



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

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Vasiliki Karandrikas
Direct Dial: 717.237.5274
Direct Fax: 717.260.1707
vkarandrikas@mwn.com

April 26, 2012

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 for Amendment of the Orders Approving Energy Efficiency and Conservation Plans and Petition for Approval of its Amended Energy Efficiency and Conservation Plans; Docket No. M-2009-2093218

Dear Secretary Chiavetta:

On April 17, 2012, presiding Administrative Law Judge Dennis J. Buckley issued the Recommended Decision ("R.D.") in the above-referenced proceeding, in which he recommended approval of the Joint Petition for Settlement of All Issues ("Joint Petition") filed on January 6, 2012, between West Penn Power Company, the Office of Consumer Advocate, the Office of Small Business Advocate, Pennsylvania Communities Organizing for Change, and West Penn Power Industrial Intervenors ("WPPII"). See R.D. at 23.

Although the R.D. acknowledges WPPII as a party to this proceeding and a signatory to the settlement, the R.D. does not mention that WPPII filed a Statement in Support of the Joint Petition. See R.D. at 1; id. at 10-19. In fact, WPPII's Statement in Support appeared as Attachment 5 to the Joint Petition. To ensure a complete and accurate record in this proceeding, WPPII hereby files an original and nine (9) copies of this Letter in Lieu of Exceptions, including WPPII's Statement in Support attached hereto. To be clear, WPPII does not take exception to the R.D.

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April 26, 2012
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As shown by the attached Certificate of Service, all parties to this proceeding are being duly served with a copy of this letter. Please date stamp the extra copy of this letter and kindly return it to our messenger for our filing purposes.

Very truly yours,

McNEES WALLACE & NURICK LLC

By 
Vasiliki Karandrikas

Counsel to the West Penn Power Industrial Intervenors

VK/sds

Enclosure

c: Administrative Law Judge Dennis J. Buckley (via E-mail and Hand Delivery)
Cheryl Walker Davis, Director, Office of Special Assistants (via Hand Delivery)
Certificate of Service

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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Petition of West Penn Power Company for :
Amendment of the Orders Approving :
Energy Efficiency and Conservation Plan : Docket No. M-2009-2093218
and Petition for Approval of Amended :
Energy Efficiency and Conservation Plan :

**STATEMENT OF THE
WEST PENN POWER INDUSTRIAL INTERVENORS
IN SUPPORT OF THE JOINT PETITION FOR SETTLEMENT**

The West Penn Power Industrial Intervenors ("WPPII"), by and through its counsel, submit that the terms of the Joint Petition for Settlement ("Joint Petition" or "Settlement") filed in the above-captioned proceeding with the Pennsylvania Public Utility Commission ("PUC" or "Commission") on January 6, 2012, reflects a global settlement of all outstanding issues in the above-referenced proceeding among West Penn Power Company ("West Penn" or "Company"), WPPII, the Bureau of Investigation and Enforcement ("BI&E"), the Office of Consumer Advocate ("OCA"), the Office of Small Business Advocate ("OSBA"), and Pennsylvania Communities Organizing for Change, Inc. ("PCOC") (collectively, the "Joint Petitioners"), with respect to the Company's August 9, 2011, filing of a Petition to amend its Energy Efficiency and Conservation ("EE&C") Plan. WPPII offers this Statement in Support to further demonstrate that the Settlement is in the public interest and should be approved without modification.

I. BACKGROUND

1. On August 9, 2011, West Penn filed with the Pennsylvania Public Utility Commission ("PUC" or "Commission") a Petition seeking to amend its EE&C Plan ("Amended

Petition") to be more consistent with its sister FirstEnergy Companies' EE&C Plans.¹ West Penn's proposed revisions included: (1) increasing the cost allocation to large commercial and industrial ("C&I") customers by \$8,000; (2) implementing a Conservation Voltage Reduction ("CVR") Program; (3) replacing fixed EE&C program incentives with incentive ranges; and (4) shifting funding from the Customer Resources Demand Response ("CRDR") Program to the Customer Load Response Program.

2. On August 19, 2011, WPPH filed an Answer in the above-captioned proceeding. In addition, on September 12, 2011, WPPH filed Comments to the Amended Petition. As noted in the Answer, WPPH members purchase service from West Penn primarily under Rate Schedules 30, 40, 41, 44, and 46, and electricity costs comprise a significant portion of operational costs for all WPPH members. As a result, WPPH members were concerned that the proposed revisions may have an adverse impact upon their operational processes.

3. On October 28, 2011, the PUC issued an Interim Opinion and Order approving West Penn's Amended Petition in part, and referring the remaining elements of the Amended Petition to the Office of Administrative Law Judge for the scheduling of proceedings and the issuance of a Recommended Decision on an expedited basis. The elements of West Penn's Amended Petition that were scheduled for hearing included: (1) whether the CVR Program, under which West Penn would reduce voltage levels by 1.5% on strategic distribution circuits, should be added to the EE&C Plan; (2) whether incentive ranges should be adopted in place of fixed incentives; and (3) whether the change in funding for the large C&I demand response program is appropriate.

¹ On February 25, 2011, the FirstEnergy/Allegheny Energy Merger was completed. As of that date, West Penn became part of the FirstEnergy corporate family, which originally included Metropolitan Edison Company, Pennsylvania Electric Company, and Pennsylvania Power Company.

4. In accordance with the Commission's policy encouraging negotiated settlement of contested proceedings, the Joint Petitioners engaged in discussions to resolve the issues raised by the various parties. These negotiations resulted in the Settlement, which proposes a resolution of all outstanding issues between the Joint Petitioners in this proceeding as set forth below.

II. STATEMENT IN SUPPORT

5. The Commission has a strong policy favoring settlements. As set forth in the Commission's regulations, "[t]he Commission encourages parties to seek negotiated settlements of contested proceedings in lieu of incurring the time, expense and uncertainty of litigation." 52 Pa. Code § 69.391; see also 52 Pa. Code § 5.231. Consistent with the Commission's policy, the Joint Petitioners engaged in negotiations in an effort to settle the issues raised by the parties. These ongoing discussions produced the foregoing Settlement.

6. The Joint Petitioners agree that approval of the proposed Settlement is overwhelmingly in the best interest of the parties involved.

7. The Joint Petition is in the public interest for the following reasons:

- a. As a result of the Joint Petition, expenses incurred by the Joint Petitioners and the Commission for completing this proceeding will be less than they would have been if the proceeding had been fully litigated.
- b. Uncertainties regarding further expenses associated with possible appeals from the Final Order of the Commission are avoided as a result of the Joint Petition.
- c. The Joint Petition reflects compromises on all sides presented without prejudice to any position any Joint Petitioner may have advanced so far in this proceeding.
- d. The Joint Petition is presented without prejudice to any position any party may advance in future proceedings involving the Company.

8. In addition, the Joint Petition specifically satisfies the concerns of WPPII by:

- a. Adopting measures to address WPPH's concerns regarding West Penn's proposed CVR Program implementation, including: (i) the installation of delivered voltage metering equipment at seven customer locations for WPPH members with documented reliability concerns; (ii) WPPH members' quarterly access to delivered voltage information; and (iii) the Company's commitment to "promptly take all necessary steps" to remedy any voltage problem and "meet with and discuss the need for any additional voltage metering equipment of WPPH member service locations...impacted by the CVR Program on an as needed basis;"
- b. Limiting the increase in the allocation of costs to large C&I customers to \$8,000; and
- c. Agreeing to develop a defined process for providing Joint Petitioners with advance notice of any proposed changes to the Company's incentive levels and an opportunity to discuss such changes.

9. WPPH supports the foregoing Joint Petition because it is in the public interest; however, in the event that the Joint Petition is rejected by the Administrative Law Judge or the Commission, WPPH will resume its litigation position, which differs from the terms of the Joint Petition.

10. As set forth above, WPPH submits that the Settlement is in the public interest and adheres to Commission policies promoting negotiated settlements. The Settlement was achieved after extensive negotiations. While Joint Petitioners have invested time and resources in the negotiation of the Joint Petition, this process has allowed the parties, as well as the Commission, to avoid expending the substantial resources that would have been required to fully litigate this proceeding while still reaching a just, reasonable, and non-discriminatory result. Joint

Petitioners have thus reached an amicable resolution to this dispute as embodied in the Settlement. Approval of the Settlement will permit the Commission and Joint Petitioners to avoid incurring the additional time, expense and uncertainty of further current litigation in this proceeding. See 52 Pa. Code § 69.391.

WHEREFORE, the West Penn Power Industrial Intervenors respectfully request that Administrative Law Judge Buckley, and the Pennsylvania Public Utility Commission, approve the foregoing Joint Petition for Settlement without modification.

Respectfully submitted,

McNEES WALLACE & NURICK LLC

By Vasiliki Karandrikas
Susan E. Bruce (PA I.D. No. 80146)
Vasiliki Karandrikas (I.D. No. 89711)
100 Pine Street
P.O. Box 1166
Harrisburg, PA 17108-1166
Phone: (717) 232-8000
Fax: (717) 237-5300
sbruce@mwn.com
vkandrikas@mwn.com

Counsel to the West Penn Power Industrial
Intervenors

Dated: January 6, 2012

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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.
Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
P.O. Box 3265
Harrisburg, PA 17105-3265
rkanaskie@pa.gov

Sharon E. Webb, Esq.
Office of Small Business Advocate
Commerce Building, Suite 1102
300 North Second Street
Harrisburg, PA 17101
swebb@pa.gov

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

John F. Povilaitis, Esq.
Buchanan Ingersoll & Rooney
Government Relations Center
17 North Second Street, 15th Floor
Harrisburg, PA 17101-1503
john.povilaitis@bipc.com

John L. Munsch, Esq.
Amanda Skov, Esq.
West Penn Power Company
800 Cabin Hill Drive
Greensburg, PA 15601-1689
jmunsch@alleghenyenergy.com
askov@alleghenyenergy.com

Thomas J. Sniscak, Esq.
William E. Lehman, Esq.
Hawke McKeon & Sniscak LLP
100 North Tenth Street
P.O. Box 1778
Harrisburg, PA 17105-1778
tjsniscak@hmslegal.com
welehman@hmslegal.com

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

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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@thomaslonglaw.com
tniesen@thomaslonglaw.com

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

Kathy J. Kolich, Esq.
FirstEnergy Service Company
76 South Main Street
Akron, OH 44308
kjkolich@firstenergycorp.com

Divesh Gupta, Esq.
Senior Counsel
Constellation Energy
100 Constellation Way, Suite 500C
Baltimore, MD 21202
divesh.gupta@constellation.com

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

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

Harry S. Geller, Esq.
Patrick Cicero, Esq.
Pennsylvania Utility Law Project
118 Locust Street
Harrisburg, PA 17101
pulp@palegalaid.net

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

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



Vasiliki Karandrikas

Counsel to the West Penn Power Industrial Intervenors

Dated this 26th day of April, 2012, at Harrisburg, Pennsylvania.