

PENNSYLVANIA UTILITY LAW PROJECT

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November 1, 2010

Via E-Filing

Secretary Rosemary Chiavetta
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

**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 Chiavetta:

Please accept for filing in the above captioned proceeding the following Petition to Intervene by Pennsylvania Communities Organizing for Change ("PCOC") and the Answer, filed pursuant to 52 Pa. Code § 5.41.

Thank you for your assistance, and please feel free to contact me directly should you have any questions.

Very truly yours,


Julie George, Esq.

cc: Honorable Mark A. Hoyer
Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

CERTIFICATE OF SERVICE

I hereby certify that I have today served a true copy of the Petition to Intervene and the Answer upon the parties of record in this proceeding listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

Via Electronic Mail and First Class Mail

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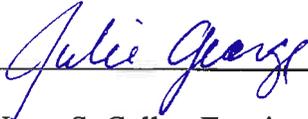
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Dated: November 1, 2010

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

**PETITION TO INTERVENE, OR, IN THE ALTERNATIVE TO SUBMIT COMMENTS,
OF PENNSYLVANIA COMMUNITIES ORGANIZING FOR CHANGE d/b/a ACTION
UNITED, INC.**

TO THE HONORABLE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

1. Pennsylvania Communities Organizing for Change d/b/a Action United, Inc. (“PCOC”), through counsel, the Pennsylvania Utility Law Project, hereby Petitions to Intervene or, in the alternative, be permitted to file Comments to the Proposed Settlement in the above-captioned proceeding pursuant to the provisions of the Rules of Practice and Procedure of the Pennsylvania Public Utility Commission (PUC or Commission), 52 Pa. Code Sections 5.71-5.74, and states as follows:

RELEVANT HISTORY OF THE PROCEEDING

2. On August 14, 2009, West Penn Power d/b/a Allegheny Power (“West Penn” or “company”) pursuant to its obligations under Act 129, filed its Smart Meter Procurement

and Installation Plan (“SMIP” or “Smart Meter Plan”) pursuant to Section 2807(f) of the Public Utility Code, 66 Pa.C.S. § 2807(f), and the Smart Meter Procurement and Installation Order entered by the Pennsylvania Public Utility Commission (“Commission”) on June 24, 2009, at Docket No. M-2009-2092655 (“Implementation Order”).

3. Several parties were granted intervener status in the West Penn Act 129 proceeding, including the Commission’s Office of Trial Staff (“OTS”), the Office of Consumer Advocate (“OCA”), the West Penn Power Industrial Interveners (“WPPII”), the Pennsylvania Department of Environmental Protection (“DEP”), the Office of the Small Business Advocate (“OSBA”), Constellation New Energy, Inc. and Constellation Energy Commodities Group, Inc. (collectively, “Constellation”) and The Pennsylvania Association of Community Organizations for Reform Now (“ACORN”).
4. ACORN actively participated in the Act 129 proceedings on behalf of low and lower income customers and residents within the West Penn service territory.
5. On April 7, 2010, ACORN, having dissolved its status as a corporate entity, petitioned to withdraw from the proceeding, leaving low-income households without an active party to exclusively represent low-income issues in the Act 129 proceedings.
6. On May 6, 2010, an Initial Decision was issued by the ALJ.
7. On May 13, 2010, West Penn filed a Petition to Stay the Exceptions Period in this proceeding. Exceptions in this case were due May 26, 2010, with Reply Exceptions due June 7, 2010. West Penn averred that a Stay of the Exception period in this matter is necessary and appropriate so that the Parties may consider the impact on West Penn’s

- proposed SMIP given the proposed merger of Allegheny Power and its affiliates (including West Penn) into FirstEnergy Corporation.¹
8. On May 14, 2010, the Secretary of the Commission (“Secretary”) issued a letter advising the Parties that the Answer period to the Petition to Stay would be shortened to May 18, 2010.
 9. On May 18, 2010, the OSBA filed an Answer opposing the Petition to Stay. The OCA filed a letter stating its support of the West Penn Petition. No other party filed an Answer to the Petition.
 10. On May 21, 2010, the Secretary issued a letter advising the Parties that the Commission was exercising its authority under 52 Pa. Code § 1.2(a) and (c) and 52 Pa. Code § 5.533(a) to stay the filing of Exceptions in this matter until the Commission has had an opportunity to consider the Petition and the Answer thereto filed by the OSBA, at a June, 2010, Public Meeting.
 11. On May 27, 2010, West Penn filed a Reply to New Matter raised by the OSBA.
 12. On October 19, 2010, West Penn and the Office of the Consumer Advocate (“OCA”) joined in a Joint Petition for Settlement (“Settlement”) and requested that the Commission approve the Settlement.
 13. A Secretarial Letter, dated October 21, 2010, shortened the time for filing Answers to the Joint Petition for Settlement to ten days after the date of the letter.
 14. The Settlement will affect the interests of low income customers and other low income individuals residing within the West Penn service territory. Provisions of the Settlement address matters affecting cost, procedural protections and studies addressing the effect on low income customers.
 15. The Petitioner, PCOC, is a not-for-profit advocacy and membership organization whose mission is to advocate on behalf of low and lower income persons on numerous consumer

¹ *Joint Application of West Penn Power Company d/b/a Allegheny Power, Trans-Allegheny Interstate Line Company and FirstEnergy Corp. for a Certificate of Public Convenience under Section 1102(a)(3) of the Public Utility Code approving A change of control of West Penn Power Company And Trans-Allegheny Interstate Line Company, Docket Nos. A-2010-2176520, A-2010-2176732, (Filed May 17, 2010).*

issues, including access to and affordability of utility service. Many PCOC members reside within West Penn territory and are customers of the company;² they rely on the company for their electricity, including heating and cooling needs, and will be affected by the issues presented in this ongoing proceeding. In particular, they are potentially eligible to participate in and receive the benefits of the West Penn's SMIP; they will also share the costs of the SMIP on ratepayers. They therefore have a direct, immediate, substantial, and distinct interest in this proceeding.

16. PCOC seeks to intervene to ensure that the interests of low income West Penn customers are protected and advanced in this proceeding.
17. Given the withdrawal of ACORN, those interests are not presently adequately represented by other participants in this proceeding.
18. ACORN's withdrawal constitutes extraordinary circumstances sufficient to justify the Commission's granting of this Petition to Intervene or, in the alternative, the ability to submit comments concerning the Settlement.
19. The inclusion within the settlement of matters affecting low-income members of PCOC constitutes extraordinary circumstances sufficient to grant this Petition to Intervene, or in the alternative, the ability to submit comments concerning the Settlement.
20. PCOC intends to exclusively address the proposed settlement as it affects the impact of SMIP activities and costs on low income households, ensuring that the settlement contains protections for low-income households.

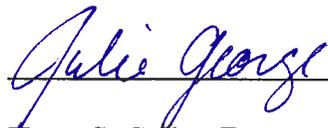
²PCOC members who are Allegheny low income customers include: Kelly J Boucher 374 Route 908, Natrona Heights, PA 15065; Jaclyn M Bubash 8 Pine St, Natrona Heights, PA 15065; Christy J Neal 58 Pond St, Natrona Heights, PA 15065; Kristie S Singer 1417 Pennsylvania Ave, Natrona Heights, PA 15065

21. PCOC's Intervention, or, in the alternative, its submission of Comments regarding the Settlement, will not result in delay or affect adversely the interest of any party to this proceeding.
22. PCOC's Answer /Comments to the Settlement are being submitted concurrently with this Petition, in a timely manner in accord with the Secretarial letter of October 21, 2010.
23. The Petitioners are represented by the Pennsylvania Utility Law Project. Attorneys for receiving service of all documents in this proceeding are:

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WHEREFORE, PCOC respectfully requests that the Pennsylvania Public Utility Commission grant this Petition to Intervene, or in the alternative accept the Answer/Comments to the proposed Settlement and make such other order as is just and appropriate.

Respectfully submitted,



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November 1, 2010

**BEFORE THE
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 its Costs :
through a Reconcilable Adjustment :
Clause and Approval of Matters :
Relating to the Energy Efficiency and :
Conservation Plan :**

IPocket No. M-2009-2093218

VERIFICATION

I, Craig Robbins, hereby state that the facts above set forth are true and correct (or are true and correct to the best of my knowledge, information and belief) and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).

Date:

10/29/2010

Signature:



**Craig Robbins
Executive Director
Action United
846 North Broad Street - 2nd Floor
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