

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**  
**Harrisburg, Pennsylvania 17105-3265**

Petition of West Penn Power  
Company for Amendment of the  
Order Approving Energy  
Efficiency and Conservation  
Plans and Petition for Approval  
of its Amended Energy  
Efficiency and Conservation  
Plan

**Public Meeting: May 10, 2012**  
**2093218-ALJ**  
**Docket Nos. M-2009-2093218**

**DISSENTING AND CONCURRING STATEMENT OF**  
**COMMISSIONER CAWLEY**

Before this Commission for approval is the Recommended Decision of Administrative Law Judge Dennis J. Buckley regarding approval of the Joint Petition for Settlement (Joint Petition) filed by West Penn Power Company (West Penn or Company) for the Amendment of the Order Approving West Penn's Energy Efficiency and Conservation Plans (EE&C Plans) and Petition for Approval of its amended Energy Efficiency and Conservation/Demand Response Plan (EE&C/DR Plan or Plan).

Overall, the Plan changes are generally consistent with other approved Electric Distribution Company (EDC) plans already approved by this Commission. However, one aspect of the Joint Petition and Plan, should not be approved. More specifically, the revised Plan proposes the use of incentive ranges rather than fixed incentive amounts.<sup>1</sup> The incentive ranges proposed for certain measures are quite large, lending too much latitude to the Company to provide incentives that, in some circumstances, could cover 100% of the costs of the measure. Normally, customers are asked to pay around 50% of the incremental costs of the efficiency measure. This design requirement ensures that both customers and the company have joint responsibility to move forward with the measure, and that ratepayer funds are used efficiently. Participants are the beneficiaries of these programs and rightfully should contribute their share of capital to programs they benefit from.

The Joint Petition does contain a requirement by the Company to provide parties to this case and its stakeholder group with notice of incentive level changes proposed, and parties and interested stakeholders may request to meet to discuss changes in incentive levels. However, if a party disagrees

---

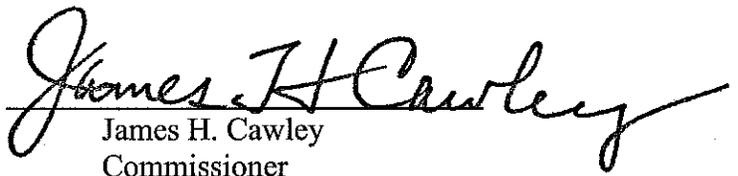
<sup>1</sup> Petition of West Penn Power Company for Amendment of the Orders Approving Energy Efficiency and Conservation Plan and Petition for Approval of Amended Energy Efficiency and Conservation Plan; Docket No. M-2009-2093218, page v, Table 8.

with the change and West Penn declines to acquiesce to the objecting party, that party must then file a petition with the Commission. An objecting party's burden, however, will be high because of the Commission's approval of the incentive level range. The objecting party will be required to demonstrate why the new incentive level is not appropriate, or why the implementation of the incentive is inappropriate. It is unfair to impose this costly and difficult burden of proof on stakeholders. Rather, the Company should bear the burden of demonstrating that revised incentive levels are just and reasonable.

In response to the needs of EDCs, the Commission has already modified its EE&C plan approval procedures to account for exactly this type of minor modification to EE&C plans.<sup>2</sup> The parties to this case have not explained why the Commission's recent procedural changes are insufficient. Specifically, the Commission provided an expedited review process for changes in rebate levels and structures that does not increase the overall budget for a customer class.

In short, the proposed wide range proposed for various incentive levels may be unjust and unreasonable, and the Commission should have a more thorough process for approving these incentive level modifications, and stakeholders should have less of a burden in opposing changes proposed by the Company. This is necessary to ensure that these ratepayer funds are used efficiently.

May 10, 2012

  
James H. Cawley  
Commissioner

---

<sup>2</sup> Commission Order, June 9, 2011, Docket M-2008-2069887.