

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF SMALL BUSINESS ADVOCATE

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October 29, 2010

HAND DELIVERED

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

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PA PUC
SECRETARY'S BUREAU

Re: Petition of West Penn Power Company d/b/a Allegheny Power for Expedited Approval of its Smart Meter Technology Procurement and Installation Plan Docket No. M-2009-2123951

Dear Secretary Chiavetta:

I am delivering for filing today the original plus three copies of the Answer and Objections to the Joint Petition for Settlement, on behalf of the Office of Small Business Advocate, in the above-captioned proceeding.

Two copies have been served today on all known parties in this proceeding. A Certificate of Service to that effect is enclosed.

If you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Lauren M. Lepkoski".

Lauren M. Lepkoski
Assistant Small Business Advocate
Attorney ID No. 94800

Enclosures

cc: Parties of Record

Robert D. Knecht

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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Petition of West Penn Power Company :
d/b/a Allegheny Power for Expedited Approval :
of its Smart Meter Technology Procurement : **Docket No. M-2009-2123951**
and Installation Plan :

**ANSWER AND OBJECTIONS
OF THE OFFICE OF SMALL BUSINESS ADVOCATE
TO JOINT PETITION FOR SETTLEMENT**

In accordance with 52 Pa. Code §§5.61 and 5.232(g) and with the October 21, 2010, Secretarial Letter of the Pennsylvania Public Utility Commission (“Commission”), the Office of Small Business Advocate (“OSBA”) answers, and objects to, the Joint Petition for Settlement of the above-captioned proceeding as follows:

I. Procedural History

1. Each electric distribution company (“EDC”) with at least 100,000 customers was required to file a smart meter technology procurement and installation plan (“SMIP”) with the Commission pursuant to Act 129 of 2008.¹ West Penn Power Company d/b/a Allegheny Power (“Allegheny Power,” “West Penn,” or “the Company”) filed its SMIP on August 14, 2009.

2. Also on August 14, 2009, Allegheny Power filed a Petition for Expedited Approval of its SMIP. In its Petition, Allegheny Power requested two expedited schedules. First, Allegheny Power requested that a Final Commission Order be entered on January 29, 2010, regarding its entire SMIP. Second, Allegheny Power requested that

¹ See Section 2807(f) of the Public Utility Code, 66 Pa. C.S. §2807(f).

the Commission enter a Final Order approving the “initial phase” of the Company’s SMIP activities and expenditures on an unspecified date in 2009.

3. The OSBA filed a Notice of Intervention and Public Statement on September 25, 2009. Other parties to this proceeding included the Commission’s Office of Trial Staff (“OTS”); the Office of Consumer Advocate (“OCA”); the West Penn Power Industrial Intervenors (“WPPII”); Commonwealth of Pennsylvania, Department of Environmental Protection (“DEP”); Constellation NewEnergy, Inc. and Constellation Energy Commodities Group, Inc. (collectively, “Constellation”); and the Pennsylvania Association of Community Organizations for Reform Now (“ACORN”).

4. On September 28, 2009, Allegheny Power included an expedited proposed procedural schedule in its pre-hearing memorandum submitted to Administrative Law Judge (“ALJ”) Mark A. Hoyer and the other parties. At the prehearing conference held on September 30, 2009, ALJ Hoyer denied Allegheny Power’s proposed expedited procedural schedule.

5. On September 30, 2009, Allegheny Power filed a Petition for Interlocutory Review and Answer to a Material Question. Specifically, Allegheny Power requested that the Commission review “whether the ALJ’s decision to deny Allegheny Power’s proposed procedural schedules was lawful and appropriate, given the demonstrated need for a phased and expedited review and approval of the Company’s Smart Meter Technology Procurement and Implementation Plan.”² On October 13, 2009, Allegheny Power filed a brief in support of the Petition for Interlocutory Review and the OCA, the

² *Pennsylvania Public Utility Commission v. West Penn Power Company d/b/a Allegheny Power*, Docket No. M-2009-2123951 (Order entered October 22, 2009), at 1-2.

OSBA, and the DEP filed briefs in opposition. On October 22, 2009, the Commission denied Allegheny Power's Petition for Interlocutory Review.

6. In accordance with the Commission's prior notice, a technical conference was held on October 5, 2009, before ALJ Kandace F. Melillo.

7. The OSBA filed the Direct Testimony of its witness, Robert D. Knecht, on October 16, 2009. The OSBA filed the Surrebuttal Testimony of Mr. Knecht on November 3, 2009.

8. An evidentiary hearing took place on November 9, 2009, at which the parties submitted their testimony for the record. ALJ Hoyer admitted the testimony and exhibits into the record.

9. On November 24, 2009, ALJ Hoyer issued Interim Order #1, modifying the litigation schedule and admitting into evidence Allegheny Power Exhibit No. 6, a stipulation of facts (executed by Allegheny Power and the OCA).

10. On December 17, 2009, Allegheny Power filed a Motion to Reopen the Evidentiary Record. On December 18, 2009, Allegheny Power filed a letter seeking to withdraw the Motion to Reopen the Evidentiary Record.

11. On December 18, 2009, Allegheny Power also filed a Petition to Modify a Prior Commission Order and to Reopen the Evidentiary Record.

12. On December 18, 2009, the OSBA filed its Main Brief pursuant to the procedural schedule set forth in Interim Order #1. The OSBA's Main Brief addressed the issues of revenue requirement, in-home displays for the non-residential class (both single and three-phase), cost allocation, and cost recovery.

13. The Commission issued a Secretarial Letter on December 23, 2009, that directed the parties to file answers by January 4, 2010, to Allegheny Power's Petition to Modify a Prior Commission Order and to Reopen the Evidentiary Record.

14. On January 4, 2010, the OCA, the OTS, the OSBA, and ACORN filed Answers.

15. On January 5, 2010, the OSBA filed its Reply Brief. The Reply Brief responded to arguments raised in the Main Briefs of the OCA, the Company, and WPPIL.

16. The Commission issued a Secretarial Letter on January 13, 2010, that waived the requirement that an Initial Decision be rendered in this matter on or before January 29, 2010. The remaining issues in Allegheny Power's Petition to Modify a Prior Commission Order and to Reopen the Evidentiary Record were remanded to the ALJ for disposition. Those remaining issues included, but were not limited to, developing a procedural schedule and scope of the issues to be addressed in the reopening of the evidentiary record.

17. A further prehearing conference was held on January 26, 2010. At the pre-hearing conference, the parties agreed that two issues raised in the Company's original filing, *i.e.*, cost allocation and rate design, would not be re-litigated through the supplemental testimony and briefs. Instead, the ALJ would decide those issues on the briefs already submitted by the parties. The supplemental testimony and briefs would address only the alternative deployment schedules the Company proposed.

18. ALJ Hoyer issued a Further Prehearing Order on January 26, 2010.

19. On January 29, 2010, Allegheny Power filed its Supplemental Direct Testimony.

20. On March 2, 2010, the OSBA filed the Supplemental Direct Testimony of Mr. Knecht. Also on March 2, 2010, the OCA filed its Supplemental Direct Testimony.

21. On March 12, 2010, the Company filed its Supplemental Rebuttal Testimony. Also on March 12, 2010, the OSBA filed the Supplemental Rebuttal Testimony of Mr. Knecht.

22. On March 16, 2010, a further evidentiary hearing was held at which the parties submitted their supplemental testimony for the record. The OSBA and the OCA also submitted a Joint Stipulation for the record. ALJ Hoyer admitted the Joint Stipulation, and the testimony and exhibits into the record.

23. On March 26, 2010, the OSBA filed its Supplemental Brief in accordance with the Further Prehearing Order issued on January 26, 2010, and to respond to the Company's Supplemental Direct and Rebuttal Testimony.

24. By Secretarial Letter dated May 6, 2010, the Commission issued ALJ Hoyer's Initial Decision ("ID") and specified that Exceptions were to be filed within 20 days and Reply Exceptions were to be filed within 10 days thereafter.

25. On May 13, 2010, Allegheny Power filed a Petition to Stay the Exception Period. Allegheny Power's Petition requested that the Commission grant expedited consideration of the Petition, including that the period for answering the Petition be shortened to May 18, 2010. The Commission issued a Secretarial Letter on May 14, 2010, granting Allegheny Power's request to shorten the time for answering the Company's Petition.

26. On May 18, 2010, the OSBA filed an Answer in opposition to Allegheny Power's Petition to Stay the Exception Period.

27. On May 27, 2010, Allegheny Power filed a Reply to New Matter raised in the OSBA's Answer of May 18, 2010.

28. By Order entered July 21, 2010, the Commission stayed the Exception Period for 90 days.

29. On October 19, 2010, Allegheny Power and the OCA filed a non-unanimous Joint Petition for Settlement and requested expedited consideration.

30. By Secretarial Letter dated October 21, 2010, the Commission specified that Answers to the Joint Petition for Settlement ("Settlement") are to be filed within 10 days of the date of the Secretarial Letter.

II. Objections to the Joint Petition for Settlement

A. Allegheny Power's Change in Strategy

31. Act 129 of 2008 charged the Commission with establishing an energy efficiency and conservation program.³ Act 129 also directed each EDC with at least 100,000 customers to file an energy efficiency and conservation plan ("EE&C Plan") with the Commission for review and approval.⁴

32. Allegheny Power filed its EE&C Plan on July 1, 2009, pursuant to the Commission's directive at *Energy Efficiency and Conservation Program*, Docket No. M-2008-2069887 (Order entered January 16, 2009).

³ See 66 Pa. C.S. §2806.1(a) of the Public Utility Code, 66 Pa. C.S. §2806.1(a).

⁴ See 66 Pa. C.S. §§2806.1(b) and (l).

33. On October 23, 2009, the Commission approved Allegheny Power's EE&C Plan in part and rejected it in part.⁵ In that October 23, 2009, Order, the Commission addressed the procedure Allegheny Power was to follow if the Company subsequently proposed amendments to its approved EE&C Plan. Specifically, the Commission stated:

Because the EDC's Act 129 plan will be approved by Commission order, procedures for rescission and amendment of Commission orders must be followed to amend that order and to assure due process for all affected parties. *See* 66 Pa. C.S. § 703(g) (relating to fixing of hearing: rescission and amendment of orders). Accordingly, if an EDC believes that it is necessary to modify its Act 129 plan, the EDC may file a petition requesting that the Commission rescind and amend its prior order approving the plan. *See* 52 Pa. Code §§ 5.41 (relating to petitions generally) and 5.572 (relating to petitions for relief).

The EDC's petition should explain the specific reasons supporting its requested modifications to its approved plan, i.e., the shifting of funds between programs or customer classes, the discontinuation of a program, etc. The petition should also contain a request to modify its cost recovery mechanism. Evidence supporting the modification of the plan and the cost recovery mechanism shall be submitted with the petition. The petition shall be served on all parties participating in the EDC's Act 129 plan proceeding. If the

⁵ The Commission requested that Allegheny Power file a revised EE&C Plan addressing the modifications the Commission mandated in its October 23, 2009, Order. Allegheny Power filed a revised plan on December 21, 2009. On March 1, 2010, the Commission entered an Order approving the EE&C Plan in part and rejecting it in part. The Commission requested that Allegheny Power file another Revised EE&C Plan addressing the modifications the Commission mandated in its March 1, 2010, Order. On April 29, 2010, the Company submitted its second revised plan. The Commission approved that plan on June 23, 2010. *Petition of West Penn Power Company d/b/a Allegheny Power for Approval of its Energy Efficiency and Conservation Plan, Approval of Recovery of its Costs through a Reconcilable Adjustment Clause and Approval of Matters Relating to the Energy Efficiency and Conservation Plan*, Docket No. M-2009-2093218 (Order entered June 23, 2010), at 2-4.

EDC believes that the need for modification of its plan is immediate, the EDC can request expedited consideration of its petition.⁶

34. As approved by the Commission, Allegheny Power's EE&C Plan relies heavily on the accelerated deployment of smart meters. On several occasions during Commission consideration of the EE&C Plan, the Commission recommended that Allegheny Power develop a backup EE&C Plan in case its heavy reliance on accelerated smart meter deployment fails in meeting the Company's targets for energy conservation.⁷ However, Allegheny Power declined to file such a backup prior to final approval of its EE&C Plan by Order entered June 23, 2010.

35. In its May 13, 2010, Petition to Stay the Exception Period, Allegheny Power pointed to the potential to reduce SMIP costs if a proposed merger between Allegheny Energy (the parent of Allegheny Power) and FirstEnergy (the parent of Pennsylvania electric distribution companies Pennsylvania Power Company, Pennsylvania Electric Company, and Metropolitan Edison Company) is eventually consummated. Specifically, Allegheny Power alleged that it might be able to achieve a significant reduction in the cost of an upgrade to its customer information system ("CIS") by relying in some unspecified way on FirstEnergy's CIS.

⁶ *Petition of West Penn Power Company d/b/a Allegheny Power for Approval of its Energy Efficiency and Conservation Plan, Approval of Recovery of its Costs through a Reconcilable Adjustment Clause and Approval of Matters Relating to the Energy Efficiency and Conservation Plan*, Docket No. M-2009-2093218 (Order entered October 23, 2009), at 99.

⁷ *See Petition of West Penn Power Company d/b/a Allegheny Power for Approval of its Energy Efficiency and Conservation Plan, Approval of Recovery of its Cost through a Reconcilable Adjustment Clause and Approval of Matters Relating to the Energy Efficiency and Conservation Plan*, Docket No. M-2009-2093218 (Order entered October 23, 2009), at 21, and *Petition of West Penn Power Company d/b/a Allegheny Power for Approval of its Energy Efficiency and Conservation Plan, Approval of Recovery of its Cost through a Reconcilable Adjustment Clause and Approval of Matters Relating to the Energy Efficiency and Conservation Plan*, Docket No. M-2009-2093218 (Order entered March 1, 2010), at 14.

36. Even assuming *arguendo* that Allegheny Power could realize significant savings, the merger application was not filed with the Commission until May 14, 2010. Moreover, since both Allegheny Energy and FirstEnergy operate in multiple states, numerous state agencies will have to approve the merger. In addition, the merger has been submitted for review to the Federal Energy Regulatory Commission and to the U. S. Department of Justice. Therefore, there is no guarantee if and when the merger will ultimately be approved and consummated.

37. In view of the uncertainty about if and when the merger will be approved and consummated, Allegheny Power's Petition to Stay the Exception Period (thereby delaying deployment of smart meters) constitutes an acceptance of the risk that the Company will not be able to achieve the reductions in consumption mandated by Act 129. Consequently, if the Commission approves the Settlement, the Commission should expressly provide that that approval will not be a mitigating factor in a future proceeding regarding penalties on Allegheny Power under Section 2806.1(f) if the Company fails to achieve the reductions in consumption mandated by Act 129.

B. EE&C Cost Shifting

38. The essence of the Settlement is a significant delay in the deployment of smart meters, thereby reducing the Company's reliance on smart meters to achieve the mandated reductions in consumption. Therefore, if the Commission approves the Settlement, Allegheny Power's EE&C Plan (which has already been approved by the Commission) will be affected.

39. Allegheny Power has previously represented that the accelerated deployment of smart meters is critical to the Company's ability to achieve the level of

conservation mandated under Section 2806.1.⁸ Therefore, if the Commission approves the Settlement, Allegheny Power's EE&C Plan will need to be revised to reduce reliance on smart meters and to add or expand other conservation programs.

40. On September 10, 2010, Allegheny Power filed a petition to amend its approved EE&C Plan. The Company proposes to modify the approved EE&C Plan to reflect experience the Company has gained since approval of that Plan and to deemphasize programs which relied on smart meter deployment.⁹ Specifically, the Company is proposing to replace numerous smart meter programs with other programs that do not rely on smart meters.¹⁰

41. The OSBA objects to the fact that Allegheny Power's Amended EE&C Plan would shift costs from the Residential class to the Small Commercial and Industrial ("Small C&I") classes as a result of the Company's delay in the deployment of smart meters.¹¹ Based on the OSBA's analysis, it appears that the replacement (or modification) of Residential programs relying on smart meters would require Small C&I customers to bear about \$6 million in additional EE&C costs. Consistent with the OSBA's conclusion, Allegheny Power estimates that its originally filed EE&C Plan would have allocated 57% of the costs to Residential customers and only 43% of the costs to non-Residential customers. In contrast, the Company estimates that its Amended

⁸ *Pennsylvania Public Utility Commission v. West Penn Power Company d/b/a Allegheny Power*, Docket No. M-2009-2123951 (Order entered October 22, 2009), at 6.

⁹ *Petition of West Penn Power Company d/b/a Allegheny Power for Approval of its Energy Efficiency and Conservation Plan, Approval of Recovery of its Cost through a Reconcilable Adjustment Clause and Approval of Matters Relating to the Energy Efficiency and Conservation Plan*, Docket No. M-2009-2093218 (Order entered March 1, 2010), September 10, 2010, Petition, at 3-7.

¹⁰ *Id.*

¹¹ *Id.*

EE&C Plan would allocate 49% of the costs to Residential customers and 51% to non-Residential customers.¹²

42. In theory, the Settlement preserves the OSBA's right to challenge the EE&C cost shift as part of the Commission's review of the Amended EE&C Plan.¹³ As a practical matter, however, Commission approval of the Settlement would prevent the OSBA from challenging the delay in smart meter deployment and would force the OSBA to prove that the cost shift could have been avoided (or at least mitigated) by implementing Residential programs rather than Small C&I programs. That evidentiary burden would be a costly one for the OSBA to pursue. Furthermore, it may now be too late to achieve adequate reductions in consumption through Residential programs that would have been viable options if proposed and approved one year ago.

43. If the savings from utilizing the FirstEnergy CIS actually materialize, they will benefit customers of all classes. However, Small C&I customers will be forced to pay an additional \$6 million in EE&C costs to achieve those savings while Residential customers will receive the savings but will also enjoy a reduction in EE&C costs of more than \$6 million. To avoid this inequity, the Commission should prohibit the Company from collecting the \$6 million from Small C&I customers.

C. Previously-Incurred SMIP Costs

44. The Settlement provides that Allegheny Power will recover an estimated \$40 million in costs (plus interest) incurred during Phase 1 and Phase 2 of the SMIP. A

¹² See Settlement, Allegheny Power's Statement in Support, Attachment 1. According to Allegheny Power, this new allocation would not be unfair when compared to the class allocations of other EDCs. See Settlement, Allegheny Power's Statement in Support, at 9. Ironically, however, the FirstEnergy EDCs are allocating 65% of their EE&C costs to Residential customers and only 35% to non-Residential customers. See Settlement, Allegheny Power's Statement in Support, Attachment 1.

¹³ See Settlement, at ¶31.

decision on the recoverability of another \$5.1 million in Phase 1 and Phase 2 costs is deferred to a future proceeding.¹⁴ Section 2807(f)(7) allows recovery of SMIP costs which are proven to be “reasonable and prudent.” Although the Settlement represents that the \$40 million in costs (plus interest) meet that standard, the record evidence does not support that conclusion.

45. The evidentiary record in this case was developed on the assumption that the Company would be upgrading its CIS in a way which was expected to be much more costly than the current strategy of relying on FirstEnergy’s CIS. Therefore, it is likely that at least some of the \$40 million was spent on activities and capital projects which will be unnecessary under the new strategy. Presumably, the Company could not have anticipated the merger at the time it filed its original EE&C Plan and at the time it filed its original SMIP. However, the Company might well have avoided some of the \$40 million in costs if it had used the “grace period” to evaluate its options instead of insisting on a much more aggressive smart meter deployment schedule than proposed by any other EDC.

46. Ordinarily, the OSBA would ask for a hearing in order to develop a record regarding recovery of the \$40 million (plus interest). However, the best time to answer the question of how much, if any, of the \$40 million was necessary will be after the Company has upgraded its CIS and other infrastructure and has begun deploying smart meters on a widespread basis. Therefore, the OSBA’s preferred alternative would be for the Commission to defer a decision on recoverability of the \$40 million (with or without interest) until a future proceeding, as the Settlement proposes to do with regard to another \$5.1 million of previously incurred costs. In the alternative, the Commission could

¹⁴ See Settlement, at ¶18.

permit recovery of the \$40 million (with interest) but expressly provide that this recovery is subject to refund based on a subsequent adjudication of whether the costs were “reasonable” and “prudent” and whether the recovery of interest is appropriate under the “reasonable and prudent” standard and under Commission precedent.

47. Even if the Commission rejects both of the OSBA’s proposals for deferred adjudication of the recoverability of the \$40 million (plus interest), the Commission should expressly provide for an *ex post* review of the allocation of the \$40 million (plus interest) among the rate classes. Although the Settlement provides a breakdown of the SMIP surcharge to be levied, the Settlement does not contain any back-up to enable the Commission to determine the accuracy of the calculations and their consistency with the allocation methodology the Settlement adopts.¹⁵

D. Future SMIP Costs

48. The Settlement estimates that Allegheny Power will incur about \$26.7 million in recoverable costs related principally to the Phase 3 deployment of 25,000 smart meters. As explained in the Settlement, this pilot program will require modifications to Allegheny Power’s existing infrastructure.¹⁶ Unfortunately, there is no basis in the evidentiary record, or in the Settlement itself, on which to conclude that the planned deployment of 25,000 smart meters will be cost-effective. For example, it is unclear whether the changes to the existing infrastructure will have any value if the Company is able to implement its plan to utilize the FirstEnergy CIS. Furthermore, it is unclear whether these 25,000 meters will be usable after the Company implements its new CIS

¹⁵ See Settlement, at ¶19.

¹⁶ See Settlement, at ¶16.

and other new infrastructure and selects the type and brand of smart meters for the widespread deployment.

49. The OCA implies that recovery of the costs related to the deployment of the 25,000 smart meters will be subject to adjudication in a subsequent proceeding.¹⁷ There are two problems with that representation. First, nothing in the Settlement itself expressly states that the recoverability of these costs remains in jeopardy if the Commission approves the Settlement. Second, if the Commission approves the Settlement, the Company is likely to argue that the only issues remaining for adjudication are whether Allegheny Power implemented the plan and whether the actual costs were equal to, more than, or less than the estimated costs. Therefore, the Commission should expressly state that the decision on recoverability of the costs related to the Phase 3 deployment of the 25,000 meters will be deferred until a future proceeding.

¹⁷ See Settlement, OCA's Statement in Support, at 15-17.

WHEREFORE, the OSBA respectfully requests that the Commission:

- a. Reject the Joint Petition for Settlement; or
- b. In the alternative, grant the Joint Petition for Settlement with the following

modifications:

1. An express statement by the Commission that the approval will not be a mitigating factor in a future proceeding regarding penalties on Allegheny Power under Section 2806.1(f) if the Company fails to achieve the reductions in consumption mandated by Act 129;

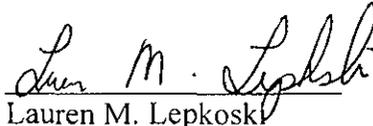
2. An express rejection of Allegheny Power's plan to recover an estimated additional \$6 million in EE&C costs shifted from Residential customers to Small C&I customers because of the delay in smart meter deployment;

3. An express statement by the Commission that a decision on the recoverability of \$40 million in SMIP costs (with or without interest) will be made in a future proceeding or that recovery is being allowed on a tentative basis, subject to refund after the ultimate decision on recoverability is made in a future proceeding;

4. An express statement by the Commission that an adjudication of the accuracy of the calculation of the SMIP surcharge will be made in a future proceeding; and

5. An express statement by the Commission that a decision on the recoverability of future SMIP costs related to the Phase 3 deployment of 25,000 smart meters will be made in a future proceeding or that recovery will be allowed on a tentative basis, subject to refund after the ultimate decision on recoverability is made in a future proceeding.

Respectfully submitted,



Lauren M. Lepkoski
Assistant Small Business Advocate
Attorney ID No. 94800

For:

William R. Lloyd, Jr.
Small Business Advocate
Attorney ID No. 16452

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Dated: October 29, 2010

VERIFICATION

I, William R. Lloyd, Jr., hereby state that the facts set forth herein above are true and correct to the best of my knowledge, information and belief and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. §4904 (relating to unsworn falsification to authorities).

Date: October 29, 2010

William R Lloyd, Jr.
(Signature)

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of West Penn Power Company :
d/b/a Allegheny Power for Expedited : Docket No. M-2009-2123951
Approval of its Smart Meter Technology :
Procurement and Installation Plan :

CERTIFICATE OF SERVICE

I certify that I am serving two copies of the Answer and Objections to the Joint Petition for Settlement, on behalf of the Office of Small Business Advocate, by e-mail and first-class mail (unless otherwise noted) upon the persons addressed below:

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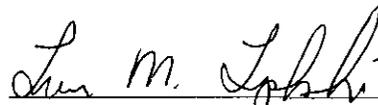
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Date: October 29, 2010



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