COMMONWEALTH OF PENNSYLVANIA

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September 10, 2009

James J. McNulty
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 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 McNulty:

Enclosed for filing is the Reply Brief 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,

Christy M. Appleby

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Assistant Consumer Advocate
PA Attorney I.D. # 85824

Enclosures
cc: Honorable Katrina L. Dunderdale
Office of Special Assistants

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

REPLY BRIEF
OF THE
OFFICE OF CONSUMER ADVOCATE

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Dated: September 10, 2009

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I. INTRODUCTION

On August 31, 2009, the Office of Consumer Advocate (OCA) filed its Main Brief regarding its positions on the issues raised in this proceeding. The OCA submits that its Main Brief provides the Pennsylvania Public Utility Commission (PUC or Commission) with a comprehensive discussion of the issues in this proceeding. The OCA's Main Brief fully addresses and responds to many of the arguments raised by the Company and the other parties in their Main Briefs.

It is not the purpose of this Reply Brief to respond to all of the arguments contained in the Company's or other parties' Main Briefs. The OCA will limit its reply to those issues requiring additional clarification and response. Thus, any failure of the OCA to address specific arguments contained in the Company's or other parties' Main Briefs does not mean that the OCA agrees with Allegheny Power's or the other parties' positions or that the OCA has revised its position.

II. PROCEDURAL HISTORY

No reply is necessary.

III. DESCRIPTION OF EDC PLAN

The OCA has summarized its description of Allegheny Power's Energy Efficiency and Conservation Plan (EE&C Plan) and recommendations regarding EE&C Plan on pages 6 to 8 of its Main Brief.

IV. SUMMARY OF ARGUMENT

As explained in the OCA Main Brief and as further set forth in this Reply Brief, the OCA has significant concerns with the Company's reliance on Smart Meters for its EE&C Plan and its proposal to include the Pay Ahead (Smart) Service Rate in its Plan. See OCA M.B. at 8-10.

There are a number of areas of the Plan as to which the OCA made recommendations for modification in its Main Brief. In the face of arguments made in Allegheny Power's Main Brief as to several of the OCA's recommended modifications, the OCA finds itself compelled to reply. Specifically, the OCA will address in this Reply Brief: 1) further clarification of the OCA's concerns regarding the Company's reliance on Smart Meters for its EE&C Plan and how this will impact whether the Company will be able to achieve its proposed consumption and peak demand reduction requirements under Act 129; 2) further clarification of the OCA's concerns regarding how Allegheny Power's Plan falls short of meeting the requirements for low-income customers; 3) the importance of the OCA's recommendation that the Company eliminate the proposed Pay Ahead (Smart) Service Rate; 4) the need to exclude the annual PUC assessment costs in the proposed EE&C surcharge; and 5) the OCA's recommendation that the Company not include the EE&C surcharge as a separate line item on the customer bill.

V. ARGUMENT

A. Act 129 Conservation And Demand Reduction Requirements

Under Act 129, Allegheny Power's Plan must be designed to reduce energy demand and consumption within each EDC's service territory. 66 Pa.C.S. § 2806.1(a). OCA witness Crandall testified that the Company's Plan will not meet all of its targets within the spending limits based upon the Company's proposed EE&C Plan design. OCA St. 1 at 6, 10. OCA witness Crandall also testified that the EE&C Plan design could compromise the Company's ability to achieve the required reductions in the timeframe required. Id.

The OCA agrees with the Company that Section 66 Pa.C.S. § 2806.1(c) and (d) contain the consumption reduction and demand reduction requirements for Allegheny Power for 2011 and 2013. Allegheny Power M.B. at 21; See 66 Pa.C.S. § 2806.1(c), (d). The OCA, however, disagrees that the Company's EE&C Plan will meet the requirements under Section 2806.1(c) for 2011 and 2013 and its overall demand reduction targets. Allegheny Power M.B. at 21-22. While the filed Plan purports to show achievement of the 2011 and 2013 requirements, Allegheny Power's Plan heavily relies on accelerated deployment of Advanced Meter Infrastructure (AMI) and its Smart Meter Plan for achieving the consumption and demand reduction targets. The OCA submits that this heavy reliance on AMI and AMI-dependent programs is flawed and, as responded to more fully below, may prevent the Company from achieving its energy consumption and reduction targets.

1. <u>Overall Conservation Requirements</u>

No further reply is necessary.

a. <u>2011 Requirements</u>

No further reply is necessary.

b. <u>2013 Requirements</u>

No further reply is necessary.

2. <u>Overall Peak Demand Reduction Requirements</u>

No further reply is necessary.

3. <u>Requirements For A Variety Of Programs Equitably Distributed</u>

No further reply is necessary.

4. <u>10% Government/Non-Profit Requirement</u>

No reply is necessary.

5. <u>Low Income Program Requirements</u>

As discussed in the Company's Main Brief, Allegheny Power identified a range of 2.1 percent (confirmed low-income customers) to 4.8 percent (census data low-income customers) as the proportion of the low-income usage to the total system usage. Allegheny Power's Plan states that 2.7 percent of the Company's projected savings, or 2.8 percent of the Commission's identified goal, are targeted to be achieved by the low-income programs. Allegheny Power M.B. at 241; Allegheny Power St. 2-R at 29; see also, Allegheny Power Plan, Table 2, at 28; Tr. at 155-156. Allegheny Power argues that its Plan should target savings to customers based on the confirmed low-income customers in its billing system, *i.e.*, the 2.1%.

The OCA submits, however, that the Company Plan should seek to achieve 4.8% of its savings from low-income customer programs. The 4.8%, based on census data, is a more accurate estimate of all households at or below 150% of the Federal Poverty Level in Allegheny Power's service territory. The Company acknowledged on cross examination that the "confirmed" low-income customers in its billing system are not all of the low-income customers in its service territory. Tr. at 153. As Company witness Miller explained, "[b]ased on low-income program statistics, typically 30% of eligible customers will participate in programs and bill assistance." Allegheny Power St. 2-R at 29. Therefore, the Company's reliance upon the number of "confirmed" low-income customers in its billing system and low-income programs will exclude a significant number of low-income customers. This is demonstrated by the 50,000 low-income customer difference between the Company's number of confirmed low-income customers (39,140) in its billing system and the number of low-income customers according to the census data (90,000). See, Id. The OCA submits that to meet the requirement of the Act, the Company must develop an estimate of the usage of all of its low-income customers. The use of census data to develop this estimate is the best approach. As such, the OCA submits that Allegheny Power should seek to achieve savings from its directly targeted low-income program equal to 4.8% of the total required savings.

Allegheny Power also argues in its Main Brief that the 2.7% savings amount in the Company's Plan from directly targeted low-income programs does not include savings from low-income participation in the Company's other programs under the EE&C Plan. Allegheny Power M.B. at 24. The Company then argues that these programs should be considered when measuring compliance. The OCA submits that this assertion is not consistent with the statute and is insufficient to show compliance. The statutory requirement is for "specific energy efficiency measures for households at or below 150% of the Federal Poverty level." 66 Pa.C.S. § 2806.1(b)(1)(i)(G). The general residential programs are not "specific" programs or measures for low-income households. Moreover, the Company has not provided any evidence that low-income customers will participate in other Company EE&C programs or that the participation levels for low-income customers will be sufficient to bridge the gap between the 2.7% and the 4.8% energy savings. Indeed, these other programs often require a customer to fund a significant portion of the cost of the measure or to fund a purchase while awaiting a rebate for the incremental cost. Low-income households may not have the financial resources to participate in many of these general programs.

The OCA submits that the Company has not shown that it has met its low-income requirements. The OCA submits that the Company should be required to increase the savings that are obtained from programs directly targeted to the low-income sector to about 4.8% and provide further information to the Commission and stakeholders as to how it will achieve this requirement.

6. Issues Relating To Individual Conservation And Demand Reduction Programs

a. Residential

The OCA has significant concerns with the over-reliance in the EE&C Plan on aggressive Smart Meter deployment to achieve the energy efficiency and demand reductions necessary under the Act. As discussed in the Direct Testimony of OCA witness Geoffrey Crandall and the OCA's Main Brief, the Plan, as proposed, raises significant issues as to whether the requirements of Act 129 can be achieved, and if so, whether they will be achieved within the spending cap and cost-effectiveness requirements of the Act.

The OCA notes that the Company addressed issues in Section 6(a) of its Main Brief which relate to the OCA's program recommendations regarding Solid State Lighting and the OCA's proposed incandescent light bulb turn-in initiative and CFL recycling program. The OCA has addressed those issues regarding Program Improvements in Section 7 below.

i. The Company's Reliance On Advanced Meter Infrastructure/Smart Meter Plan For Achieving The Consumption And Demand Reduction Targets Cannot Be Supported.

a) Introduction

The OCA submits that Allegheny Power's excessive reliance on Advanced Meter Infrastructure and Smart Meters will impede the Company's ability to achieve the necessary consumption and demand reduction targets and is not supported by Act 129. In its Main Brief, the Company argues that the Act 129 requirements for EE&C Plans and Smart Meter deployment are interrelated and should proceed together. Allegheny Power M.B. at 35. The Company also argues that without approval of its Smart Meter-related programs, it may not achieve the requirements of the Act. Allegheny Power M.B. at 36. The OCA submits that the Company's arguments must be rejected.

b) Interrelation Of Act 129 Implementation Schedules

In its Main Brief, the Company argues that the OCA has overlooked the interrelation of Smart Meters and the Company's EE&C Plan "that is evident with the Act 129 implementation schedules." Allegheny Power M.B. at 35. The Company argues that "Act 129's tight dovetail of the EE&C plans and SMIPs [Smart Meter Implementation Plans] indicates the interrelated nature of the plans." Id. While the OCA agrees that the EE&C Plans, Smart Meter Plans, and Time-of-Use rate plans all move the Commonwealth toward the goal of energy conservation and demand reduction, the OCA submits that the General Assembly established separate proceedings for these filings because of the differences in the nature of the filings and their inherent complexities.

The OCA submits that Act 129 anticipates that these filings will be separately decided, and the initiatives will proceed on different timelines. In addition to setting different, statutory starting dates and timelines for the cases, Act 129 also includes a provision that anticipates Smart Meters will not be immediately deployed into the EE&C Plan by creating a specific provision for customers who want a Smart Meter in advance of the full deployment by the Company. 66 Pa.C.S. § 2807(F)(2)(I). OCA witness Crandall explained:

> The Act also appears to contemplate a deployment schedule not to exceed 15 years. Early deployment of smart meters would be provided ***upon request from a customer*** (emphasis added) that agrees to pay the cost of the smart meter at the time of the request. The Act also contemplates that rate filings for time of use rate options will be made in 2010, well after approval of the EE&C Plans by the Commission. AP does recognize these points when it

> indicates that it intends to file a Smart Meter Implementation Plan in August 2009 and rate filing in 2010.

OCA St. 1 at 7-8.

The OCA submits that Allegheny Power's EE&C Plan does not, and cannot, address in the 120 day statutory timeframe for this proceeding the significant issues that need to be resolved about Smart Meter implementation. Without an understanding of how the Smart Meter deployment issues will be resolved or when they will be resolved, the Company's Plan is essentially built on a house of cards.

The Company further states that under Section 2807(f)(5) of Act 129 "customers are permitted to participate in time-of-use rates and real-time pricing and a default service provider is required to report on the efficacy of these two programs in reducing demand and consumption." Therefore, the Company concludes that: "[w]ith this language, the General Assembly clearly contemplates that time-of-use rates and real-time pricing, both of which require Smart Meters and Smart Meter infrastructure, are to be used to meet the Act 129 demand and consumption reduction requirements." Allegheny Power M.B. at 35-36. The OCA submits that the Company tries to establish a link that is not there. The Section referenced by the Company makes no mention of the energy efficiency and conservation programs under Section 2806.1 of the Act. The OCA agrees that the initiatives of Smart Metering and time-of-use pricing will go towards the overall long-term goal of increasing energy efficiency and demand reduction in the Commonwealth, but these initiatives are <u>in addition</u> to the immediate, near-term energy efficiency and demand response programs required under Section 2806.1.

The purpose of the EE&C Plans was to quickly enter into energy efficiency and demand response to provide immediate impacts. The Smart Meter provisions would then allow for Smart Meter deployment and the development of further rate initiatives to build on the energy efficiency and demand response already being achieved by the EE&C and Demand Response Plans. The Company's proposal to merge these initiatives is not required by the Act nor is it reasonable in the manner that Allegheny Power has proposed.

c) <u>Reliance on Smart Meter Deployment Is Not A Reasonable Strategy.</u>

The Company argues in its Main Brief that if the Smart Meter-dependent programs are removed, Allegheny Power could not rework its Plan to meet the requirements of Act 129 by scaling up the remaining thirteen programs. The Company states that removal of these nine Smart Meter-dependent programs "would have the effect of removing over 50% of the expected demand reductions, a gap that cannot be closed by expansion of other programs." Allegheny Power M.B. at 36. The OCA submits, however, that the Company could, and should, consider the addition of other programs to its portfolio, such as a residential Direct Load Control program, and it should further consider the programs that can be accomplished within its existing meter infrastructure. The Company should immediately solicit input from stakeholders and CSPs as to other programs that can be implemented.

The Customer Load Response and the Distributed Generation programs for commercial and industrial customers account for a significant portion of the peak demand reductions that the Company references in its Main Brief. Allegheny Power Plan, Table 4, at 34. As Company witness Miller testified in his Direct Testimony, however:

> [w]hile some functionality is available for certain programs with existing metering infrastructure to a limited customer base, the Company's Plan relies on the installation of Smart Metering infrastructure to offer these programs to all targeted and eligible customers.

Allegheny Power St. 2 at 10. The Company has not separated out in its estimates which aspects of the programs are compatible with its existing meter infrastructure. The OCA particularly questions whether some aspects of the commercial and industrial demand response programs would be functional within the existing meter infrastructure as these customers typically have more sophisticated meters. In any event, the OCA submits that the fact that the Company cannot meet its goals without these Smart Meter-dependent programs is not a basis on which the Commission should approve these programs. Allegheny Power M.B. at 36. Rather, it is a basis for the Commission to order the Company to change its Plan.

d) Conclusion

The OCA submits that the Company's Plan as filed with its reliance on Smart Meter deployment for energy savings and demand reduction cannot be found to meet the requirements of the Act. At this time, the OCA submits that the Commission should direct Allegheny Power to consider rate options or other programs that Allegheny Power could offer within its existing meter structure. Such options should include consideration of residential Direct Load Control for demand reduction purposes. If the Company can show that some of its rate options can be deployed within the budget limitation and Total Resource Cost requirements of the Act, some of these programs could go forward on a limited basis. OCA M.B. at 25; OCA St. 1 at 10.

In general, though, the OCA submits that the funds that have been directed toward the Smart Meter rate options should be redeployed to other cost-effective energy efficiency programs and demand reduction as well as other rate options that can be achieved in the near term within the existing meter infrastructure.

ii. The Pay Ahead (Smart) Service Rate Should Not Be Approved Under Any Circumstances.

Allegheny Power's Main Brief discusses the OCA's recommendation that the Commission reject the Company's proposed Pay Ahead (Smart) Service Rate (PASR). Allegheny Power M.B. at 36-37. The Company's Main Brief argues that the proposed Pay

Ahead (Smart) Service Rate "is a cost-effective means to reduce consumption and demand." Allegheny Power M.B. at 36. The OCA submits that the Company has not demonstrated that the program is cost-effective or provided sufficient data by which to properly evaluate the costs and benefits under the TRC. See, OCA M.B. at 27-31. Moreover, this energy efficiency proceeding is not the appropriate forum to address the significant public policy issues related to PASR.

Allegheny Power's Main Brief correctly summarizes the OCA's view that this proposed plan is more of a "billing option" rather than an energy efficiency service. As the OCA discussed in its Main Brief, the Company itself describes the PASR as a "billing option" in its program description. Allegheny Power M.B. at 36-37; OCA St. 1 at 11; See, Allegheny Power Plan at 19. A billing option is not in itself an energy efficiency measure, and in this case, it raises numerous policy concerns that would have to be addressed.[1] The constrained timeframe of this proceeding, and its focus on energy efficiency measures, makes it an improper forum for addressing these many concerns.

Moreover, the Company's claim of benefits from this program is flawed. First, the cost of fundamental components -- the Smart Meter, the in-home display and the O&M regarding the meter -- is not presented in the Plan or included in any analysis. OCA M.B. at 27; OCA St. 1 at

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1 One issue raised by the OCA concerns the requirements of 52 Pa. Code § 56.17. Allegheny Power denies the applicability of Section 56.17 to this program. Allegheny Power M.B. at 37; see, 52 Pa. Code § 56.17. Whether directly applicable or not, Section 56.17 of the Commission's regulations specifically identifies the potential public policy issues that are implicated by a pre-payment program. Although Allegheny Power does not plan to terminate customers within the program, the fundamental public policy issues that are raised by Section 56.17 would need to be addressed. For example, the Company proposes to offer this program to landlord accounts, and Section 56.17 has determined that it is inappropriate to offer a pre-paid program to landlord accounts. 52 Pa. Code § 56.17(3)(iii). Additionally, Section 56.17 restricts low-income customers from participating in a pre-payment program, but the Company's target market includes customers on fixed incomes, retired or with disabilities. Allegheny Power St. 4-R at 8. The OCA submits that these are significant issues that cannot be addressed properly in the context of an energy efficiency proceeding.

12. Without knowing the full cost of the program, it is impossible to perform a cost/benefit analysis.

Second, the information that the Company used to estimate the savings from the program had no relationship to the PASR program proposed by the Company. OCA witness Crandall testified:

> The basis for the benefits, i.e. the energy savings for this proposed program is based on a study entitled "Residential Energy Usage Behavior Change Pilot" done in April 20, 2009. That study included a review of available research supplemented with interviews in an effort to identify activities by utilities to influence energy-use behavior. The study did not include consumer reactions and behavioral changes related to pay ahead program strategies. This study was targeted to customer behavior relative to: direct feedback programs providing real time information to customers, indirect feedback through on-line interfaces and mail to consumers and programs based on AMI and smart metering.
>
> While the study did include AMI related consumer reactions, it did not include consumer reactions to pay ahead service programs involving AMI nor did it include savings correlated to pay ahead service programs. The usefulness and transferability of this study is highly questionable and cannot be relied upon to support any level of energy or demand savings from pay ahead service.
>
> AP has failed to substantiate the proper costs or a reliable basis for the energy or demand savings for the proposed program. This proposed pay ahead approach is more in line with a special billing arrangement or payment arrangement rather than an energy efficiency and demand reduction program.

OCA St. 1 at 12-13; OCA M.B. at 27.

The Company then testified in its Reply Testimony that it found other benchmark information to estimate the savings. Allegheny Power St. 4-R at 14. The benchmark programs relied upon by the Company were the Salt River project, the Oklahoma Electric Cooperative project and a Northern Ireland Electricity project. The OCA submits, however, that this benchmark information cannot be found to support the claim of savings. When asked on cross-examination about the average energy savings of these other programs and whether service was shut off if the customer exceeds the prepaid amount, Company witness Cohen stated that he was "not familiar with the specific details of the programs. Specifically the administration of shutoff of service." Tr. at 197. Further, he also testified that he did not examine what measures the customers took to achieve savings or whether savings were achieved from customers foregoing electric service when the prepayment amount ran out. Tr. at 197-198. The OCA submits that Allegheny Power cannot support its assumptions of savings from such programs.

Allegheny Power has not properly evaluated the potential public policy risks; has not correctly calculated the costs of the program; and has not correctly calculated any benefits of the program. The OCA submits the proposed PASR is a "billing option" that cannot be shown to be a "cost effective means to reduce consumption and demand." The PASR should not be approved under any circumstances in this proceeding.

b. Commercial

No reply is necessary.

c. Industrial

No reply is necessary.

7. Proposals For Improvement Of EDC Plan

a. Residential

The OCA discussed its recommended EE&C Plan improvements at pages 32 to 34 of its Main Brief. OCA M.B. at 32-34. The OCA notes that the Company responded to these issues in Section 6 of its Main Brief. The OCA responds to the Company's arguments in Section 7 as they are related to the OCA's recommendations for improvements to Allegheny Power's EE&C Plan.

i. The Company Should Consider Solid State Lighting Technologies.

The OCA has recommended that the Company should give more consideration to Solid State Lighting (SSL) lighting technologies. OCA St. 1 at 17; OCA M.B. at 22-23. In its Main Brief, Allegheny Power responded with respect to this technology that the Company "has already factored into its EE&C Plan and plans to continue to do so." Allegheny Power M.B. at 44. The OCA supports the Company's continued efforts to consider ways to include SSL measures in the Company's EE&C Plan initiatives on a going-forward basis.

ii. The Company Should Consider An Incandescent Light Bulb Turn-In Feature And A Recycling Component To Its CFL Rewards Program.

The OCA recommends that Allegheny Power offer an incandescent light bulb turn-in program as an element of its CFL Rewards Program and that DEP's recommendation for a statewide CFL recycling program be considered for the CFL Rewards program. OCA M.B. at 33-34; DEP St. 1 at 23; Tr. at 148. The OCA proposes that the light bulb turn-in initiative be available to residential, commercial, non-profit, governmental or industrial customers and could be incorporated within the existing education initiatives in the EE&C Plan. Specifically, the OCA recommends that if a customer turns in two (functioning and operational) 100 watt incandescent light bulbs, they would be provided one equivalent 100 watt CFL bulb exchange. OCA St. 1 at 19-20; OCA M.B. at 33-34.

The Company's Main Brief responds that such an initiative is not necessary or economically justified and would make it more difficult for consumers to participate in the CFL Rewards program because it would impose an additional obligation for program participation. Further, the Company argues that such a program would increase the costs of the program without providing additional benefits. Allegheny Power M.B. at 37. The Company misunderstands the OCA's proposal. The OCA's proposal is for one element of the CFL Rewards Program to include an incandescent light bulb turn-in feature -- not for the entire program to be designed in this manner.

The OCA submits that an incandescent light bulb turn-in initiative would make it easier for customers to reap the rewards of the CFL Rewards program and would assist in education efforts. Customers would get rid of their inefficient incandescent bulbs and receive a no cost CFL bulb. The OCA submits that this proposed turn-in initiative would provide multiple benefits, including improving customer awareness of newer highly efficient lighting technologies, stimulating and increasing customer participation in the Company's proposed CFL rebate program, and accelerating the Energy Independence Security Act (EISA) initiatives to eliminate inefficient lighting that is currently in operation. As OCA witness Crandall testified, "[t]he sooner existing inefficient lighting stock is purged and replaced with high efficiency equipment, the sooner customers will save energy and costs and the sooner there will be less strain on the AP system." OCA St. 1 at 19-20.

iii. The Company Should Expand Its Energy Education Information.

No further reply is necessary.

b. Commercial

No reply is necessary.

c. Industrial

No reply is necessary.

B. Cost Issues

No reply is necessary.

1. Plan Cost Issues

No reply is necessary. The OCA addressed this issue at pages 36 to 37 of its Main Brief. While the Company's Main Brief addresses the OCA's issue regarding cost recovery of Smart Meters in this Section, the OCA has raised the issue in its Plan Section 6(a)(i) above and has responded to the Company's proposed cost recovery of Smart Meters/AMI Infrastructure in this proceeding as discussed above.

2. Cost Effectiveness/Cost-Benefit Issues

No further reply is necessary.

3. Cost Allocation Issues

No reply is necessary.

4. Cost Recovery Issues

a. Levelized Cost Recovery

No reply is necessary.

b. The Company Should Bid Qualifying Energy Efficiency And Demand Response Resources Into The PJM RPM Auction And Credit Customers For The Value Received In The Cost Recovery Mechanism.

No reply is necessary.

c. The Company Should Not Include The Costs Of Its EE&C Plan As A Separate Line Item On The Customer Bill.

Allegheny Power's Main Brief argues that the EE&C surcharge should be a separate line item on a customer's bill because the EE&C Surcharge is not a distribution charge and "should not be camouflaged as such." Allegheny Power M.B. at 47. The OCA submits that EE&C Plans are a normal, on-going cost of the utility and should be treated as such. Indeed, under the

Company's theory, the Company is "camouflaging" every other cost that the Company incurs in the normal course of business in its distribution rates. As OCA witness Crandall testified:

> Customer bills consist of charges to cover numerous costs incurred by Allegheny Power to serve its customers, such as the costs of meter reading, customer billing systems and activities, legal costs, health care for employees, transmission, distribution, insurance, safety, regulatory activities, financing, salaries & wages, security, operations and maintenance, fleet vehicle costs, operations of buildings, etc. The EE&C Plan would be implemented to acquire energy efficiency and demand response resources. This is now a normal, ongoing business activity for the Company.

OCA St. 1 at 24. There is no basis to treat EE&C costs differently than other normal, on-going business expenses.

The Company's Main Brief also argues that "the appearance of the EE&C surcharge as a separate line item will dovetail better with the Company's communication efforts regarding its Plan." Allegheny Power M.B. at 39. The OCA submits, however, that there are far better ways to educate and communicate with customers than placing a line item on the bill. Moreover, because the Company is showing only the costs on the bill, and completely ignoring the benefits of energy efficiency and demand reduction, the Company is not properly educating or communicating to customers about its efforts. The EE&C efforts are intended, and required, to provide benefits to customers that exceed the costs. If the Company wishes to place costs on the bill as a separate line item, it should also recognize the benefits on the bill. OCA St. 1 at 25. Without understanding the corresponding benefits, customer reaction to the Company's energy efficiency programs may be negative and may impede its efforts rather than help them.

The OCA submits that the Company should include the EE&C costs in the non-bypassable distribution rates and treat these expenses in the same way as any other normal, on-going expense.

d. PUC Assessment

The Company included costs associated with its annual PUC assessment in its surcharge recovery mechanism. The OCA opposes the inclusion of the PUC assessment costs in the EE&C surcharge.

The Company argues that the "gross-up of revenues for assessment purposes is related to the provision and management of the Plan," citing Section 2806.1(K)(1). Section 2806.1(K)(1) provides for recovery of costs *incurred in* the provision and management of the Plan. Allegheny Power M.B. at 47; see, 66 Pa.C.S. § 2806.1(K)(1). The OCA submits the PUC regulatory assessment charge is not *incurred in* the provision and management of the Plan. Further, regulatory assessment charges are a base rate item that are not appropriate for recovery through a Section 1307 mechanism.

C. CSP Issues

The OCA does not have any CSP issues.

D. Implementation and Evaluation Issues

1. Implementation Issues

No reply is necessary.

2. QA Issues

No reply is necessary.

3. Monitoring and Reporting Issues

a. Stakeholder Meetings and Involvement

No further reply is necessary.

b. Tracking of Costs

No further reply is necessary.

4. Evaluation Issues

No further reply is necessary.

E. Other Issues

No reply is necessary.

VI. CONCLUSION

For the reasons discussed above, and those set forth in the Main Brief of the Office of Consumer Advocate, the OCA submits that the Commission should adopt the recommendations set forth in this and the OCA Main Brief.

VII. PROPOSED ORDERING PARAGRAPHS

The OCA's Proposed Ordering Paragraphs are set forth on pages 44 to 45 of its Main Brief.

Respectfully Submitted,

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DATED: September 10, 2009

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

I hereby certify that I have this day served a true copy of the foregoing document, the Reply Brief 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:

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