



GOVERNOR'S OFFICE OF GENERAL COUNSEL

November 9, 2010

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Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
P. O. Box 3265
Harrisburg, PA 17105-3265

RE: 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
PUC Docket No. M-2009-2093218

Dear Secretary McNulty:

Please find for electronic filing the Prehearing Memorandum on behalf of the Commonwealth of Pennsylvania, Department of Environmental Protection in the above referenced matter. Copies have been served on all parties listed on the enclosed Certificate of Service.

Sincerely,

Kurt E. Klapkowski
Assistant Counsel

Enclosures

cc: Service List



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

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document, Prehearing Memorandum of the Commonwealth of Pennsylvania, Department of Environmental Protection, 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 indicated upon the persons listed below:

VIA FIRST CLASS AND ELECTRONIC MAIL:

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Respectfully submitted,



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Commonwealth of Pennsylvania
Department of Environmental Protection
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Dated: November 9, 2010

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 of Costs : Docket No. M-2009-2093218
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**PREHEARING MEMORANDUM OF THE PENNSYLVANIA DEPARTMENT OF
ENVIRONMENTAL PROTECTION**

Pursuant to Section 333 of the Public Utility Code, 66 Pa.C.S. § 333, and in response to the Prehearing Order issued in the above-captioned proceeding, the Commonwealth of Pennsylvania, Department of Environmental Protection (“Department”) provides the following information:

I. INTRODUCTION AND PROCEDURAL HISTORY

Pursuant to Act 129 of 2008 and the Pennsylvania Public Utility Commission's (“Commission”) Energy Efficiency and Conservation Program Implementation Order at Docket No. M-2008-2069887, on July 1, 2009, West Penn Power Company d/b/a Allegheny Power (“West Penn Power”) filed its Petition for Approval of its Energy Efficiency and Conservation Plan (“original EE&C Plan”) with the Commission. The Department filed its petition to intervene in that proceeding on July 16, 2009. On October 23, 2009, the Commission entered its Order regarding West Penn Power's original EE&C Plan, approving it in large measure. On September 10, 2010, West Penn Power filed its Petition to amend its Energy Efficiency and

Conservation Plan (“amended EE&C Plan”) pursuant to the Commission’s annual review process and as a result, at least in part, of potential changes to the West Penn Power Smart Meter Implementation Plan (Docket No. M-2009-2123951), and an impending merger between West Penn Power and First Energy (Docket Nos. A-2010-2176520, A-2010-2176732). The Company's amended EE&C Plan filing was assigned to the Office of Administrative Law Judge and further assigned to Administrative Law Judge Dennis J. Buckley for investigation. On November 5, 2010, a Prehearing Conference Order was issued by ALJ Dennis Buckley. On November 9, 2010, a preheating conference will be held in Harrisburg.

II. ISSUES AND SUB-ISSUES

The Department participated and raised concerns in the proceeding relating to West Penn Power’s original EE&C Plan. The Department also has participated in informal discussions and stakeholder meetings relating to the amended EE&C Plan, as well as West Penn’s Smart Meter Implementation Plan proceeding (Docket No. M-2009-2123951). Regarding the amended EE&C plan, the Department is primarily concerned about the changes made by West Penn Power to address shortcomings that would exist in the original EE&C Plan without the widescale deployment of smart meters by the company, as well as other changes made to the original EE&C plan not related to smart meter deployment. The Department is interested in ensuring that all such changes are effective and will allow West Penn Power to comply with the mandates of Act 129.

III. WITNESSES

If the Department determines that testimony is necessary, the Department will provide testimony from the following witness:

Maureen Guttman, AIA
Executive Director
Governor's Green Government Council
Rachel Carson State Office Building
P.O. Box 8772
Harrisburg, PA 17105-8772
717-772-8946

The Department reserves the right to provide testimony from additional witnesses if necessary to address issues raised through discovery.

IV. SERVICE ON THE DEPARTMENT

The Department will be represented in this matter by Assistant Counsel Kurt E. Klapkowski. All documents should be served on the Department as follows:

Kurt E. Klapkowski
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Commonwealth of Pennsylvania
Department of Environmental Protection
RCSOB, 9th Floor
400 Market Street
Harrisburg, PA 17101-2301
717-787-7060
717-783-7911 (Fax)

V. SCHEDULE

The Department will work with all parties to attempt to resolve any scheduling issues, and will work diligently to achieve a settlement in this matter if possible.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Kurt E. Klapkowski", written over a horizontal line.

Kurt E. Klapkowski
Assistant Counsel
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