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June 14, 2012

M-2009-2093218

Ms. Kathy J. Kolich, Esquire

FirstEnergy Service Company

76 South Main Street

Akron, OH 44308

**Re:** **Petition of West Penn Power Company for Expedited Approval of Proposed Minor EE&C Plan Changes Pursuant To the Commission’s Expedited Review Process**

**Docket No. M-2009-2093218**

Dear Ms. Kolich:

On May 15, 2012, West Penn Power Company (WPP) filed a *Petition of West Penn Power Company’s Request for Expedited Approval of Proposed Minor EE&C Plan Changes Pursuant to the June 10, 2011 Final Order in Docket No. M-2008-2069887* (Petition). The Petition seeks approval of minor changes to the demand response programs contained in its amended Act 129 Energy Efficiency and Conservation Plan (EE&C Plan) through the Commission’s expedited process set forth in its June 10, 2011 Final Order at Docket No. M-2008-2069887 (Expedited Process Order). WPP served the Petition on all parties of record.

Comments were due by May 30, 2012. The West Penn Power Industrial Intervenors (WPPII) filed comments. Reply comments were due by June 11, 2012. WPP filed comments in response to WPPII’s comments

In its Expedited Process Order, the Commission delegated its authority to review and approve minor EE&C Plan changes, as defined below, to staff of the Bureau of Conservation, Economics and Energy Planning (Staff), with assistance from staff of the Bureau of Fixed Utility Services and the Law Bureau, or their successor(s)[[1]](#footnote-1) as determined by the Commission.[[2]](#footnote-2) The Commission defined minor plan changes as follows:

* 1. The elimination of a measure that is underperforming, no longer viable for reasons of cost-effectiveness, savings or market penetration or has met its approved budgeted funding, participation level or amount of savings;
  2. The transfer of funds from one measure or program to another measure or program within the same customer class; and
  3. Adding a measure or changing the conditions of a measure, such as its eligibility requirements, technical description, rebate structure or amount, projected savings, estimated incremental costs, projected number of participants, or other conditions so long as the change does not increase the overall costs to that customer class.[[3]](#footnote-3)

In its Petition, WPP proposes changes to its demand response (DR) programs for its large commercial and industrial (large C&I) customers. Specifically, WPP proposes the expansion of the Customer Resources demand Response Program (CRDR Program) by increasing the CRDR Program’s budget by $2,761,455 to a total budget of $6,926,123.[[4]](#footnote-4) WPP proposes to transfer these additional funds from other large C&I programs. In particular, WPP proposes to remove the Distributed Generation Program (DG Program) from its plan and transfer the remaining $808,477 budgeted for that program to the CRDR Program.[[5]](#footnote-5) Next, WPP proposes to reduce the budget for its Customer Load Response Program (CLR Program) by $1,343,654 and transfer those funds to the CRDR Program.[[6]](#footnote-6) Finally, WPP proposes to reduce the budget for its Commercial and Industrial Large Equipment Program (C&ILE Program) by $609,324 and transfer those funds to the CRDR Program.[[7]](#footnote-7)

WPP asserts that these proposed changes meet the definition of minor plan changes as delineated in the Expedited Process Order. In particular, WPP asserts that the proposed changes involve the elimination of a program that is under performing and the transfer of funds from one or more programs to another program within the same customer class.[[8]](#footnote-8)

In support of the proposed changes, WPP asserts the following based on its experience to date:

* The CRDR Program is focused on reducing the demand in the large C&I customer sectors by deploying resources from load curtailment strategies provided by PJM curtailment service providers.[[9]](#footnote-9)
* The expansion of the CRDR Program will allow WPP to leverage the management, marketing, implementation and tracking capabilities of third party PJM curtailment service providers, which will be contracted to implement the CRDR Program for the summer of 2012.[[10]](#footnote-10)
* The DG Program was focused on reducing demand by deploying customer generation resources for demand response activities as well as other activities. Despite WPP’s and its conservation service provider’s (CSP) efforts since January 2011, no customers have enrolled in the program, demonstrating that the program is clearly underperforming.[[11]](#footnote-11)
* Despite its efforts in promoting the CLR Program since April 2011, only 2 customers participated in the pilot WPP ran for the CLR Program in the summer of 2011.[[12]](#footnote-12)
* Based on its CSP’s efforts at marketing and promoting the C&ILE Program since November 2011, it appears that the budget for this program is more than sufficient to meet the demand for the program, permitting less funding to meet the program’s needs.[[13]](#footnote-13)

WPPII comments that WPP did not address the status of the two customers in the CLR Program. WPPII further asserts that WPP did not address what, if any, impact the proposed transfer of funds would have on enrolled customers or what WPP will do to avoid or mitigate any negative impacts on those customers. WPPII notes that it does not take a position on the merits of the proposed changes. WPPII, however, expresses a concern that WPP may not be implementing its plan in a manner that minimizes any adverse impacts on participating customers or customers with pending projects.[[14]](#footnote-14)

In response to WPPII’s comments, WPP states that the proposed minor changes will not have any negative impact on participation or customers with pending projects. WPP asserts that the changes support customer participation in the programs by realigning the existing budget dollars needed for projected customer participation among the various programs. Regarding the CLR Program, WPP states that no customers have enrolled in the CLR Program for the summer of 2012, even though WPP is actively in discussion with customers about enrolling in this program. WPP asserts that it has allocated adequate moneys necessary to support potential customer participation in the CLR Program.[[15]](#footnote-15)

The Commission’s Expedited Process Order states that it is permissible to eliminate a measure that is under performing and to transfer funds from one measure or program to another measure or program within a customer class as long as the change does not increase the overall costs to that particular customer class.[[16]](#footnote-16) Staff finds that the changes proposed by WPP in the instant Petition meet the definition of minor EE&C plan changes established in the Expedited Process Order. In addition, Staff believes that WPP adequately considered and adequately addressed potential negative impacts on existing and potential participants in the programs being revised. Staff, therefore, accepts WPP’s proposal to increase the budget for its CRDR Program by $2,761,455, to a total budget of $6,926,123. Staff also accepts WPP’s elimination of the DG Program as underperforming and the transfer of the remaining $808,477 DG Program budgeted amount to the CRDR Program. Staff further accepts the reduction in funding of the CLR and the C&ILE Programs, as they are also underperforming, and the transfer of $1,343,654 from the CLR Program and $609,324 from the C&ILE Program to the CRDR Program.

Staff recognizes, based on its analysis of WPP’s EE&C Plan and the documentation provided with this filing, that the changes proposed herein do not significantly alter the overall cost effectiveness of WPP’s portfolio of programs or have an impact on the Plan’s budget. As such, Staff approves the changes WPP proposed in the instant Petition.

Notwithstanding the above, WPP is advised that Staff requires a certain level of documentation with which to more precisely determine whether a request for plan modification is justified. Therefore, going forward, future requests for approval of minor EE&C plan changes through the expedited review process shall include a total resource cost test analysis for each measure being revised and for its entire EE&C plan portfolio to ensure that the Act 129 mandates are being fulfilled in a cost-effective manner.

In view of the above, the Staff has determined that the *Petition of West Penn Power Company’s Request for Expedited Approval of Proposed Minor EE&C Plan Changes Pursuant to the June 10, 2011 Final Order in Docket No. M-2008-2069887*, filed on May 15, 2012, at Docket No. M-2009-2093218, satisfies the requirements of Act 129 and the prior related Orders of the Commission. Staff finds that the minor changes proposed in the Petition should enable West Penn Power Company to meet or exceed the energy consumption and demand reduction requirements of Act 129 in a cost-effective manner. Therefore, Staff finds that the changes proposed by West Penn Power in its Petition are approved. West Penn Power Company is directed to file with the Secretary a revised plan, consistent with this Secretarial Letter, within 30 days of the date of this Letter and post same on its website.

As directed in the Commission’s June 10, 2011 Order, petitions for appeal from this Staff action must be filed within ten (10) days after service of this Secretarial Letter in accordance with 52 Pa. Code § 5.44.[[17]](#footnote-17)

 Sincerely,

Rosemary Chiavetta

Secretary

cc: Chairman Powelson

Vice Chairman Coleman

Commissioner Gardner

Commissioner Cawley

Commissioner Witmer

Parties of Record

Darren Gill, TUS

Paul Diskin, Director, TUS

Kriss Brown, Law Bureau

Cheryl Walker Davis, OSA

Jonathan Nase, OSA

1. In a Final Procedural Order entered on August 11, 2011, at Docket No. M-2008-2071852, the Commission transferred the staff and the functions of Bureau of Fixed Utility Services and the Bureau of Conservation, Economics and Energy Planning to the Bureau of Technical Utility Services. *See Implementation of Act 129 of 2008 Organization of Bureaus and Offices*, Final Procedural Order at 4. [↑](#footnote-ref-1)
2. Expedited Process Order at 22. [↑](#footnote-ref-2)
3. Expedited Process Order at 20. [↑](#footnote-ref-3)
4. Petition at 5. [↑](#footnote-ref-4)
5. *Id*. [↑](#footnote-ref-5)
6. Petition at 6. [↑](#footnote-ref-6)
7. *Id*. [↑](#footnote-ref-7)
8. Petition at 4. [↑](#footnote-ref-8)
9. Petition at 5. [↑](#footnote-ref-9)
10. Petition at 6. [↑](#footnote-ref-10)
11. Petition at 5. [↑](#footnote-ref-11)
12. Petition at 6. [↑](#footnote-ref-12)
13. *Id*. [↑](#footnote-ref-13)
14. WPPII Comments at 3. [↑](#footnote-ref-14)
15. WPP Reply Comments at 1. [↑](#footnote-ref-15)
16. Expedited Process Order at 20. [↑](#footnote-ref-16)
17. Expedited Process Order at 19. [↑](#footnote-ref-17)