivery)

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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-2009-2093218
Reconcilable Adjustment Clause and :
Approval of Matters Relating to the Energy :
Efficiency and Conservation Plan :

**COMMENTS OF THE
WEST PENN POWER INDUSTRIAL INTERVENORS**

I. INTRODUCTION

On October 15, 2008, Governor Rendell signed into law House Bill 2200, or Act 129 of 2008 ("Act 129" or "Act"). Among other things, Act 129 expands the Pennsylvania Public Utility Commission's ("PUC" or "Commission") oversight responsibilities and sets forth new requirements on electric distribution companies ("EDCs") with at least 100,000 customers for energy conservation, default service procurements, and the expansion of alternative energy sources.

With regard to energy efficiency and conservation, Act 129 requires EDCs to adopt a plan, approved by the Commission, to reduce electric consumption by at least 1% by May 1, 2011, and by at least 3% by May 31, 2013, adjusted for weather and extraordinary loads. 66 Pa. C.S. § 2806.1(c). In addition, by May 31, 2013, peak demand is to be reduced by a minimum of 4.5% of the EDC's annual system peak demand in the 100 hours of highest demand, measured against the EDC's peak demand during the period of June 1, 2007 through May 31, 2008. *See id.* § 2806.1(d).

Consistent with the Act, on July 1, 2009, West Penn Power Company d/b/a Allegheny Power ("West Penn" or "Company") 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" or

"Plan"). This Plan was approved in part and rejected in part by the Commission on October 23, 2009. On December 31, 2009, the Company filed its Revised EE&C Plan, which was approved in part and rejected in part by the Commission's March 1, 2010, Order entered at the above-referenced docket. The Company's Plan was ultimately approved by Commission Order at the above-captioned docket entered June 23, 2010.

On June 24, 2010, and September 1, 2010, the Commission issued Secretarial Letters addressing the filing procedures for EDCs' 2010 Act 129 Annual Reports and proposed revisions. In accordance with these Secretarial Letters, on September 10, 2010, West Penn filed a Petition to amend its approved EE&C Plan. By this Petition, the Company is proposing to modify the approved EE&C Plan to reflect additional experience the Company has obtained since approval of that Plan and to deemphasize programs that relied on smart meter deployment. Specifically, the Company is proposing to replace selected smart meter programs with other programs that do not rely on smart meters. As a result of these proposed changes, West Penn's Amended EE&C Plan, if approved, would shift substantial costs (approximately \$8.1 million or 8.5% of the total Plan's cost) from the Residential Class to the Small and Large Commercial and Industrial ("C&I") rate classes. The West Penn Power Industrial Intervenors ("WPPII")¹ filed an Answer to the Company's Petition on September 30, 2010.

In accordance with the procedure outlined in the Commission's June 24, 2010, and September 1, 2010, Secretarial Letters, WPPII respectfully submits these Comments for the Commission's consideration when evaluating West Penn Power Company's proposed Amendments to

¹ 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.

its currently effective EE&C Plan.² For the reasons set forth below, WPPII has serious concerns that the proposed Amendments and potential rate impact on Large C&I customers are unduly burdensome and would produce rates that are unjust, unreasonable and discriminatory against Large C&I customers. WPPII reserve the opportunity to address additional issues in Reply Comments, as necessary.

II. COMMENTS

Throughout the various Commission Orders that have reviewed, and ultimately approved, West Penn's EE&C Plan, the PUC has repeatedly expressed concern about the Company's reliance on the rapid deployment of smart meters and, as a result, encouraged the Company to develop and submit an alternative Act 129 Plan with less reliance on smart meters. As explained by the Company, the September 10, 2010, filing is West Penn's attempt to comply with this Commission directive. As set forth below, WPPII is concerned that the proposed revisions, if approved, would shift an undue burden to Non-Residential customers for the Company to meet its Act 129 mandates. In so doing, the Company unreasonably expects Large C&I customers to make significant upfront capital investments during a time of economic challenges. WPPII submits that the existing Commission-approved Plan more equitably balances Act 129 responsibilities between the Residential and Non-Residential classes.

Specifically, in the Company's September 10 Petition, West Penn proposes to remove the following four programs that relied on smart meter technology: (1) the Residential Efficiency Rewards Rate; (2) the Programmable Controllable Thermostat ("PCT") Demand Response ("DR") Program; (3) the Pay Ahead (Smart) Service Rate; and (4) the Hourly Pricing Option Rate.³ In addition, due to the elimination of these four programs, an update to the Technical Reference Manual

² WPPII's failure to address a specific proposal raised by the Company does not represent WPPII's support for, or acquiescence to, such proposal.

³ See West Penn September 10 Petition at 3.

and additional experience in the relatively short time its Plan has been implemented, West Penn is proposing additional changes to a number of its other EE&C programs, including the following:

- Home Performance Program;
- *Low Income Room Air Conditioner Replacement Program*;
- Commercial and Industrial Drives Program;
- Residential (HVAC/Whole Home Appliance) and Commercial HVAC Efficiency Programs;
- Commercial (Lighting/Products) Efficiency Program;
- Custom Technology Applications Program;
- Custom Applications Program;
- Residential Energy Star Domestic Water Heating Measure; and
- Commercial Smart Strips Measure.

Finally, West Penn has updated all of its cost categories, based on actual costs and/or revised projections associated with the program changes. When taken together, the Company's modifications proposed in this filing seek to significantly alter its EE&C Plan.

Specifically, for Large C&I customers, the Company proposes to remove the Commercial and Industrial Drives Program while concurrently expanding both the Custom Technology Applications Program and Custom Applications Program, "to provide the opportunity for more customer projects to be completed."⁴ Notably, while both programs require participants to make upfront expenditures (which, in some cases, could be significant), the Company does not appear to be increasing the incentive amounts available on an individual basis associated with either program. In this regard, the burden on individual Large C&I customers to undertake capital investments to support Act 129 remains the same; it is just that more customers may have the opportunity to participate. Without any significant program history associated with either program, it is difficult, if not impossible, to gauge customers' willingness and ability to participate.

⁴ Id. at 5, 6.

As explained in the Petition and as illustrated in the revised Plan, the cumulative effect of these changes would not only increase the overall cost allocation of the Plan's costs to Large C&I customers (defined as those with loads of 500 kW or greater) by 2%, but would also 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%. Such increases in the EE&C surcharge result in substantial additional costs for Large C&I customers. With current economic conditions, it cannot be presumed that Large C&I customers can take advantage of these programs to reduce increased EE&C surcharges.

While WPPII understands the Company's goal to comply with previous Commission directives by revising its Plan to rely not so heavily on smart meter deployment, any revisions to the Company's Plan must not unduly burden one class of customers. WPPII has serious reservations that the Company's proposal does exactly that with respect to Non-Residential Customers and, in particular, Large C&I customers. Particularly given current economic conditions, West Penn's proposed revisions to its Act 129 Plan go too far by shifting to Large C&I customers disproportionate Act 129 responsibility and costs.

It is not evident that, after a few months of Plan implementation, reallocation of EE&C/DR costs on the scale as proposed by West Penn appropriately serves Act 129's objectives. As a threshold matter, augmenting Large C&I customer responsibility as a way for the Company to meet its Act 129 mandate fails to recognize that many Large C&I customers have, over recent years, already invested, without the benefit of ratepayer support, in EE&C/DR measures at their individual facilities, which are already included in West Penn's baseline. To the extent that opportunities for additional EE&C/DR may exist in the Large C&I class, the Company's revised Plan also does not account for the fact that many Large C&I customers now, by virtue of economic challenges, have limited capital resources to invest in these programs and reduced manufacturing and/or production schedules to support the Act's energy efficiency and conservation objectives.

Not only does WPPII have concerns that allocating additional program responsibility to Large C&I customers may be unduly burdensome, but also the Company's proposed amendments, if approved, may produce rates that are unjust, unreasonable and discriminatory against Large C&I customers. As a result, WPPII does not and cannot support the Company's proposed Plan as filed. WPPII strongly encourages the Commission to investigate the justness and reasonableness of the Company's Amended EE&C Plan and, to the extent the Commission finds that the Company's proffered evidence does not support such a significant reallocation of EE&C costs to Large C&I customers, the Commission should reject the amended Plan, as filed.

III. CONCLUSION

WHEREFORE, the West Penn Power Industrial Intervenors respectfully request that the Pennsylvania Public Utility Commission consider and adopt, as appropriate, the foregoing Comments.

Respectfully submitted,

McNEES WALLACE & NURICK LLC

By 

Susan E. Bruce (I.D. No. 80146)
Shelby A. Linton-Keddie (I.D. No. 206425)
Carl J. Zwick (I.D. No. 306554)
100 Pine Street
P.O. Box 1166
Harrisburg, PA 17108-1166
Phone: (717) 232-8000
Fax: (717) 237-5300

Counsel to West Penn Power Industrial Intervenors

Dated: October 12, 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).

VIA E-MAIL AND FIRST-CLASS MAIL

Tanya McCloskey, Esq.
Christy M. Appleby, Esq.
Office of Consumer Advocate
555 Walnut Street
Forum Place, 5th Floor
Harrisburg, PA 17101-1923
tmccloskey@paoca.org
cappleby@paoca.org

Richard A. Kanaskie, Esq.
Adeolu A. Bakare, Esq.
Pennsylvania Public Utility Commission
Office of Trial Staff
P.O. Box 3265
Harrisburg, PA 17105-3265
rkanaskie@state.pa.us
abakare@state.pa.us

Lillian S. Harris, Esq.
Thomas J. Sniscak, Esq.
Hawke McKeon & Sniscak LLP
P.O. Box 1778
100 North Tenth Street
Harrisburg, PA 17101
lharris@hmslegal.com
tjsniscak@hmslegal.com

Lauren M. Lepkoski, Esq.
Office of Small Business Advocate
Commerce Building, Suite 1102
300 North Second Street
Harrisburg, PA 17101
llepkoski@state.pa.us

John F. Povilaitis, Esq.
Ryan, Russell, Ogden & Seltzer P.C.
800 North Third Street, Suite 101
Harrisburg, PA 17102-2026
jpovilaitis@ryanrussell.com

John L. Munsch, Esq.
Allegheny Energy
800 Cabin Hill Drive
Greensburg, PA 15601-1689
jmunsch@alleghenyenergy.com

Harry S. Geller, Esq.
John C. Gerhard, Esq.
Pennsylvania Utility Law Project
118 Locust Street
Harrisburg, PA 17101
hgellerpulp@palegalaid.net
jgerhardpulp@palegalaid.net

Kurt E. Klapkowski, Esq.
Commonwealth of Pennsylvania
Department of Environmental Protection
RCSOB, 9th Floor
400 Market Street
Harrisburg, PA 17101-2301
kklapkowski@state.pa.us

Carolyn Pengidore
President/CEO
ClearChoice Energy
180 Fort Couch Road, Suite 265
Pittsburgh, PA 15241
carolyn@clearchoice-energy.com

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SECRETARIAT OF THE
COMMONWEALTH OF PENNSYLVANIA

Theodore J. Gallagher, Esq.
Senior Counsel
NiSource Corporate Services Company
501 Technology Drive
Canonsburg, PA 15317
tjgallagher@nisource.com

Christopher A. Lewis, Esq.
Christopher R. Sharp, Esq.
Blank Rome, LLP
One Logan Square
Philadelphia, PA 19103
lewis@blankrome.com
sharp@blankrome.com

Charles E. Thomas, Jr., Esq.
Thomas T. Niesen, Esq.
Thomas, Long, Niesen & Kennard
P.O. Box 9500
212 Locust Street, Suite 500
Harrisburg, PA 17108-9500
cthomasjr@tlanlaw.com
tniesen@tlanlaw.com

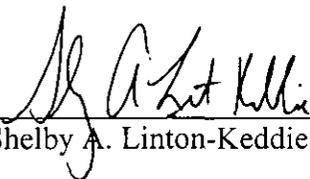
Daniel Clearfield, Esq.
Kevin J. Moody, Esq.
Eckert Seamans Cherin & Mellott, LLC
213 Market Street, 8th Floor
P.O. Box 1248
Harrisburg, PA 17108-1248
dclearfield@eckertseamans.com
kmoody@eckertseamans.com

Mark C. Morrow, Esq.
UGI Corporation
460 North Gulph Road
King of Prussia, PA 19406-2807
morrowm@ugicorp.com

Lee E. Hartz
Assistant General Counsel
National Fuel Gas Distribution Corporation
P.O. Box 2081
Erie, PA 16512
hartzl@natfuel.com

Scott H. DeBroff, Esq.
Rhoads & Sinon LLP
One South Market Square
P.O. Box 1146
Harrisburg, PA 17108-1146
sdebloff@rhoads-sinon.com

Pamela C. Polacek, Esq.
McNees Wallace & Nurick LLC
100 Pine Street
P.O. Box 1166
Harrisburg, PA 17108-1166
ppolacek@mwn.com



Shelby A. Linton-Keddie

Counsel to the West Penn Power Industrial Intervenors

Dated this 12th day of October, 2010, at Harrisburg, Pennsylvania.