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October 28, 2010

Rosemary Chiavetta
Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
P.O. Box 3265
Harrisburg, PA 17105-3265

In re: Dockets Nos. A-2010-2176520 and A-2010-2176732
Joint Application of West Penn Power Company, d/b/a Allegheny Power, Trans
Allegheny Interstate Line Company and FirstEnergy Corporation

Dear Secretary Chiavetta:

Enclosed for filing in the above matter is the original ARIPPA Statement in Support of the Joint Petition for Partial Settlement. The Joint Petition was filed with the Public Utility Commission on October 25, 2010. ARIPPA filed this Statement in Support with the Commission electronically in searchable PDF format on October 28, 2010. Please include ARIPPA's Statement in Support as an addendum to the Joint Petition for Partial Settlement.

Copies of ARIPPA's Statement in Support were served upon the persons and in the manner set forth on the certificate of service attached to it.

Very truly yours,

THOMAS, LONG, NIESEN & KENNARD

By


Regina L. Matz

Encl.

c: Certificate of Service
Jeff A. McNelly (w/encl.)

Before the
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Joint Application of West Penn Power :
Company, d/b/a Allegheny Power, :
Trans-Allegheny Interstate Line :
Company, and FirstEnergy Corporation : Docket Nos. A-2010-2176520
for Approval of a Change of Control of : A-2010-2176732
West Penn Power Company and Trans- :
Allegheny Interstate Line Company :

**ARIPPA
STATEMENT IN SUPPORT OF
JOINT PETITION FOR PARTIAL SETTLEMENT**

**TO: THE HONORABLE WAYNE L. WEISMANDEL and MARY D. LONG
ADMINISTRATIVE LAW JUDGES**

AND NOW, comes ARIPPA, a party in the above docketed matters, by its attorneys and respectfully submits this Statement in Support of the Joint Petition for Partial Settlement (“Joint Petition”) filed with the Pennsylvania Public Utility Commission (“Commission”) on October 25, 2010, and joined by the following parties: FirstEnergy Corp. (“FirstEnergy”), West Penn Power Company (“West Penn”), doing business as Allegheny Power, Trans-Allegheny Interstate Line Company (“TrAILCo”), (collectively the “Joint Applicants”), the Office of Trial Staff (“OTS”), the Office of Consumer Advocate (“OCA”), the Pennsylvania Department of Environmental Protection (“DEP”), the International Brotherhood of Electrical Workers (“IBEW”), the Utility Workers Union of America, AFL-CIO (“UWUA”) and UWUA System Local No. 102 (“Local 102”) (collectively “UWUA Intervenors”), The Pennsylvania State University (“PSU”), the Met-Ed Industrial Users Group (“MEIUG”) and the Penelec

Industrial Customer Alliance (“PICA”) (collectively “MEIUG/PICA”), the West Penn Power Industrial Intervenors (“WPPII”), the Pennsylvania Rural Electric Association (“PREA”), the Pennsylvania Mountains Healthcare Alliance (“PMHA”), the West Penn Power Sustainable Energy Fund (“WPPSEF”), the York County Solid Waste and Refuse Authority (“YCSWA”), ARIPPA, the Clean Air Council (“CAC”), Citizens for Pennsylvania’s Future (“PennFuture”), and Constellation New Energy, Inc. and Constellation Energy Commodities Group, Inc. (“Constellation”) (collectively “Joint Petitioners”).

Pursuant to Sections 5.231 and 5.232 of the Commission's regulations, 52 Pa. Code §§5.231 and 5.232, the Joint Petition was submitted seeking Commission approval of a settlement of all issues raised by those parties who were signatories to the Joint Petition, and on whose behalf interventions, protests, or notices of appearances had been filed in the above merger transaction. The Joint Petition seeks resolution of the issues in the manner described in the settlement document. For the reasons stated below, ARIPPA supports the Joint Petition and urges the Commission to approve the settlement as in the public interest.

In support thereof, ARIPPA submits the following:

I. BACKGROUND

1. On May 18, 2010, Joint Applicants filed a Joint Application under Chapters 11 and 28 of the Pennsylvania Public Utility Code seeking a change of control under which Allegheny Energy, Inc. (“Allegheny Energy”), the ultimate parent of West Penn and TrAILCo, would become a wholly owned subsidiary of FirstEnergy. Joint

Applicants also sought approval of revisions to affiliated interest agreements under Chapter 21 of the Public Utility Code.

2. Metropolitan Edison Company (“Met-Ed”) and Pennsylvania Electric Company Pennsylvania Electric Company (“Penelec”) (collectively “Companies”) are current subsidiaries of FirstEnergy.

3. On June 14, 2010, ARIPPA filed a timely Petition to Intervene in this proceeding. ARIPPA’s intervention was unopposed, and was granted by the presiding Administrative Law Judges at the June 22, 2010 Prehearing Conference. ARIPPA relies on the Joint Petition for a more detailed recitation of this background of this proceeding.

II. ARIPPA’S INTERESTS

4. As stated in its Petition to Intervene, ARIPPA¹ is a trade association comprising operating non-utility generation (NUG) power plants across Pennsylvania, most of which use waste coal as a source of fuel. Most of ARIPPA’s members have long-term, Commission-approved power contracts with Met-Ed and Penelec, and have invested over \$2 billion in Pennsylvania over the last two decades in the development of non-utility generation power plants under authority and in furtherance of state and federal legislative goals. ARIPPA’s members are providers of substantial amounts of energy and capacity to current FirstEnergy subsidiaries pursuant to these long-term, Commission-approved contracts that further state and federal statutory goals and objectives intended to foster independent and alternative power production.

5. ARIPPA intervened to ensure that neither the proposals by the Joint Applicants nor any other party negatively impacted the interests of ARIPPA's members

¹ARIPPA was previously known as the Anthracite Region Independent Power Producers Association.

in their continued sales of energy and capacity to the Companies, their receipt of payment for the same in compliance with federal and state law regarding NUG contracts, and future compliance with NUG stranded cost recovery.

6. The Pennsylvania General Assembly explicitly recognized ARIPPA's member companies' interests under the Electricity Generation Customer Choice and Competition Act ("Electric Competition Act"), 66 Pa.C.S. §§2801-2812.⁴ ARIPPA's members' NUG operating contracts also have statutory recognition under the federal Public Utilities Regulatory Policies Act of 1978 ("PURPA"). Finally, ARIPPA's members are suppliers of Tier I and Tier II Alternative Energy Credits under Pennsylvania's Alternative Energy Portfolio Standards Act ("AEPSA").

7. Consequently, as recognized through this explicit statutory authority and years of Commission case law, ARIPPA's members have a real and sustained interest in maintaining the integrity of their long term contracts with Joint Applicants' affiliates, and ARIPPA has actively participated in Commission proceedings, including past merger proceedings, to protect their ongoing interests.

8. ARIPPA actively participated in this proceeding by reviewing the volumes of discovery and testimony presented, and attending and participating in the hearings held in this proceeding. ARIPPA also was an active participant in settlement conferences among the parties.

9. ARIPPA's interest consistently has been to ensure the continued integrity of its members' contracts with Joint Applicants' affiliates, and the interests under those

⁴The Electric Competition Act, *inter alia*, recognized in its declaration of policy the special status of long-term power supply agreements entered into by GPU Energy as required by federal law, 66 Pa.C.S. §2802(15), charging the Commission with the obligation to ensure the recovery of the costs thereunder.

contracts as they were addressed in Joint Applicants' affiliates' 1998 Restructuring Settlements under the Electric Competition Act. ARIPPA specifically sought to preclude the impairment of those interests either explicitly from any action resulting from a party's direct filing, or implicitly through any settlement or other action taken within the merger proceeding that could have a direct or indirect negative impact upon those contracts.

10. While addressing this matter during the formal litigation of this proceeding, ARIPPA also pursued this issue through the settlement negotiations. After formal settlement negotiations involving all parties commenced, the parties continue to meet both separately and as a group to attempt to narrow their differences and secure an agreement. The Joint Petition ultimately executed and filed consists of compromises and concessions regarding the respective litigation positions of the signatory parties that reach an amicable resolution of those issues raised by those parties in lieu of further protracted and expensive litigation. This mitigates the time and expense involved in bringing this proceeding to a final resolution, which directly benefits all parties, including the Commission and the public.

11. As a result of the settlement achieved in the Joint Petition, ARIPPA's interests have been addressed to ARIPPA's satisfaction. Section L of the Joint Petition, Paragraph 56 provides as follows:

L. Non-Utility Generation Contract Issues

56. Nothing in the Merger proceeding or this agreement alters, nor will Joint Applicants or their affiliates enter into any other agreement in the merger proceeding without the participation of ARIPPA and the YCSWRA that would alter, either (1) any existing Non Utility Generation ("NUG") contracts that were entered into by Met-Ed, Penelec, or West Penn and subsequently approved by the Commission or (2) any term or condition of the 1998 Met-Ed/Penelec Restructuring Settlement at Docket Nos. R-00974008 and R-00974009 et al. and the West Penn Power 1998

Restructuring Settlement at Docket No. R-00973981 that addresses those NUGs or their contracts.

12. Thus, ARIPPA is satisfied that with the Commission's approval of the Joint Petition as presented, the interests of its members will not be negatively impacted. This is a markedly different and welcome result for ARIPPA compared to the outcome of the prior FirstEnergy merger proceeding with GPU, Inc., and one which saves ARIPPA's members and other parties substantial resources if the result had been different and further litigation, including appeals to Commonwealth Court, had been required.

III. THE PUBLIC INTEREST

13. ARIPPA also submits that in addition to facilitating an amicable resolution acceptable to all but four of the active parties to this proceeding, the Joint Petition also provides affirmative public benefits that satisfy the myriad concerns of various, and at times, conflicting interests, including those of public advocates and private parties alike, by addressing employment levels, regional headquarters, prospective rate impacts through stay-outs and credits, universal service funding, smart meter and time of use rate usage, environmental issues, distribution rate and tariff issues, default service plan issues, financial governance principles, retail market enhancements, service quality and reliability improvements, rural electric reliability issues, and competitive market issues in terms that otherwise were not included in the Joint Application.

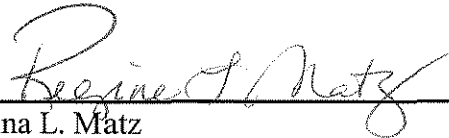
14. For the reasons stated herein, ARIPPA respectfully submits that the Joint Petition for Partial Settlement filed by Joint Applicants and the Signatory Parties is in the public benefit and should be approved by this Commission.

IV. THE COMMISSION'S JUNE 3, 2010 TWELVE QUESTIONS

15. By Secretarial Letter dated June 3, 2010, the Commission directed Joint Applicants and parties to the proceeding to address issues and areas of concern identified in twelve questions appended in Attachment A to the Secretarial Letter. ARIPPA's advocacy in this proceeding was limited to addressing those concerns and issues that were raised in ARIPPA's Petition to Intervene. As directed in the Secretarial Letter, and further instructed by the Administrative Law Judges, however, ARIPPA provides its responses to each question in Attachment A to this Statement in Support.

WHEREFORE, ARIPPA respectfully requests that the Presiding Administrative Law Judges Wayne L. Weismandel and Mary D. Long and the Pennsylvania Public Utility Commission accept the foregoing statement in support of the Joint Petition for Partial Settlement, and further that the Administrative Law Judges and the Commission approve the Joint Petition in its entirety.

Respectfully submitted,



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DATED: October 28, 2010

ATTACHMENT A

Allegheny Energy, Inc. – FirstEnergy Corporation Merger **A-2010-2176520** **A-2010-2176732**

Employment Levels and Corporate Headquarters

1. How will the merger impact employment levels in Pennsylvania, particularly, but not limited to, those employees not covered by collective bargaining agreements? What will the impact be on Allegheny Energy's corporate headquarters in Greensburg, PA, as well as the operating companies' offices?

ARIPPA took no specific position on this issue in litigation. However, employment levels and corporate headquarters are addressed in Section II.A., pages 7-9, of the Joint Petition.

Customer Service and System Reliability

2. How will the merger affect the customer service and system reliability of West Penn Power and the FirstEnergy Pennsylvania utilities? How will the merger affect West Penn Power and the FirstEnergy Pennsylvania utilities ability to respond to outages and other emergencies?

ARIPPA took no specific position on this issue in litigation. However, customer service and system reliability are addressed in Section II.J., pages 21-27, of the Joint Petition.

Corporate Structure

3. Review the impact of the initially proposed corporate structure of the merger versus the alternately proposed corporate structure. Which corporate structure will better protect the public interest?

ARIPPA took no specific position on this issue in litigation and has no response.

Ring Fencing

4. What, if any, ring-fencing mechanisms are presently in place, or proposed as part of this transaction, to protect West Penn Power, Met-Ed, Penn Power, and Penelec from the business and financial risk of the parent and other non-regulated affiliates? Are any changes or additions necessary to better protect the public interest and make the regulated electric distribution subsidiaries bankruptcy remote?

ARIPPA took no specific position on this issue in litigation. However, provisions regarding financial governance are addressed in Section II.H., pages 15-16, of the Joint Petition.

Smart Meter and Energy Efficiency Implementation

5. How will the merger impact the Act 129 smart meter and energy efficiency implementation plans of West Penn Power and First Energy's regulated utilities, Met-Ed, Penelec and Penn Power?

ARIPPA took no specific position on this issue in litigation. However, smart meters and energy efficiency are addressed in Section II.D., pages 11-12, of the Joint Petition.

FirstEnergy Capital Structure and Credit Rating

6. How will the merger affect the capital structure of FirstEnergy Corporation? Will the merger create a more leveraged organization? How will the proposed merger impact the credit rating of FirstEnergy?

ARIPPA took no specific position on this issue in litigation. However, provisions regarding each FirstEnergy Pennsylvania utility operating company's debt and credit provisions and capital structure are addressed in Section II.H., pages 15-16, of the Joint Petition.

Subsidiaries' External Borrowing and Bond Ratings

7. Will West Penn Power and the other Allegheny Energy subsidiaries that currently issue their own debt maintain their own external borrowing authority and separate bond rating?

ARIPPA took no specific position on this issue in litigation. However, provisions regarding each FirstEnergy Pennsylvania utility operating company's debt and credit provisions are addressed in Section II.H., pages 15-16, of the Joint Petition.

Money Pools

8. Will West Penn Power participate in the FirstEnergy Utility money pool? If, yes, please provide an updated agreement.

ARIPPA took no specific position on this issue in litigation. However, separate money pools for regulated and unregulated operations are addressed in Section II.H., pages 15-16, of the Joint Petition. An updated agreement will have to be provided by Joint Applicants.

Merger Savings

9. How will the proposed merger savings benefit Pennsylvania ratepayers? Will cost savings benefit ratepayers or only shareholders?

ARIPPA took no specific position on this issue in litigation. However, the sharing of merger savings is addressed throughout several sections of the Joint Petition, most explicitly in Sections II.A., B., C., D., and E., pages 7-13, of the Joint Petition.

Affiliated Interest Agreements

10. Are the proposed affiliated interest agreements and cost allocation proposals reasonable and consistent with the public interest under Section 2102(b) of the Public Utility Code?

ARIPPA took no specific position on this issue in litigation. However, affiliate relations are addressed in Section II.M., page 29, of the Joint Petition.

Impact on Competition

11. Investigate the impact the proposed merger may have on the potential for anticompetitive behavior per 66 Pa. C.S. § 2811(e)(1). How will the merger affect wholesale and retail competition for power/electric generation and transmission?

ARIPPA took no specific position on this issue in litigation. However, competitive issues are addressed in Sections II.I., and K., pages 16-21, and 27-29, of the Joint Petition.

Transmission Projects

12. How will transmission projects in the western part of the state be affected by the merger?

ARIPPA took no specific position on this issue in litigation and has no response.

**Before the
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Joint Application of West Penn Power :
Company d/b/a Allegheny Power, Trans- :
Allegheny Interstate Line Company and :
FirstEnergy Corp. for a Certificate of : Docket Nos. A-2010-2176520
Public Convenience Under Section : A-2010-2176732
1102(A)(3) of the Public Utility Code :
Approving A Change of Control of West :
Penn Power Company and Trans- :
Allegheny Interstate Line Company :**

CERTIFICATE OF SERVICE

I hereby certify that I have on this 28th day of October, 2010, served a true and correct copy of the foregoing document upon the persons and in the manner listed below, as follows:

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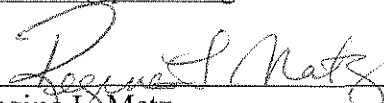
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