**BEFORE THE**

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of West Penn Power Company :

d/b/a Allegheny Power for Expedited Approval : M-2009-2123951

of its Smart Meter Technology Procurement :

and Installation Plan :

**FIRST INTERIM ORDER MODIFYING THE LITGATION SCHEDULE AND ADMITTING INTO EVIDENCE ALLEGHENY POWER EXHIBIT NO. 6, STIPULATIONS OF FACT**

On August 14, 2009, West Penn Power Company d/b/a Allegheny Power (“Allegheny Power” or “the Company”) filed its Smart Meter Procurement and Installation Plan (SMIP or Smart Meter Plan) pursuant to Section 2807(f) of the Public Utility Code, 66 Pa. C.S. §2807(f), and the Smart Meter Implementation Order entered by the Pennsylvania Public Utility Commission (“Commission”) on June 24, 2009 at Docket No. M-2009-2092655.

The initial prehearing conference was held as scheduled on Wednesday, September 30, 2009. A Prehearing Order was issued to confirm the agreements and determinations made at the prehearing conference with respect to the future conduct of this proceeding. A litigation schedule was ordered to proceed as follows:

**Litigation Schedule**

The following is the litigation schedule hereby ordered:

Service of other parties’ written direct October 16, 2009

testimony due (all parties other than

Allegheny Power)

Service of all parties’ rebuttal October 27, 2009

written testimony due

Service of all parties’ surrebuttal November 3, 2009

written testimony due

Service of written rejoinder outline November 6, 2009 (by 3:00 p.m.)

Evidentiary hearings in Harrisburg November 9, 2009 at 10:00 a.m.

November 10, 2009 at 9:00 a.m.

Service of all parties’ main briefs due December 3, 2009

Service of all parties’ reply briefs due December 18, 2009

ALJ Decision January 29, 2010

An evidentiary hearing was held in Harrisburg on Monday, November 9, 2009.

On November 17, 2009, Allegheny Power advised the undersigned that it proposed to the parties in this proceeding that the briefing schedule be extended to allow for an interval where parties can focus on settlement discussions.[[1]](#footnote-1) Allegheny Power’s representative advised the undersigned that no party to this proceeding objected to the proposal. On November 18, 2009, the undersigned sent an e-mail to the parties’ representatives in this proceeding advising them, *inter alia*, that the litigation schedule is modified to require main briefs to be filed by December 18, 2009 and reply briefs to be filed by Tuesday, January 5, 2010 at 3:30 p.m. The undersigned further advised the parties that briefs shall comply with 52 Pa. Code §5.501 and contain proposed findings of fact with references to transcript pages or exhibits, proposed conclusions of law and proposed ordering paragraphs. The undersigned informed the parties that this Interim Order would follow.

On November 23, 2009, the undersigned received a Stipulation of Facts dated November 17, 2009 and executed by Allegheny Power and the Office of Consumer Advocate, which has been marked for admission into evidence as “Allegheny Power Exhibit No. 6” by the undersigned pursuant to a ruling made at the evidentiary hearing on November 9, 2009. *See* Tr. pp. 306-307. At the hearing, no party advised the undersigned that they wished to have an opportunity to object to the admissibility of Allegheny Power Exhibit No. 6. *See* Tr. p. 307. The Stipulations of Fact, Allegheny Power Exhibit No. 6, is attached hereto and is made a part of the evidentiary record in the ordering paragraphs below.

IT IS HEREBY ORDERED:

1. That main briefs must be filed and served by all parties on or before December 18, 2009.

2. That reply briefs must be filed and served by all parties on or before 3:30 p.m. on Tuesday, January 5, 2010.

3. That briefs filed by parties must conform with 52 Pa. Code §5.501 and contain proposed findings of fact with references to transcript pages or exhibits where evidence appears, proposed conclusions of law and proposed ordering paragraphs.

4. That the Stipulations of Fact dated November 17, 2009, marked and attached hereto as “Allegheny Power Exhibit No. 6,” is admitted into evidence.

Dated: November 24, 2009 Mark A. Hoyer

Administrative Law Judge

**M-2009-2123951 - Petition of West Penn Power Company d/b/a Allegheny Power for Expedited Approval of its Smart Meter technology Procurement and Installation Plan**

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1. The Commission’s policy is to encourage settlements. 52 Pa. Code §5.231(a). [↑](#footnote-ref-1)