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December 1, 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 Expedited Approval of its Smart Meter Technology Procurement and Installation Plan; Docket No. M-2009-2123951

Dear Secretary Chiavetta:

Enclosed for filing with the Pennsylvania Public Utility Commission ("PUC" or "Commission") are the original and three (3) copies of the Petition for Leave to Withdraw Answer in Opposition to the Joint Petition for Settlement of the West Penn Power Industrial Intervenors ("WPPII") in the above-referenced proceeding.

As reflected on the attached Certificate of Service, all parties to this proceeding are being duly served with copies of this filing. Please date stamp the extra copy of this transmittal letter and Petition, and kindly return it to us for our filing purposes. Thank you.

Very truly yours,

McNEES WALLACE & NURICK LLC

By

Carl J. Zwick

Counsel to the West Penn Power Industrial Intervenors

CJZ/sds

Enclosure

c: Administrative Law Judge Mark A. Hoyer (via E-mail and First-Class Mail)
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 Expedited :
Approval of its Smart Meter Technology :
Procurement and Installation Plan :

Docket No. M-2009-212395

**PETITION FOR LEAVE TO WITHDRAW ANSWER IN OPPOSITION
TO THE JOINT PETITION FOR SETTLEMENT
OF THE WEST PENN POWER INDUSTRIAL INTERVENORS**

Pursuant to the provisions of Section 5.94(a) of the Pennsylvania Public Utility Commission's ("PUC" or "Commission") Regulations,¹ the West Penn Power Industrial Intervenors ("WPPII") hereby petition for leave to withdraw the Answer in Opposition to the Joint Petition for Settlement ("Answer in Opposition") in the above-captioned proceeding, which WPPII filed on November 1, 2010. In support of this Petition, WPPII states the following:

1. On August 14, 2009, consistent with the requirements of Act 129 of 2008 ("Act 129") and the Commission's Implementation Order,² the West Penn Power Company d/b/a Allegheny Power ("West Penn" or "Company") filed its Act 129 Smart Meter Technology Procurement and Installation Plan ("SMIP" or "Plan") with the Commission.

2. On September 16, 2009, WPPII filed a Petition to Intervene in this proceeding in order to protect its members' interests.³ In particular, WPPII noted that it was primarily concerned about the proposed program costs, the allocation of those costs and the Company's proposed cost

¹ 52 Pa. Code § 5.94(a).

² See *Smart Meter Procurement and Installation*, Docket No. M-2009-2092655 (Order entered June 24, 2009) ("Implementation Order").

³ A description and current composition of WPPII is listed in Paragraph 3 and Appendix A of WPPII's Petition to Intervene.

recovery mechanism.⁴ WPPII's Petition to Intervene was granted by Administrative Law Judge ("ALJ") Hoyer at the September 30, 2009, Prehearing Conference.

3. On November 9, 2009, ALJ Hoyer conducted evidentiary hearings for the purposes of brief cross-examination of a limited number of witnesses and entering of testimony and exhibits of the expert witnesses into the formal record of the proceeding.

4. WPPII submitted a Main Brief on December 18, 2009, and a Reply Brief on January 5, 2010.

5. By Secretarial Letter dated May 6, 2010, the Commission issued ALJ Hoyer's Initial Decision ("I.D.") and provided a timeframe for the filing of Exceptions and Reply Exceptions.

6. On May 13, 2010, West Penn filed a Petition to Stay the Exception Period. According to West Penn, the Company filed the Petition to Stay the Exceptions Period to allow parties time to consider the impact that the proposed merger of Allegheny Energy, Inc. ("Allegheny Energy"), the parent company of West Penn, with FirstEnergy Corp. ("FirstEnergy")⁵ might have on the Company's SMIP. By Order entered July 21, 2010, the Commission stayed the Exceptions period for 90 days.

7. On September 10, 2010, West Penn filed a Petition to Amend its PUC-approved Energy Efficiency and Conservation ("EE&C") Plan.⁶ The changes proposed in West Penn's Amended EE&C Plan are based, at least in part, on changes to the Company's smart meter programs and

⁴ See Petition to Intervene, ¶ 6.

⁵ See *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 and A-2010-2176732 (May 10, 2010).

⁶ To the extent the Commission deems necessary, WPPII requests that the Commission take administrative notice of West Penn's EE&C Plan proceeding docketed with the PUC at: *West Penn Power Company d/b/a Allegheny Power, Pennsylvania Act 129 Energy Efficiency and Conservation Plan*, Docket No. M-2009-2093218 (Order entered June 23, 2010).

the additional experience gained by the Company since it filed the original EE&C Plan. West Penn's Amended EE&C Plan is considerably less reliant on smart meter technology.

8. On October 19, 2010, West Penn and the Office of Consumer Advocate ("OCA") filed their Joint Petition for Settlement of the SMIP proceeding ("SMIP Settlement") and requested expedited consideration thereof. The SMIP Settlement, if approved by the Commission, will significantly decelerate the deployment of smart meters throughout the Company's service territory.

9. On November 1, 2010, WPPII filed an Answer in Opposition to the SMIP Settlement. WPPII's main objective in opposing the SMIP Settlement was to alert the PUC that the Commission's approval of the SMIP Settlement would affect the Company's PUC-approved EE&C Plan.

10. Following discussions with West Penn regarding the Company's Petition to Amend its EE&C Plan, WPPII and West Penn reached a stipulated agreement with respect to the changes that the Company proposed, or will propose, to its Commission-approved EE&C Plan. With this stipulation being reached, WPPII's concerns with the SMIP Settlement (*i.e.*, the deceleration of smart meter deployment in West Penn's service territory) have been sufficiently addressed.

11. On November 30, 2010, WPPII filed a letter with the Commission, indicating WPPII's desire to withdraw its opposition to the SMIP Settlement.

12. WPPII believes this Petition to Withdraw is consistent with the Commission policy of encouraging settlements⁷ and will conserve the Commission valuable time and resources.

⁷ See, e.g., 52 Pa. Code §§ 5.231 and 69.391(a).

WHEREFORE, for the foregoing reasons, the West Penn Power Industrial Intervenors respectfully request that the West Penn Power Industrial Intervenors be granted leave to withdraw the Answer in Opposition to the Joint Petition for Settlement of the West Penn Power Industrial Intervenors that was filed on November 1, 2010.

Respectfully submitted,

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Dated: December 1, 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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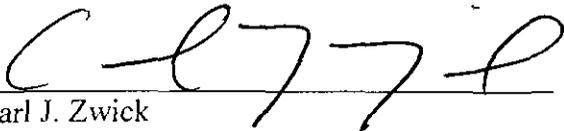
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Dated this 1st day of December, 2010, at Harrisburg, Pennsylvania.