

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

555 Walnut Street, 5th Floor, Forum Place
Harrisburg, Pennsylvania 17101-1923
(717) 783-5048
800-684-6560 (in PA only)

IRWINA. POPOWSKY
Consumer Advocate

FAX (717) 783-7152
consumer@paoca.org

November 8, 2010

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

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:

Enclosed for filing is the Prehearing Memorandum of the Office of Consumer Advocate, in the above-referenced proceeding.

Copies have been served as indicated on the enclosed Certificate of Service.

Respectfully Submitted,

A handwritten signature in cursive script that reads "Christy M. Appleby".

Christy M. Appleby
Assistant Consumer Advocate
PA Attorney I.D. # 85824

Enclosures

cc: Honorable Dennis J. Buckley
Honorable Elizabeth Barnes

00135512.docx

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 Costs Through a	:	Docket No. M-2009-2093218
Reconcilable Adjustment Clause and	:	
Approval of Matters Relating to the Energy	:	
Efficiency and Conservation Plan	:	

PREHEARING MEMORANDUM
OF THE
OFFICE OF CONSUMER ADVOCATE

Pursuant to Section 333 of the Public Utility Code, 66 Pa.C.S. Section 333, and in response to the Prehearing Conference Order issued in the above-captioned matter, the Office of Consumer Advocate (OCA) provides the following information:

I. INTRODUCTION AND PROCEDURAL HISTORY

On September 10, 2010, Allegheny Power Company (Allegheny Power or the Company) filed its Petition to amend its Energy Efficiency and Conservation Plan (Amended EE&C Plan) pursuant to the annual review process. On July 1, 2009, the Company filed its original Petition and Energy Efficiency and Conservation (EE&C) Plan with the Pennsylvania Public Utility Commission (Commission) pursuant to Section 2806.1 of the Public Utility Code, 66 Pa. C.S. § 2806.1 129 (Act 129), and pursuant to the Implementation Order entered by the Commission on January 16, 2009, at

Docket No. M-2008-2069887. On July 7, 2009, the Office of Consumer Advocate filed its Notice of Intervention and Public Statement in the matter.

Act 129 also required that each of the Electric Distribution Companies (EDCS) implement a Smart Meter Installation and Procurement Plan (SMIP or Smart Meter Plan). On August 14, 2009, Allegheny Power filed a Smart Meter Plan in Docket No. M-2009-2123951 which included a rapid deployment of smart meters.¹ Allegheny Power's original EE&C Plan heavily relied upon this rapid deployment of smart meters in order to meet the energy conservation and demand response goals set forth in Act 129. Throughout the original EE&C Plan and Smart Meter Plan proceedings, the OCA opposed Allegheny Power's EE&C Plan, particularly regarding the use of programs that were dependent upon the rapid deployment of smart meters.

On October 23, 2009, the Commission entered its Order regarding Allegheny Power's original EE&C Plan. In its October 23, 2009 EE&C Plan Order, the Commission addressed the OCA's concern regarding the rapid deployment of smart meters and specifically proposed that the Company should develop a "back-up plan" for its EE&C Plan. The Commission stated in its Order that:

We again note that this Commission agrees with the OCA that Allegheny's reliance on the rapid deployment of smart meters and the associated network infrastructure does add an element of increased risk to its Plan. As Allegheny bears the sole risk of significant penalties if it fails to meet the mandated targets, we will not direct Allegheny to eliminate the proposed programs that rely on smart meter deployment, except where otherwise directed in this Opinion and Order. In recognizing this increased risk, the Commission strongly encourages Allegheny to develop an alternate "back-up" plan that is less reliant on smart meter deployment. Such an alternate plan would be a readily available option that can be implemented on short notice, after Commission approval, should any unforeseen

¹ On September 1, 2009, the OCA filed its Notice of Intervention and Public Statement in the Smart Meter Plan docket.

circumstances delay or disrupt Allegheny's smart meter deployment. The Commission will closely monitor this element of Allegheny's Plan during the annual plan reviews and its review and monitoring of Allegheny's Smart Meter Procurement and Installation Plan.

October 23, 2009 EE&C Plan Order at 21.

The Company's Amended EE&C Plan filing was assigned to the Office of Administrative Law Judge and further assigned to Administrative Law Judge Dennis J. Buckley for investigation. On November 5, 2010, a Prehearing Conference Order was issued by ALJ Buckley. On November 9, 2010, a prehearing conference will be held in Harrisburg.

II. ISSUES AND SUB-ISSUES

The OCA has participated in informal discovery and several stakeholder meetings regarding the Amended EE&C Plan filing. The OCA anticipates that the issues to be considered are:

(1) Review of the reasonableness of the Amended EE&C Plan in meeting the energy conservation and demand response goals of Act 129 within the statutory budget and requirements.

The OCA specifically reserves the right to raise additional issues as may be necessary.

III. WITNESSES

If the OCA determines that testimony is necessary, the OCA identifies the following witness:

EE&C Plan and Cost Recovery

Geoffrey Crandall
MSB Energy Associates, Incorporated
Suite 204
1800 Parmenter Street
Middleton, WI 53562-3135
Telephone: (608) 831-1127
E-mail: crandall@msbnrg.com

IV. SERVICE ON OCA

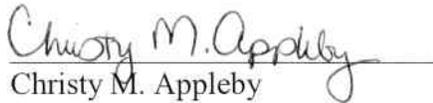
The OCA will be represented in this case by Assistant Consumer Advocate, Christy M. Appleby and Senior Assistant Consumer Advocate, Tanya J. McCloskey. Two copies of all documents should be served on the OCA as follows:

Christy M. Appleby
Assistant Consumer Advocate
PA Attorney I.D. # 85824
E-Mail: CAppleby@paoca.org
Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101-1923
Phone: (717) 783-5048
Fax: (717) 783-7152

V. SCHEDULE

The OCA will work with the parties on any scheduling issues.

Respectfully Submitted,


Christy M. Appleby

Assistant Consumer Advocate
PA Attorney I.D. # 85824
E-Mail: CAppleby@paoca.org
Tanya J. McCloskey
Senior Assistant Consumer Advocate
PA Attorney I.D. # 50044
E-Mail: TMcCloskey@paoca.org
Counsel for:
Irwin A. Popowsky
Consumer Advocate

Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101-1923
Phone: (717) 783-5048
Fax: (717) 783-7152
Dated: November 8, 2010

00135486.docx

CERTIFICATE OF SERVICE

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 :

I hereby certify that I have this day served a true copy of the foregoing document, the Prehearing Memorandum of the Office of Consumer Advocate, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code Section 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 8th day of November 2010.

SERVICE BY E-MAIL and INTEROFFICE MAIL

Richard A. Kanaskie, Esquire
Adeoulu Bakare, Esquire
Office of Trial Staff
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120
Counsel for: *Office of Trial Staff*

SERVICE BY E-MAIL and FIRST CLASS MAIL

John L. Munsch, Esquire
Allegheny Energy
800 Cabin Hill Drive
Greensburg, PA 15601-1689
Counsel for: *Allegheny Power Company*

John Povilaitis, Esquire
Ryan Russell Ogden & Seltzer
800 N. Third Street, Suite 101
Harrisburg, PA 17102
Counsel for: *Allegheny Power Company*

Shelby Linton-Keddie, Esquire
McNees Wallace & Nurick, LLC
100 Pine Street
P.O. Box 1166
Harrisburg, PA 17108-1166
Counsel for: *West Penn Power Industrial
Intervenors*

Kevin J. McKeon, Esquire
Tori L. Giesler, Esquire
Hawke McKeon & Sniscak, LLP
P.O. Box 1778
100 North Tenth Street
Harrisburg, PA 17101
Counsel for: *UGI Utilities, Inc. and The
Peoples Natural Gas Company d/b/a Dominion
Peoples*

Mark Morrow
Senior Attorney
UGI Utilities Inc.
460 North Gulph Road
King of Prussia, PA 19406
Counsel for: *UGI Utilities, Inc.*

Harry Geller, Esquire
Julie George, Esquire
PA Utility Law Project
118 Locust Street
Harrisburg, PA 17101
Counsel for: *Pennsylvania Communities
Organizing for Change*

Theodore J. Gallagher
Senior Counsel
NiSource Corporate Services Company
501 Technology Drive
Canonsburg, PA 15317
Counsel for: *Columbia Gas of Pennsylvania,
Inc.*

Lauren Lepkoski
Assistant Small Business Advocate
Office of Small Business Advocate
Commerce Building, Suite 1102
300 North Second Street
Harrisburg, PA 17101
Counsel for: *Office of Small Business Advocate*

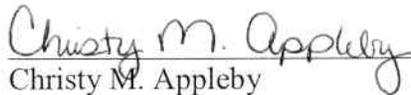
Kurt E. Klapkowski, Assistant Counsel
Commonwealth of Pennsylvania
RCSOB, 9th Floor
400 Market Street
Harrisburg, PA 17101
Counsel for: *Department of Environmental
Protection*

Daniel Clearfield, Esquire
Kevin J. Moody, Esquire
Eckert Seamans Cherin & Mellott, LLC
213 Market Street, 8th Floor
P.O. Box 1248
Harrisburg, PA 17108-1248
Counsel for: *Direct Energy Business, LLC*

Charles E. Thomas, Esquire
Thomas T. Niesen, Esquire
THOMAS, LONG, NIESEN & KENNARD
212 Locust Street, Suite 500
P.O. Box 9500
Harrisburg, PA 17108-9500
Counsel for: *Pennsylvania State University*

Scott H. DeBroff, Esquire
Rhoads & Sinon, LLP
Twelfth Floor
One south Market Square
Harrisburg, PA 17108-1146
Counsel for: *EnerNOC, Inc*

Christopher A. Lewis, Esquire
Christopher R. Sharp, Esquire
Blank Rome, LLP
One Logan Square
Philadelphia, PA 19103
Counsel for: *Field Diagnostic Services, Inc.*



Christy M. Appleby
Assistant Consumer Advocate
PA Attorney I.D. # 85824
E-Mail: CAppleby@paoca.org
Tanya J. McCloskey
Senior Assistant Consumer Advocate
PA Attorney I.D. # 50044
E-Mail: TMcCloskey@paoca.org
Counsel for
Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101-1923
Phone: (717) 783-5048
Fax: (717) 783-7152
00135513.docx