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VIA E-FILE AND FIRST CLASS MAIL

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
400 North Street – 2<sup>nd</sup> Floor  
Commonwealth Keystone Building  
Harrisburg, Pennsylvania 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 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


Dear Secretary Chiavetta:

Enclosed for filing at the above-captioned docket is a Procedural History of the Case document and a Proposed Ordering Paragraph document directed to Administrative Law Judge Elizabeth A. Barnes and Administrative Law Judge Dennis J. Buckley (the "ALJs") in this proceeding. Please consider this correspondence to be West Penn Power Company's concurrence in the Procedural History of the case document and the Proposed Ordering Paragraph document. In the interests of providing further assistance to the ALJs, documents entitled Overview of the Plan and Summary of the Joint Stipulations are also being filed. The Overview of the Plan document represents West Penn Power Company's description of the Amended Energy Efficiency and Conservation/Demand Response filing, as amended by the Joint Stipulations.

These materials have been circulated to all Parties and reflect the edits proposed by counsel to those documents. The Office of Trial Staff objects to submission of the document Summary of the Joint Stipulations on the grounds that the Joint Stipulations speak for themselves and the submission is unnecessary. These materials are provided solely for the convenience of the ALJs and are subject to their discretionary use.

Thank you for your consideration of this matter.

Very truly yours,



John F. Povilaitis

JFP/ck

Enclosures

- c. Certificate of Service  
The Honorable Dennis J. Buckley  
The Honorable Elizabeth Barnes  
The Honorable Mark M. Hoyer

## **Procedural History of the Case**

In a Secretarial Letter dated June 24, 2010, at Docket No. M-2008-2069887 ("*Secretarial Letter*"), the Pennsylvania Public Utility Commission ("Commission") directed all electric distribution companies ("EDCs") that were required under Act 129 to file energy efficiency and conservation ("EE&C/DR") plans to submit their 2010 Act 129 annual report and any proposed EE&C plan revisions by September 15, 2010.<sup>1</sup> In its Act 129 *Implementation Order* entered January 16, 2009, the Commission established the annual report filing as the opportunity for EDCs and other interested parties to propose recommendations for revisions to EE&C/DR plans.

The *Secretarial Letter* also stated that any interested party could make recommendations for plan improvements or object to proposed EE&C/DR plan revisions within 30 days of the filing of the annual reports and proposed EE&C/DR plan revision filings. Interested parties would have 20 days to file replies to any recommendations for plan improvements or objections to plan revisions, after which the Commission would determine whether to rule on the recommended changes or refer the matter to an ALJ for hearings and a Recommended Decision.<sup>2</sup>

West Penn Power Company d/b/a/ Allegheny Power ("*Allegheny Power*" or the "*Company*") filed its initial EE&C/DR Plan with the Commission on June 29, 2009, and compliance filings on December 21, 2009, and April 29, 2010. That Plan was approved by a Commission order entered October 23, 2009 and compliance orders entered March 1, 2010 and June 23, 2010.

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<sup>1</sup> *Secretarial Letter*, p. 1.

<sup>2</sup> *Secretarial Letter*, p. 2.

On September 10, 2010, Allegheny Power filed with the Commission an Amended EE&C/DR Plan ("Amended Plan") and a Petition for Approval of the Amended Plan ("Petition"). Answers and comments to the Petition were filed by the Office of Small Business Advocate ("OSBA"), The Pennsylvania State University ("PSU"), and the West Penn Power Industrial Intervenors ("WPPII"). ACORN filed a Petition to Withdraw its intervention in the initial Company EE&C/DR Plan filing. The Pennsylvania Communities Organizing for Change ("PCOC") filed a Petition to Intervene and comments on the Amended Plan. The Company filed a Reply to the comments of OSBA, WPPII, PSU and PCOC on November 1, 2010.

In a Secretarial Letter dated November 4, 2010, the Commission noted that OSBA requested hearings in this proceeding, and that PSU and WPPII requested that the Commission investigate the Amended Plan. Accordingly, the Commission granted these requests and referred the proceeding to the Office of Administrative Law Judge ("OALJ"). The Commission further directed that the Administrative Law Judge ("ALJ") issue a Recommended Decision by December 20, 2010, that Exceptions would be due no later than January 5, 2011 and that no Replies to Exceptions would be accepted.<sup>3</sup> The case was assigned to ALJ Elizabeth H. Barnes and ALJ Dennis J. Buckley (the "ALJs").

In an Initial Prehearing Order dated November 4, 2010, it was noted that an Initial Prehearing Conference was scheduled for November 9, 2010. This Order also set forth a procedural schedule.

The Prehearing Conference was conducted as scheduled by the ALJs. Appearances were made by Allegheny Power, the Office of Trial Staff ("OTS"), the Office of Consumer Advocate ("OCA"), OSBA, PCOC, WPPII, the Department of

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<sup>3</sup> *Secretarial Letter*, p. 1.

Environmental Protection ("DEP") and PSU. In the Second Prehearing Order, a litigation schedule was established that set November 24, 2010, as the due date for Intervenor Direct Testimony, December 1, 2010, for all Parties' Rebuttal Testimony, a hearing date of December 3, 2010 and a due date for Main Briefs of December 10, 2010.

A Hearing Notice setting a hearing date of December 3, 2010, was issued by the Commission.

In a Third Prehearing Order dated November 10, 2010, the ALJs granted ACORN's Petition to Withdraw Intervention. In a Fourth Prehearing Order, also dated November 10, 2010, the ALJs granted the Petition to Intervene of PCOC.

Discovery responses were provided to OSBA by Allegheny Power. Direct Testimony in the form of OSBA Statement No. 2, the Supplemental Direct Testimony and Exhibits of Robert D. Knecht, was served by OSBA on November 24, 2010. On December 1, 2010, Allegheny Power served the Rebuttal Testimony of Edward C. Miller, Statement No. 1-REB and Raymond E. Valdes, Statement No. 2-REB.

On December 3, 2010, the ALJs conducted an evidentiary hearing. The pre-filed testimony of Allegheny Power and OSBA was admitted into evidence. In addition, the ALJs admitted into the record Allegheny Power Filing Exhibit 1, the Petition and Amended EE&C/DR Filing, as well as separate Joint Stipulations entered into between the Company and OSBA, the Company and PCOC, and the Company and WPPII that resolved all disagreements between those parties. Counsel agreed that in view of the Joint Stipulations, there were no disputed issues to commend to the ALJs for adjudication.

The Parties agreed to submit to the ALJs a consensus Procedural History of the case and proposed Ordering Paragraphs in lieu of formal briefs.

## Overview of Plan Changes

Allegheny Power submitted for approval an EE&C/DR Plan to comply with Act 129 of 2008 (“Act 129”). The Company’s Act 129 EE&C/DR Plan was approved by Commission Orders dated October 23, 2009, March 1, 2010, and June 23, 2010. In its Orders, the Commission cited concerns related to the Company’s reliance on the rapid deployment of smart meters and encouraged the Company to develop an alternative EE&C/DR plan that is “less reliant” on smart meters.

The Company’s alternative EE&C/DR Plan is based on additional experience gained since filing its original EE&C/DR Plan in 2009. This additional experience permitted the Company to develop an alternative EE&C/DR Plan placing greater emphasis on non-Smart Meter enabled programs to meet the requirements of Act 129. The additional experience gained that underpins the alternative EE&C/DR Plan includes:

- The June 2010 Technical Reference Manual Update, which provides deemed savings for prescriptive energy efficiency and conservation measures
- The efforts to develop Interim Deemed Savings by the Technical Working Group under direction of the Statewide Evaluator for additional prescriptive energy efficiency and conservation measures
- The measurement and verification plans being established in consultation with the Company’s measurement and verification contractor and the Statewide Evaluator
- Implementation and Program Management of the Company’s Act 129 EE&C programs to date

The changes to the Company’s EE&C/DR Plan related to Smart Meters can be summarized as follows:

1. The Company’s alternative EE&C/DR Plan removes the following Smart Meter enabled programs to reduce reliance of the Plan on the rapid deployment of Smart Meters:
  - Residential Efficiency Rewards Rate



- Pay Ahead Smart Service Rate
  - Hourly Pricing Option Rate
  - Programmable Controllable Thermostat (PCT) Demand Response Program
2. The Company's alternative EE&C/DR Plan maintains the following voluntary Smart Meter enabled programs to offer a demand response program to all customer classes and support time-of-use/real-time pricing plans:
- Critical Peak Rebate (CPR) Rate Offering for residential customers
  - Time of Use (TOU) with Critical Peak Pricing Rate Offering for Commercial / Industrial Small and Government, School and Non-Profit customers

Additional EE&C/DR Plan changes were required due to changes to the Smart Meter programs listed above as well as on the additional experience gained since the Company filed its original EE&C/DR Plan in order to meet the requirements of Act 129. Also, some program name changes result from the program changes and the name change is represented by "(old /new)" nomenclature below. The program changes include:

1. Home Performance Program: The Company consolidated the "Check Up" and "Comprehensive" audit measures included in the Home Performance Program into a single "In Home" audit measure to simplify program design and administration. This, in conjunction with a revised estimate of program participation based on feedback from program management, results in a decreased program budget.
2. Low Income Room Air Conditioner Replacement Program: The Company removed this as a stand alone program and instead provided for the replacement of room air conditioners through the Company's Low Income Home Performance Check Up with Appliance Replacement Program. Room Air Conditioner Replacement is already included in the Company's Low Income Home Performance Check Up with Appliance Replacement Program and the removal of this stand alone program removes duplication of this measure in the Company's EE&C/DR Plan.
3. Commercial and Industrial Drives Program: The Company removed this program and instead provided for the installation of energy efficient drives through the Company's custom programs. The Company plans to provide for Commercial and Industrial Drives through the existing Custom Technology Applications and Custom Applications Programs due to the requirement for custom measurement and verification protocols. Handling energy efficient drives and custom measurement and verification protocols through the custom programs leverages existing processes and streamlines program administration.



4. Residential (HVAC/Whole Home Appliance) and Commercial HVAC Efficiency Programs: The Company replaced the incentive for the installation of new energy efficient HVAC units with an incentive for the maintenance of existing HVAC units. The Technical Reference Manual provides for energy and demand savings for maintenance activities of residential HVAC units. The change to providing an incentive for maintenance activities provides the opportunity for more customers to participate due to the much lower cost of performing maintenance as opposed to the higher cost of new installations.
5. Commercial (Lighting/Products) Efficiency Program: The Company revised its Commercial (Lighting/Products) Efficiency Program to expand the eligible lighting measures by leveraging the June 2010 Technical Reference Manual update. This provides the opportunity for more customers to participate in the program and for additional energy and demand savings due to the addition of different lighting types and sizes that are contained in Appendix C of the Technical Reference Manual. This also results in an increased program budget.
6. Custom Technology Applications Program: The Company expanded the Custom Technology Applications Program to provide the opportunity for more customer projects to be completed. This is based on program implementation and management to date which supports the opportunity for additional customer projects to be completed than originally projected. This results in an increased program budget.
7. Custom Applications Program: Similar to the expansion of the Custom Technology Applications Program, the Company expanded the Custom Applications Program to provide the opportunity for more customer projects to be completed. This is based on program implementation and management to date, which supports the opportunity for additional customer projects to be completed than originally projected. This results in an increased program budget.
8. Residential Energy Star Domestic Water Heating measure: The Company added a new measure to the Residential (HVAC/Whole Home Appliance) Efficiency Program. This is based on the development of Interim Deemed Savings for new Energy Star Domestic Water Heating types, which provides the opportunity for more customers to participate in the program and supports the opportunity for additional energy and demand savings not already included in the Company's EE&C/DR Plan.
9. Commercial Smart Strips measure: The Company added Smart Strips to the Company's Commercial (Lighting/Products) Efficiency Program. This is based on the development of Interim Deemed Savings for Smart Strips, which provides the opportunity for more customers to participate in the program and supports the opportunity for additional energy and demand savings not already included in the Company's EE&C/DR Plan.

Additional non-program changes were completed to the alternative EE&C/DR

Plan including:

- Updated cost categories (administration, marketing, outside services, measurement and verification and customer incentives) based on actual costs or revised participation or costs associated with the program changes. Includes reallocation of common costs based on the revised program portfolio.
- Updated cost-effectiveness testing based on revised programs, program impacts and program costs.

Detailed Program Descriptions and budgets associated with the above program changes can be found in Section 3.2 of the Amended EE&C/DR Plan. Due to changes in program make up and budgets, the Amended EE&C/DR Plan causes a shift in program spending from residential to non-residential programs. Table 5: Budget and Parity Analysis Summary of the Amended EE&C/DR Plan provides the following budget shifts by customer sector (current approved plan to alternative plan):

- Residential:	43% to 36%
- Residential, Low Income:	14% to 13%
- Small Commercial and Industrial:	21% to 27%
- Large Commercial and Industrial:	16% to 18%
- Government/Non-Profit:	6% to 5%

The Company solicited input and feedback from stakeholders during development of the Amended EE&C/DR Plan. In addition to informal discussions the Company conducted two additional stakeholder meetings on June 10 and August 5, 2010, and appreciated the stakeholder involvement and feedback provided.

## **Summary of Proposed Joint Stipulations**

Allegheny Power resolved all issues between itself and three parties in the case through the vehicle of Joint Stipulations. These stipulations can be considered modifications of the Amended EE&C/DR filing and are summarized as follows.

### **Allegheny Power – OSBA Joint Stipulation**

The Allegheny Power – OSBA Joint Stipulation establishes that the Company will not oppose OSBA's raising in the 2011 EE&C/DR PaPUC reconciliation proceeding the issue of whether the additional costs allocated to Small Commercial and Industrial customers over the costs that would have been collected under the currently effective EE&C/DR Plan were unreasonably charged to Small Commercial and Industrial customers.<sup>1</sup> The Company reserves its defenses relative to this issue. In the event paragraph 18 of the pending settlement of the proposed merger between FirstEnergy Corp and Allegheny Energy, Inc. is approved without modification and the merger closes, OSBA is barred from raising the issue in the 2011 EE&C/DR reconciliation proceeding.<sup>2</sup>

Allegheny Power has also agreed as part of this Joint Stipulation to provide supporting detail for the allocation of common costs in the 2011 EE&C/DR reconciliation proceeding.

### **Allegheny Power – WPPII Joint Stipulation**

The Allegheny Power – WPPII Joint Stipulation reflects the Company's agreement to reduce the budget of the Custom Applications Program by \$930,000. This reduces the costs allocated to Rate Schedules 40, 44 and 46, which impact WPPII

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<sup>1</sup> The reconciliation proceeding is required to be filed no later than March 31, 2011.

<sup>2</sup> Paragraph 18 provides for credits to Small Commercial and Industrial customers for incremental costs arising from the Amended EE&C/DR Plan compared to the currently effective EE&C/DR Plan.

members, by approximately \$570,000, and reduces the cost allocated to Rate Schedules 30 (large), 41, and Tariff 37 by approximately \$360,000. This budget reallocation results in a \$465,000 expansion of the Residential CFL Rewards Program budget and a \$465,000 expansion of the Residential Whole Home Appliance Efficiency Program budget. These additional costs will be recovered from residential customers through Rate Schedule 10. In order to allow prompt implementation of the Amended EE&C/DR Plan, the Joint Stipulation provides for Commission approval of these budget amendments, with submission of Plan and program revisions associated with these budget changes no later than as part of the annual review of the 2010 Plan year.

The Joint Stipulation also provides \$130,000 in funds, not recoverable through the EE&C/DR Plan surcharge or through the Company's retail rates, to eligible customers on Rate Schedules 40, 44 and 46 for completed energy audit services or for projects selected and completed under the Company's Custom Applications Program, via a one-time contribution up to \$10,000 per customer, not to exceed the customer's cost of completing such services or projects and not to exceed \$130,000 in the aggregate. Eligibility and customers notice provisions are also part of the Joint Stipulation.

The Joint Stipulation addresses EE&C/DR Plan incremental cost increases that WPPII raised in objections to the smart meter settlement submitted in Docket No. M-2009-2123951. Therefore, the Joint Stipulation provides for WPPII supporting the Company's Amended EE&C/DR Plan and withdrawing its objections to the smart meter Joint Petition for Settlement. In the event Company monitoring of the Amended EE&C/DR Plan indicates sufficient progress toward achievement of Act 129 goals is not being achieved, or customer use of the Custom Applications Program warrants increasing

its budget, the Company may propose further amendments to Plan budgets and programs. The Stipulating Parties reserve all rights in any proceeding considering further plan amendments, which can be proposed as part of the annual review process or at other times.

#### **Allegheny Power – PCOC Joint Stipulation**

The Allegheny Power – PCOC Joint Stipulation confirms that the Company will target energy conservation services to low-income families residing in multi-family properties. These services primarily include those offered under the Low Income Home Performance Check-Up Audit and Appliance Replacement Program.<sup>3</sup> The services will be provided to multi-family properties providing affordable housing to low-income families, regardless of whether the multi-family housing account is classified as individual low-income residential, non-profit, governmental or commercial.

Allegheny Power will provide targeted outreach and marketing of the Commercial HVAC Efficiency Program to non-profit, governmental or commercial multi-family properties providing affordable housing to low-income families. In addition, Allegheny Power will expand its Joint Utility Usage Management Program for low-income customers in 2011, including expansion of its existing partnership with Columbia Gas of Pennsylvania, and to other interested gas companies in the Company's service territory.

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<sup>3</sup> Elimination of Allegheny Power's Low Income Room Air Conditioner Replacement Program will not reduce services to low-income households participating in the Low Income Home Performance Check-Up Audit and Appliance Replacement Program.



**IT IS ORDERED:**

1. That the Joint Stipulation between West Penn Power Company d/b/a Allegheny Power and the Office of Small Business Advocate is accepted and approved.

2. That the Joint Stipulation between West Penn Power Company d/b/a Allegheny Power and Pennsylvania Communities Organizing for Change is accepted and approved.

3. That the Joint Stipulation between West Penn Power Company d/b/a Allegheny Power and the West Penn Power Industrial Intervenors is accepted and approved.

4. That the Petition of West Penn Power Company d/b/a Allegheny Power for Approval of its Amended EE&C/DR Plan, as modified by the Joint Stipulations accepted and approved in this proceeding, including the associated program and budget changes, is granted.

5. That the Amended EE&C/DR Plan submitted by West Penn Power Company d/b/a Allegheny Power and modified by the Joint Stipulations meets the requirements of Section 2806.1(a), (b) and (c) of the Pennsylvania Public Utility Code.

6. That within thirty (30) days of the entry date of this order, West Penn Power Company d/b/a Allegheny Power shall file tariffs, including supporting materials, implementing the Amended EE&C/DR Plan surcharge rates, consistent with this Order.



**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 its 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 copy of the foregoing documents in accordance with the requirements of 52 Pa. Code § 1.54 et seq. (relating to service by a participant).

VIA FIRST CLASS AND  
ELECTRONIC MAIL

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Date: December 10, 2010

  
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