

PERSON IN CHARGE:
8. DOCKET NO: C-20077485

7. DATE FILED: 03/21/07
9. EFFECTIVE DATE: 00/00/00

PARTY/COMPLAINANT: FONTE, CAROLYN A.

RESPONDENT/APPLICANT: WEST PENN POWER CO.

COMP/APP COUNTY: WASHINGTON

UTILITY CODE: 111250

ALLEGATION OR SUBJECT

COMPLAINANT STATES SHE CHOSE ALLEGHENY POWER BECAUSE THEY HAVE THE LOWEST RATES AVAILABLE TO HER. SHE WANTS TO BE EXCLUDED FROM THE 5% RATE INCREASE BECAUSE SHE DID SHOP FOR AN ALTERNATE ELECTRIC SUPPLIER.

DOCKETED
MAR 28 2007

DOCUMENT
FOLDER

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Formal Complaint Form

Please print or type.

C-20077485

2007 MAR 21 15:00

SECRET

1. CUSTOMER NAME (COMPLAINANT)

Your name, mailing address, county, telephone number, utility account number and service address:

ORIGINAL

Name Carolyn A. Fonte

Street/P.O. Box 724 East McMurray Rd. Apt # -

City McMurray State PA Zip 15317

County Washington

Area Code/HOME Phone 724-941-4075

Area Code/WORK Phone 412-246-5397

Utility Account Number (from your bill) 1 54 16 056 58250 3

If your complaint involves utility service provided to a different address than your mailing address, please list this information below.

Name

Street/P.O. Box

City State Zip

2. UTILITY NAME (RESPONDENT)

Name of utility company your complaint concerns: Allegheny Power

3. TYPE OF UTILITY (check one)

[X] ELECTRIC

[] STEAM HEAT

[] GAS

[] WASTE WATER

[] WATER

[] MOTOR CARRIER (taxi, moving company, limousine)

[] TELEPHONE (local, long distance)

17

4. COMPLAINT (check one)

A. In general, what is your complaint?

- I want to oppose the company's proposed rate increase.
- There are incorrect charges on my bill.
- There is a reliability, safety or quality problem with my utility service.
- I received a notice that my utility service is being terminated.
- I would like a payment agreement.

Other. PUC approved a 5% increase for those who did not (explain) choose an alternate electric supplier.

B. State the facts of your complaint.

Include any specific dates, times or places that are important. If the complaint is about a bill, tell us about any charges that you believe are not correct. Use additional paper if you need more space. Provide copies of all relevant documents you believe will support your complaint.

I chose Alleg. Power because they have the lowest rates available to me. I shopped 2/24/00 generation

when I moved into this house + again in 02/07 when I received the notice of increase. My company is still

5. RELIEF the cheapest + my choice:

What do you want the Public Utility Commission to do about your complaint? Use additional paper if you need more space.

Exclude me from the 5% rate increase because I did shop for an alternate elec. supplier; it just happens to be my power company that distributes my electricity.

6. PROTECTION FROM ABUSE

Answer the following question if your complaint is against a natural gas distribution company, an electric distribution company or a water company AND your complaint is about a billing problem, an application for service problem, a termination of service problem or a request for a payment agreement.

Has a court granted a "Protection from Abuse" order for your personal safety?

YES

NO

7. PRIOR UTILITY CONTACT

Answer the following question only if you are a residential customer and your complaint is against an electric distribution utility, natural gas distribution utility or a water distribution utility.

Have you spoken to a utility company representative about this complaint?

YES
(includes appeals of BCS determinations)

NO

If you tried to, but could not speak to a utility company representative about your complaint, please explain why.

8. VERIFICATION AND SIGNATURE

You must print or type your name below on the line provided for the verification paragraph, and you must sign and date (in ink) this form on the lines provided.

Verification: I Carolyn A. Fonte, hereby state that the facts above set forth are true and correct (or 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).

Carolyn A. Fonte
(Signature)

3/18/07
(Date)

9. **LEGAL REPRESENTATION (IF ANY)**

If you are represented by a lawyer in this matter you must provide your lawyer's name, address and telephone number.

Lawyer's Name _____

Street _____

City _____ State _____ Zip _____

Area Code/Phone Number _____

10. **FILING**

Please return the completed form to one of the addresses listed below:

If using U.S. Postal Service:

If using overnight delivery service:

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

Secretary
Pennsylvania Public Utility Commission
400 North Street
Commonwealth Keystone Building, 2nd Floor
Harrisburg, Pennsylvania 17120

Facsimiles and/or electronic filings of the complaint form will not be accepted.

If you have any questions about filling out this form, please contact the Secretary's Bureau at 717-772-7777.

Keep a copy of your complaint for your records.



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265

IN REPLY PLEASE
REFER TO OUR FILE

DATE SERVED: MARCH 29, 2007

C-20077485

WEST PENN POWER COMPANY
KATHY L PATTON
DEPUTY GENERAL COUNSEL
800 CABIN HILL DR
GREENSBURG PA 15601

**DOCUMENT
FOLDER**

Dear Ms. Patton:

A complaint has been filed against you before the Pennsylvania Public Utility Commission by CAROLYN A. FONTE. To defend yourself against the claims stated in the following pages, you must act within twenty (20) days by filing in writing with the Commission, either, personally or through your attorney, your defenses or objections to the claims stated against you. Or, you may satisfy the complaint by settling the matter with the Complainant and submitting proof of settlement to the Commission within twenty (20) days.

IF YOU FAIL TO RESPOND WITHIN TWENTY (20) DAYS, THE CASE MAY GO FORWARD IN YOUR ABSENCE AND A JUDGEMENT MAY BE ENTERED AGAINST YOU BY THE COMMISSION WITHOUT FURTHER NOTICE.

CUSTOMER OF A UTILITY

A payment schedule may be prescribed or a termination of utility services may be authorized. You may lose money or property or other rights important to you.

COMPANY/UTILITY

An Administrative Law Judge may revoke or suspend any certificate or permit held by you, or impose a fine, or any other appropriate penalty or remedy authorized by the Public Utility Code. You may lose money or property or other rights important to you.

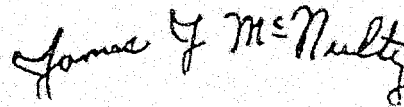
Detailed instructions on how to proceed are contained in the attached pages. You are advised to read them carefully.

MARCH 29, 2007

Unless you are a corporation or other organization, you may proceed without a lawyer. However, if you want a lawyer and do not have one or cannot afford one, the office listed below can tell you where you can get legal help:

Pennsylvania Lawyer Referral Service
Pennsylvania Bar Association
P.O. Box 186
Harrisburg, PA 17108
(800) 692-7375

Very truly yours,

A handwritten signature in cursive script that reads "James J. McNulty".

James J. McNulty
Secretary

jih

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

DATE SERVED: MARCH 29, 2007

DOCUMENT
FOLDER

CAROLYN A. FONTE
Complainant

v.

WEST PENN POWER COMPANY
Respondent

Complaint Docket
No: C-20077485

FORMAL COMPLAINT NOTICE TO RESPONDENT TO ANSWER OR SATISFY

TO: WEST PENN POWER COMPANY

DOCKETED
MAR 28 2007

TAKE NOTICE:

That a complaint in the above entitled matter, of which the attached is a true and correct copy, has been presented and filed of record with the Pennsylvania Public Utility Commission. Section 702 of the Public Utility Code, 66 Pa. C.S. Section 702, requires the Commission to serve on each party named in a complaint a copy of the complaint and notice calling upon each party to satisfy the complaint, or to answer the same in writing within a specified time; THEREFORE,

1. You have twenty (20) days from the date on which this complaint is served to either satisfy this complaint or to file with the **Secretary of the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265**, an answer (original and three copies), in writing, under oath, which, as required by Section 5.61 of the Commission's Rules of Practice and Procedure, 52 Pa. Code Section 5.61, either affirms or specifically denies the allegations in this complaint. You must also serve a copy of the answer upon the complainant. The date of service is the mailing date as indicated by the date at the top of this Notice. Section 1.56(a) of the Commission's Rules of Practice and Procedure, 52 Pa. Code Section 1.56(a).

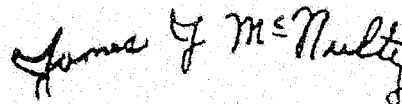
2. If you fail to either satisfy this complaint or to file answer or other responsive pleading within twenty (20) days, you will be deemed to have admitted all the allegations in this complaint in accordance with Section 5.61 of the Commission's Rules of Administrative Practice and Procedure, 52 Pa. Code Section 5.61. In that event, the Commission may, without hearing, enter an order which either revokes or suspends any certificate or permit held by you or which imposes a fine or any other appropriate penalty or remedy authorized by the Public Utility Code, 66 Pa. C.S. Section 101, et seq.; and, if

you are a customer of a utility, an order may be entered which prescribes a payment schedule or which authorizes termination of utility services. The Commission is not limited to the relief sought by the complainant in paragraph 4 of the attached complaint.

3. If you elect to satisfy this complaint you must file, within twenty (20) days from the date on which this complaint is served, affidavits executed by each complainant that this complaint has been satisfied. Such affidavits must describe the basis on which this complaint was satisfied; any settlement agreement between the parties must be reduced to writing and attached to the affidavit. Such affidavits are to be filed with the Secretary of the Commission at the address set forth in paragraph 1. Upon receipt of affidavits of satisfaction from all complainants, this complaint may be dismissed by the Commission in accordance with Section 703(a) of the Public Utility Code, 66 Pa. C.S. Section 703(a), unless the Commission determines that such dismissal would be contrary to the public interest, in which event the Commission may direct that hearings be held upon the complaint.

4. If you file an answer which admits the allegations in this complaint, or which fails to specifically deny the allegations in this complaint, the Commission may, without hearing, enter an order which either revokes or suspends any certificate held by you or which imposes a fine or any other appropriate penalty or remedy authorized by the Public Utility Code, 66 Pa. C. S. Section 101, et seq.; and, if you are a customer of a utility, an order may be entered which prescribes a payment schedule or which authorizes termination of utility services. The Commission is not limited to the relief sought by the complainant in paragraph 4 of the attached complaint.

5. If you file a timely answer which specifically denies the allegations in this complaint, or which raises material questions of law or fact, this matter shall be referred to the Office of Administrative Law Judge for hearing and decision. If, after hearing on the issues raised by that answer, you are found to have committed any of the violations alleged in the complaint, the Administrative Law Judge may render a decision which either revokes or suspends any certificate or permit held by you or which imposes a fine or any other appropriate penalty or remedy authorized by the Public Utility Code, 66 Pa. C. S. Section 101, et seq.; and, if you are a customer of a utility, an order may be entered which prescribes a payment schedule or which authorizes termination of utility services. In the imposition of a penalty after a hearing the Administrative Law Judge is not bound by the relief sought by the complainant in paragraph 4 of the attached complaint.

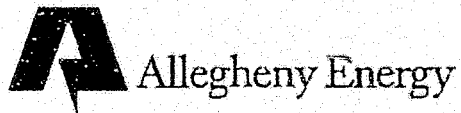


James J. McNulty
Secretary

(SEAL)

Certified Mail
Return Receipt Requested

ORIGINAL



LEGAL SERVICES

800 Cabin Hill Drive
Greensburg, PA 15601-1689
PH (724) 838-6210
FAX (724) 838-6464
jmunsch@alleghenyenergy.com

April 18, 2007

VIA FEDERAL EXPRESS

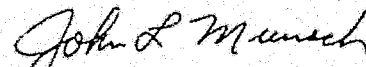
James J. McNulty, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

Re: **Carolyn A. Fonte v. West Penn Power Company**
Complaint Docket No. C-20077485

Dear Secretary McNulty:

Enclosed are the original and three (3) copies of the Answer of West Penn Power Company dba Allegheny Power to the above-captioned Formal Complaint, with certificate of service attached. This Answer is filed by Federal Express and the filing date is deemed to be today.

Very truly yours,


John L. Munsch
Attorney

Enclosures

cc: Certificate of Service

**DOCUMENT
FOLDER**

DOCKETED
MAY 1 2007

RECEIVED

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

APR 18 2007

CAROLYN A. FONTE
Complainant,

v.

WEST PENN POWER COMPANY,
Respondent.

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Complaint Docket No. C-20077485

ANSWER WEST PENN POWER COMPANY

NOW comes the Respondent, West Penn Power Company dba Allegheny Power (hereinafter "Allegheny Power"), by its attorneys, and provides an Answer to the Formal Complaint filed in the above-captioned matter, as follows:

1. The information in Paragraph No. 1 is admitted.

2. The information in Paragraph No. 2 is admitted. By way of further answer, the attorneys representing Allegheny Power in this matter are John L. Munsch and James T. Boggs, 800 Cabin Hill Drive, Greensburg, PA 15601.

3. The information in Paragraph No. 3 is admitted.

4. (a) The averments contained in Paragraph No. 4 and attachments are admitted in part and denied in part. By way of further answer, Allegheny Power submits that the Complainant misapprehends the nature of Allegheny Power's generation default service, and the price of such service.

(b) Generation default service, also known as "provider of last resort" service, is available to all residential customers of Allegheny Power, including the Complainant, who choose not to shop for their generation supply from an electric generation supplier, but instead choose to receive generation service from Allegheny Power, an electric

distribution company. As long as the Complainant chooses to receive Allegheny Power's generation default service, as opposed to choosing generation service from a third-party electric generation supplier, she is subject in 2007 to the approximate five percent increase in the price of Allegheny Power's generation default service, as has been approved by the Commission. The Complainant is free to choose competitive generation supply from an electric generation supplier at any time.

(c) The price increase for Allegheny Power's generation default service, which is the subject of the Complaint, has been approved by the Commission. In 2005 the Commission approved a comprehensive settlement among Allegheny Power and the Pennsylvania Office of Consumer Advocate, the Pennsylvania Office of Small Business Advocate, West Penn Power Industrial Intervenors, and several other parties. One aspect of the comprehensive settlement was that Allegheny Power would extend the period that it offered generation default service from the end of 2008 through the end of 2010. Also as part of the Commission-approved settlement, Allegheny Power obtained an approximate five percent per year increase in its generation default service rates for 2007. The comprehensive settlement was approved by the by Order entered May 11, 2005 at Docket Nos. R-00039022 and R-00973981. A copy of the Commission's May 11, 2005 Order is attached hereto as "Allegheny Power Answer Attachment No. 1."

(d) Allegheny Power directs attention to Paragraph Nos. 11a through 11d of the May 11, 2005 Order that address the generation default service. Allegheny Power also points out that the May 11, 2005 Order supplements the 1998 Restructuring Settlement of Allegheny Power under the Electricity Generation Customer Choice and Competition Act.

Allegheny Power's 1998 Restructuring Settlement was approved by the Commission by Order entered November 19, 1998 at Docket No. R-00973981.

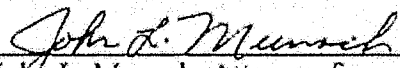
(e) The rates for generation default service are reflected in the Commission-approved Tariff of Allegheny Power. The Complainant receives residential electric service under Allegheny Power's Rate Schedule No. 10. A copy of the applicable portion of Allegheny Power's Commission-approved Tariff is attached hereto as "Allegheny Power Answer Attachment No. 2."

WHEREFORE, Allegheny Power requests that the relief sought by the Complainant be denied and the above-captioned matter be dismissed.

Respectfully submitted,

Date: April 18, 2007

By:



John L. Munsch, Attorney for
WEST PENN POWER COMPANY,
dba ALLEGHENY POWER
800 Cabin Hill Drive
Greensburg, PA 15601
(724) 838-6210
Pa. I.D. No. 31489

Pennsylvania Public Utility Commission;
Re: Carolyn A. Fonte v. West Penn Power Company; Docket No. C-20077485

CERTIFICATE OF SERVICE

I hereby certify that I have this day served by first-class mail, postage prepaid, the foregoing **Answer** addressed as follows:

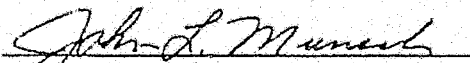
Carolyn A. Fonte
724 East McMurray Road
McMurray, PA 15317

RECEIVED

APR 18 2007

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Date: April 18, 2007


John L. Munsch, Attorney for
WEST PENN POWER COMPANY,
dba ALLEGHENY POWER
800 Cabin Hill Drive
Greensburg, PA 15601
(724) 838-6210

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17105-3265

Public Meeting held April 21, 2005

Commissioners Present:

Wendell F. Holland, Chairman
Robert K. Bloom, Vice Chairman
Kim Pizzingrilli

Petition of West Penn Power Company for
Issuance of a Second Supplement to its Previous
Qualified Rate Orders Under
Sections 2808 and 2812 of the
Public Utility Code

R-00039022

Application of West Penn Power Company
for Approval of its Restructuring Plan under
Section 2806 of the Public Utility Code

R-00973981

RECEIVED

OPINION AND ORDER

APR 18 2007

BY THE COMMISSION:

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Before the Commission for consideration and disposition are the
Recommended Decision of Administrative Law Judge (ALJ) Wayne L. Weismandel issued
April 6, 2005, and the Amended Joint Petition of West Penn Power Company (West Penn),
the Office of Consumer Advocate (OCA), the Office of Small Business Advocate (OSBA),
AK Steel Corporation (AK Steel), Constellation New Energy, Inc., and Constellation Power
Source, Inc. (jointly, Constellation), Citizen Power, Inc. (Citizen Power) and the West Penn
Power Industrial Intervenors (WPII) filed on March 8, 2005. The ALJ recommends

approval of the Amended Joint Petition which was filed to resolve all issues raised by the Petition of West Penn for Issuance of a Second Supplement to its Previous Qualified Rate Orders Under Sections 2808 and 2812 of the Public Utility Code, filed on November 25, 2003. Reliant Energy, Inc., and the Office of Trial Staff filed responsive pleadings which expressly do not oppose approval of the Amended Joint Petition.

History of the Proceeding

On November 25, 2003, West Penn filed the Petition of West Penn Power Company for Issuance of a Second Supplement to its Previous Qualified Rate Orders Under Sections 2808 and 2812 of the Public Utility Code (Petition), Docket Number R-00039022. The Petition was served on all parties to *Application of West Penn Power Company for Approval of its Restructuring Plan under Section 2806 of the Public Utility Code*, Docket Number R-00973981.

On December 15, 2003, the OCA, the OSBA, and the WPPH each filed an Answer to the Petition. During the course of the proceeding, intervenor status was granted to WPH, AK Steel, Citizen Power, Constellation, and Reliant.

On September 7, 2004, West Penn, OCA, OSBA, and WPPH filed a Joint Petition For Settlement And For Modification Of The 1998 Restructuring Settlement (Joint Petition). The Joint Petition was served on all parties to *Application of West Penn Power Company for Approval of its Restructuring Plan under Section 2806 of the Public Utility Code*, Docket Number R-00973981, as well as on all participants in *Petition of West Penn Power Company for Issuance of a Second Supplement to its Previous Qualified Rate Orders Under Sections 2808 and 2812 of the Public Utility Code*, Docket Number R-

00039022. West Penn, OCA, OSBA, and WPPII requested that the Commission have notice of this filing published in the Pennsylvania Bulletin.¹

On November 15, 2004, Reliant filed and served its Motion To Dismiss The Joint Petition For Settlement (Motion To Dismiss). On November 29, 2004, timely Answers to Reliant's Motion To Dismiss were filed by WPPII, West Penn, OSBA, and OCA. The ALJ denied Reliant's Motion to Dismiss by Order dated December 3, 2004.

On March 8, 2005, West Penn filed the Amended Joint Petition and the Revised Direct Testimony of John R. Howells (West Penn Statement No. 1B). The parties joining in the Amended Joint Petition are West Penn, OCA, OSBA, WPPII, AK Steel, Citizen, and Constellation (Joint Petitioners). From March 8, 2005, through March 10, 2005, OSBA, OCA, WPPII, and Constellation submitted statements in support of the Amended Joint Petition. By letter dated March 10, 2005, Reliant stated its non-opposition to the Amended Joint Petition.

On March 14, 2005, the Initial Hearing convened as scheduled. West Penn, OCA, OSBA, WPPII, AK Steel, Citizen, Constellation, Reliant, and OTS all participated, either in person or by telephone. The Amended Joint Petition and West Penn Statement No. 1B were both admitted into evidence, without objection. On or about March 16, 2005, OTS filed a letter dated March 16, 2005, stating OTS's non-opposition to Commission approval of the Amended Joint Petition. On March 21, 2005, Citizen and AK Steel each filed a statement in support of the Amended Joint Petition.

On April 6, 2005, the ALJ's Recommended Decision was issued recommending approval of the Amended Joint Petition. We note that one of the terms of

¹ Publication in the Pennsylvania Bulletin occurred on Saturday, September 25, 2004, 34 Pa.Bull. 5326, with a twenty-day written comment period.

the Amended Joint Petition provides that in the event the ALJ recommends approval of the Amended Joint Petition without modification, the Parties waive the opportunity to file Exceptions. (Amended Joint Petition, ¶ 19). No Exceptions have been filed.

Discussion

The ALJ provided an excellent description of the case and the terms of the Amended Joint Petition in his Recommended Decision. We will use substantial pieces of the ALJ's descriptions without further attribution.

West Penn is a public utility and Pennsylvania corporation authorized pursuant to Commission regulation to provide electric utility service in all or parts of 23 counties in Pennsylvania. It currently provides electric service to approximately 697,000 customers in Pennsylvania. Pursuant to the Electric Generation Competition and Customer Choice Act, 66 Pa. C.S. §§ 2801 – 2812, West Penn filed with the Commission a restructuring proceeding in August, 1997, at Docket No. R-00973981, that resulted in a settlement among the parties to that proceeding. The settlement at Docket No. R-00973981 was approved by the Commission by Final Order entered November 19, 1998 (collectively, the 1998 Restructuring Settlement).

On November 25, 2003, West Penn filed its Petition seeking a supplemental qualified rate order (QRO) to securitize its remaining unsecuritized, unrecovered stranded costs allowed in its 1998 Restructuring Settlement, carrying costs, company savings, transaction fees and expenses, and to recover the supplemental intangible transition charge beyond December 31, 2008, which was to be the end point of West Penn's stranded cost recovery period and generation rate cap as set forth in the 1998 Restructuring Settlement. West Penn proposed securitizing approximately \$115 million in transition bonds. By correspondence dated February 25, 2004, West Penn waived its request for expedited

resolution of its supplemental QRO in anticipation of temporary financing being obtained to satisfy maturing debt.

OCA, OSBA, and WPPH opposed West Penn's Petition on several grounds. One of the primary arguments noted that the Petition sought recovery of stranded costs beyond the stranded cost recovery period and generation rate cap period provided in West Penn's Restructuring Settlement. Those periods were to conclude simultaneously in 2008. Although West Penn proposed to expand the stranded cost recovery period through 2010, West Penn did not propose an extension of the generation rate caps in 2009 and 2010. As described by the ALJ, the Amended Joint Petition has resolved this issue by providing for an expanded stranded cost recovery period which will run concurrently with generation rate caps. (R.D. at 26).

The specific dilemma which West Penn seeks to address in this proceeding is that it has not fully recovered that portion of its stranded costs which were subject to the Competitive Transition Charge (CTC). As set forth in the record, the reason for the underrecovery was that West Penn's revenues were affected by the rate cap and sales levels. Since the inception of its CTC in 1999, West Penn has deferred the undercollected CTC amounts as a regulatory asset in every year during the CTC collection period. The Commission has approved that treatment. The ALJ determined that the cumulative underrecovery of authorized CTC collections is \$78.3 million. (R.D. at 25).

After extensive settlement discussions, the Parties developed the Amended Joint Petition to resolve both West Penn's dilemma as well as the Parties' concerns that customers not be fully exposed to market prices for generation while West Penn continues to collect stranded costs. As stated by the ALJ, "the Amended Joint Petition continues the same principles as in West Penn's 1998 Restructuring Settlement: stranded cost collection, distribution rate caps, and gradually increasing generation rates subject to caps." (R.D. at

25). It is important to note that the Amended Joint Petition is supported by evidence of record. (*Id.*).

In a manner similar to West Penn's 1998 Restructuring Settlement, the Amended Joint Petition provides for a longer period for West Penn to collect the stranded costs and associated carrying charges through 2010. The Amended Joint Petition expressly provides for the use of updated sales numbers and a CTC reconciliation process to ensure that underrecovery will not occur and all remaining stranded costs will be collected by the end of 2010. Also, there will be additional increases in generation rates in the years 2007 and 2008 over and above those provided in the 1998 Restructuring Settlement. However, the generation rates will be capped in 2009 and 2010, the extended stranded cost collection period. In addition, the distribution rate cap will be extended from December 31, 2005 through December 31, 2007.

The substantive terms of the Amended Joint Petition Settlement are as follows (paragraph numbers are those in the Settlement Agreement):

11 a.) The Joint Petitioners agree that the Restructuring Settlement at Docket No. R-00973981, as approved by the Commission by Order entered November 19, 1998, should be amended to provide for changes in rates and rate caps, as set forth herein. The Joint Petitioners agree that the changes in rates and rate caps described in this Amended Joint Petition are reasonable and in the public interest.

11 b.) The generation rate cap, consisting of the CTC/ITC plus the generation rates, provided in Section B.3 of the 1998 Restructuring Settlement, shall continue without amendment for the years 2005 and 2006, including the system-wide generation rate increase to a West Penn system average generation rate of 4.135 cents/KWh for 2006, as set forth in Revised Appendix A. (As used in the Amended Joint Petition, the generation

rate cap means the sum of the CTC, the ITC, and the generation rates. For the reasons set forth in Paragraph 13g., Revised Appendix A reflects modified ITC-2 rates for years 2009 and 2010).

11 c.) The generation rate cap for year 2007 is amended to provide for an increase from a West Penn system average generation rate of 4.135 cents/kWh to a West Penn system average generation rate cap of 4.431 cents/kWh beginning in 2007. The system average generation rate cap increase to 4.41 cents/kWh anticipated in the 1998 Restructuring Settlement for 2008 is amended to be an increase to the system average generation rate cap of 4.743 cents/kWh beginning in 2008, as set forth in Revised Appendix A. The percentage of the rate increase for 2008 under the Joint Petition and the Amended Joint Petition is consistent with the percentage rate increase for 2008 established in the 1998 Restructuring Settlement.

11 d.) The period of the generation rate cap shall be extended from the end of 2008 through 2009 and 2010, provided however, that the level of the system average generation rate cap shall increase to 5.588 cents/KWh in 2009 and to 6.062 cents/KWh in 2010, as set forth in Revised Appendix A.

11 e.) The cap on distribution charges through the end of the year 2005 as provided in Paragraph B.3 of the 1998 Restructuring Settlement is amended to provide that the cap on distribution charges is extended until December 31, 2007, for all retail customers. West Penn may file to increase distribution rates to become effective on or after January 1, 2008, provided such rates become effective prior to October 1, 2008. In addition, West Penn agrees to distribution rates for the year 2009 at the level of distribution rates in effect as of January 1, 2009. The changes to the distribution rate cap described in this Amended Joint Petition do not apply to, nor do they affect, West Penn's transmission-related charges. West Penn may file to increase or decrease FERC

jurisdictional transmission-related charges to be effective at any time after December 31, 2005. West Penn further agrees that it will continue to meet or exceed the reliability requirements for distribution service contained in the applicable Commission regulations and orders.

11 f.) West Penn agrees that it shall not recover through customer rates any charges from an automatic rate adjustment mechanism (a "distribution system improvement charge" or "DSIC") that provides rate recovery for fixed costs associated with delivery system improvement and relocation projects made prior to January 1, 2010, even if such DSICs are permitted by state statute. Should a jurisdictional government body direct that certain costs or category of costs may be recovered solely through a DSIC mechanism, the prohibition of DSIC recovery shall not apply relative to such costs or category of costs. To the extent that West Penn seeks a DSIC mechanism, parties reserve the right to oppose West Penn's request.

11 g.) West Penn shall securitize the current cumulative under-recovery portion of its CTC, including carrying charges, that has been deferred pursuant to Commission Orders each year from 1999 through 2004. West Penn shall also securitize the remaining stranded costs scheduled for recovery through the CTC. Together with Company savings and transaction fees and expenses, the total amount to be securitized is approximately \$115 million. See Attachment H to the Joint Motion to Admit Materials into the Evidentiary Record. Consistent with the terms of the 1998 Restructuring Settlement, savings from securitization will be shared between West Penn and its customers on a 25% - 75% basis, respectively.

11 h.) West Penn shall be permitted to recover the ITC-2 resulting from the securitization of the approximate \$115 million so long as the ITC-2 ends no later than December 31, 2010. The issuance of Series 2 transition bonds will terminate collection of

CTC. Quarterly reconciliation, and potential monthly reconciliations in 2010, will ensure full collection of ITC-2 by December 31, 2010. Shopping credits will be adjusted as necessary pursuant to any necessary ITC-2 reconciliations.

11 i.) The Joint Petitioners request that the Commission issue a Supplemental Qualified Rate Order requested by West Penn, as attached hereto as Revised Appendix B (Revised Appendix B has been modified to reflect updated bond requirement language). The Qualified Rate Order shall include the following Paragraphs:

1. West Penn is authorized to issue transition bonds up to \$115 million (the "Series 2 Bonds"). At the issuance of the Series 2 Bonds, such Bonds shall be entitled to the benefits of the accounts (the "Series 1 Accounts") established under the Indenture in connection with the issuance of the transition bonds issued by West Penn pursuant to the Initial QRO and Supplemental QRO ("Series 1 Bonds") or separate accounts that are substantially the same as the Series 1 Accounts. Amounts in the over-collateralization sub-account in the Series 1 Accounts remaining after the repayment in full of the Series 1 Bonds will remain in that sub-account for the benefit of the Series 2 Bonds, or if separate accounts are used, will be transferred to the separate over-collateralization sub-account for the Series 2 Bonds. In any event, amounts in such accounts shall be no less than the amounts required to achieve an AAA/Aaa rating from the rating agencies. West Penn is authorized to charge customers a separate Intangible Transition Charge ("ITC-2") in an amount sufficient to pay principal and interest on the Series 2 Bonds, plus provide credit enhancement by funding the accounts under the Indenture, and to pay servicing fees and other ongoing fees and costs related to Series 2 Bonds contemplated by the Indenture.

2. ITC-2 will be recovered from customers beginning when the Series 1 Bonds have been paid in full and ITC-1 ceases to be collected from customers (estimated to be mid-2008) until the Series 2 Bonds are paid in full, but not later than

December 31, 2010. The Series 2 Bonds will be issued as "accretion bonds." During the period from the issuance of the Series 2 Bonds until the beginning of the ITC-2 collection period, interest will not be paid currently but will accrue and be added to principal on a quarterly basis. Current interest payments and principal amortization will commence on a quarterly basis after the commencement of the ITC-2 collection period. Reconciliation of the ITC-2 recovery will occur at least annually, but may occur on a quarterly basis if deemed necessary by the Company or, during 2010, on a monthly basis if deemed necessary by the Company.

3. West Penn's ITC-2 business structure may use the existing business structure used for the issuance and recovery of its ITC-1 bonds, or in the discretion of West Penn, it may use a new or altered business structure. The existing business structure consists of West Penn Funding Corporation, which is a direct subsidiary of West Penn, and West Penn Funding LLC, which is owned by West Penn Funding Corporation. West Penn Funding LLC is the issuer of the transition bonds.

4. This Supplemental QRO is consistent with the initial QRO and the First Supplemental QRO, and the QRO together with all Supplements have been validly adopted by the Commission and are irrevocable and, after the appeal period, are non-appealable, and no further regulatory approvals are required for the issuance of the Series 2 Bonds.

11 j.) The Joint Petitioners also request that the Commission approve West Penn's proposed ITC-2 tariff, attached to this Amended Joint Petition as Appendix C.

11 k.) West Penn agrees to a revenue neutral tariff rate design adjustment for customers at Rate Schedule 20, as attached hereto as Revised Appendix D. The first adjustment is a modification of the hours use provision in the first block, which makes the

tariff more equitable and which has minimal impact on other Rate 20 customers. The second adjustment mitigates the rate increases for the first block generation charge, which has the effect of reducing the relative rate increases for smaller and lower load factor customers in the Rate 20 class. These adjustments produce a shopping credit which is more consistent and more equitable among customers within the class.

11 I.) Pursuant to Paragraph D.3 of the Restructuring Settlement, West Penn agreed to establish a sustainable energy fund (SEF), which West Penn agreed to fund with a payment of \$11,425,721 on December 31, 1998. The purpose of that payment was to provide funding for the SEF through December 31, 2005, which was the end of the transmission and distribution rate cap period to which West Penn agreed as part of the 1998 Restructuring Settlement. Paragraph D.3 of the 1998 Restructuring Settlement further stated that, beginning January 1, 2006, the SEF would be funded from the Company's 1.73 cents per kWh transmission and distribution rate at .01 cents per kWh (less applicable gross receipts tax) on all power sold after that date, unless the Commission established new distribution rates. The settlement also stated that the .01 cents per kWh shall not automatically be considered a cost of service element upon expiration of the transmission and distribution rate cap. In order to provide funding of the SEF at no additional expense to ratepayers during the continuation of the distribution rate cap period proposed in this Amended Joint Petition, West Penn agrees that it shall make lump sum payments to the SEF at a level equal to the amount that the .01 cents per kWh charge would have accrued for the period January 1, 2006. The lump sum payments will be made based on estimated sales figures, and West Penn will provide true-up payments once actual sales are known. West Penn further agrees that it will fund one-half of the anticipated annual amounts by January 31, 2006 and January 31, 2007, and will make final, true-up payments within one month of each year's end, based on annual sales figures. To give effect to the 1998 Restructuring Settlement, West Penn agrees to provide payments to the fund in subsequent years under the same formula as agreed to herein until new distribution rates go into effect. West Penn

shall not be permitted to seek recovery of such payments for ratemaking purposes. West Penn's tariff, Supplement No. 140 to Electric-Pa. P.U.C. No. 39, Original Page No. 5-2, shall be amended effective January 1, 2006, to eliminate the 0.01 cents per kWh Sustainable Energy Surcharge (less applicable gross receipts tax) on all kWh's delivered to all customers. Elimination of this Surcharge shall not impact West Penn's current state jurisdictional distribution service rates. In its next distribution rate filing, West Penn shall have the option to request from the Commission recovery of future payments to the SEF as an expense for ratemaking purposes, for the period after a new distribution rate is effective. Nothing in this Amended Joint Petition binds any of the parties, in any manner whatsoever, from taking any position in any other proceeding or forum on the issues of the recoverability from customers of an electric distribution company of payments to sustainable energy funds (including, but not limited to, the West Penn SEF), the operation and -management of such funds, or the use of the payments made to such funds.

12. The following terms and conditions in Paragraphs 12 and 13 arise from the further negotiations that followed the filing of the Joint Petition.

12 a.) Improve AE/WPP Net Metering rules: Customers generating a surplus can choose either the two-meter option or the smart meter option to receive payment for energy it generates in excess of consumption. This metering option may be modified if required by any net metering rules adopted by the Commission. It is further agreed that customers with their own generation will not be responsible for the first \$1,000 of local distribution system upgrades needed to accommodate West Penn's purchases from these customers. West Penn shall not make any claim for recovery of any costs incurred as part of provision 12a.). Any future rate impacts arising from this provision will be addressed in future regulatory proceedings.

12 b.) Renew the Citizen Power Energy Services Fund: In accordance with

the 1998 Restructuring Settlement, West Penn shareholder funds were given to Citizen Power to "foster competition in the retail residential electric market in the western Pennsylvania region, and strengthen Pennsylvania's conservation and renewable energy initiatives." Citizen Power continues to work toward this goal as the effort proceeds to establish a competitive electricity generation market in Pennsylvania. Accordingly, West Penn shareholders are providing a \$2 million contribution ("contribution") to Citizen Power for its Energy Services Program. The funds shall be expended exclusively for the purposes of developing, promoting and delivering Energy Services Programs. Use of the funds in state or federal regulatory proceedings is limited to ensuring that the Energy Services Programs are delivered as contemplated by Citizen Power and/or that the terms of this settlement are carried out. Specifically, \$500 thousand will be paid to Citizen Power on or before January 15th of each year for the years 2007 - 2010 for energy programs advancing the interests of low-income customers in obtaining affordable electricity service, and to promote the increased use of renewable energy and energy efficiency technologies in the western Pennsylvania region. The contribution shall not be the basis of any expense claim by West Penn for ratemaking purposes. Citizen Power agrees to provide annual financial statements through the end of 2010 accounting for expenditures of these funds to the Commission and the Joint Petitioners. The annual financial statements shall be in sufficient detail to confirm that expenditures are consistent with the terms of the Amended Joint Petition and permit the audit of expenditures by the Commission should it elect to do so.

12 c.) WPP Low Income Usage Reduction Program: West Penn has agreed to spend all monies budgeted for its LIURP services within each of the years 2008 through 2010, and that no carry-overs will occur. It is agreed that if all eligible customers below 150% of poverty have been served by West Penn's LIURP each year, any remaining budgeted funds will be reallocated to provide LIURP services to customers in the 150 - 200% of poverty range.

12 d.) Keep out provision: Citizen Power agrees that it will not request or advocate before any state or federal regulatory bodies, further expenditures from West Penn shareholders or ratepayers through the end of 2010 for the Energy Services Programs described in paragraph 12b), or for net metering and the Renewable Pilot Program. This provision does not apply to any other Joint Petitioner.

13. As a further result of the negotiations that followed the filing of the Joint Petition, West Penn agrees to use a Request For Proposal ("RFP") process to obtain its energy supply for years 2009 and 2010. This RFP process brings competitive market forces to bear on the cost of West Penn's energy supply in these years. The RFP process will be conducted consistent with the following process.

13 a.) The process will be conducted to procure from the wholesale market, supply necessary to serve those retail customers who do not take service from competitive retail suppliers. The RFP will be for full requirements energy, capacity, and losses (excluding Network Integrated Transmission Service ["NITS"] and ancillary services). Bids will be for either one year or the full two-year term with individual pricing for 2009 and 2010. Whether the bidding will be conducted for one year or the full two year terms with individual pricing for 2009 or 2010 will be specified in the RFP. Load will be broken down by type (customer groupings) and into near 50MW blocks as follows:

- Rate Schedule 10
- Rate Schedules 20, 22, 23 & 24 (including lighting)
- Rate Schedule 30 at or below 600 KW

- Rate Schedule 30 above 600 KW
- Rate Schedules 40, 41, 44 & 86
- Rate Schedule 46

Bids will be at the wholesale level and West Penn will only be requesting per MWh bids (no demand component). No provision within the Full Requirements Service Agreement ("FSA") will be negotiable. Any non-conforming bids will be eliminated.

13 b.) The RFP will specify bid evaluation procedures to be followed by West Penn. Those procedures will specify that the bid prices submitted by all qualified bidders will be the single parameter used by West Penn to compare all offers within the same customer grouping and the same contract terms. The bids with the lowest price will be selected within each contract term until the load offered via the RFP has been filled, and West Penn will evaluate bids and notify winning bidders in accordance with the RFP specifications which in no case shall be longer than 24-hours from the close of bids. Alternatively, West Penn may reject all or some bids, and to the extent that West Penn does not receive or does not award bids that would supply the retail load as described and solicited in the RFP, it will so notify the bidders within twenty four hours from the close of bids. If West Penn does reject all bids submitted pursuant to these procedures and the RFP, West Penn will conduct another RFP process. If bids are rejected by West Penn in the second RFP process, West Penn will conduct another RFP process and so on. For those retail customers who do not take service from competitive retail suppliers, West Penn will not enter into any agreements with any entity to provide energy supply services for years 2009 and 2010 that have not been awarded by West Penn pursuant to an RFP process as described herein.

13 c.) West Penn agrees that the RFP process and the wholesale contract that it will execute with winning bidders will be based upon the procurement solicitations that Allegheny Power (the d/b/a name of the Allegheny Energy Inc. operating companies) has conducted in its other jurisdictions. West Penn will hold a pre-bid meeting for interested parties to review the RFP and FSA terms and conditions and to answer bidder questions in accordance with the RFP schedule.

13 d.) The RFP Bid Process will commence near 30 days after Commission approval of the Amended Joint Petition and will adhere to the following schedule:

<u>Activity</u>	<u>Date</u>
RFP Website goes active with RFP, FSA and due diligence information	Day 1
Pre bid meeting	By Day 15
Issue final RFP bid package	Day 1
Expression of Interest and Confidentiality Agreements due	By Day 30
Credit Application and financial information due	By Day 30
Alternative Letter of Credit Form(s) due, if applicable	By Day 30
Alternative Form of Performance Assurance due (if applicable)	By Day 30
PJM and FERC qualifications due	By Day 30
Issue applicants' eligibility status	By Day 40
Price proposals due with Binding Bid Agreement	By Day 50
Bid assurance collateral due	By Day 50
Award bids	By Day 51

Execute FSAs and transactions
Execute Guaranty Agreement
(Exh. F to FSA), if applicable

By Day 51

By Day 51

13 e.) The RFP process may generate wholesale bid payments that are less than the retail generation revenues billed from the generation rate caps specified in the Amended Joint Petition in years 2009 and 2010. The process, calculation and allocation of these potential savings are as follows:

1. Process: Wholesale bids may result in a Generation Purchase Credit (GPC) that is refunded to all retail customers (shopping and non-shopping). The GPC for each customer grouping represents the average per kWh refund rate resulting from retail generation revenues exceeding wholesale bid payments. Retail generation revenues will be calculated from the Company's monthly billing cycle revenues and the rate set forth in Revised Appendix A. Wholesale bid payments will be calculated from the awarded wholesale bid price from the initial competitive bidding process, or any subsequent competitive bidding process, multiplied by the wholesale kWh sales of the applicable period relative to West Penn's provision of retail electric service. If there are multiple awarded wholesale bidders within the same time period and within the same customer grouping, the awarded wholesale bid price will be calculated as a weighted average.

2. GPC per kWh Formula for each customer grouping in the wholesale bid process: $[\text{retail generation revenues} - (\text{awarded wholesale bid price} \times \text{wholesale kWh sales})] / \text{forecasted distribution retail kWh sales}$.

3. Quarterly Calculation: The GPC in effect will be calculated from retail generation revenues and wholesale bid payments from the quarter immediately

preceding the previous quarter, and will use the 90 day retail load settlement process as the basis for the determination of actual wholesale bid payments to awarded wholesale bidders. For example, the GPC in effect during the third quarter of 2009 will use (a) retail generation revenues less wholesale bid payments from the first quarter of 2009, divided by (b) forecasted distribution retail kWh sales for the third quarter of 2009.

4. Reconciliation: A reconciliation between the GPC to be credited to retail customers and the actual amount passed back to retail customers based on actual kWh sales will be determined quarterly and will be embedded in the first available quarterly GPC. In no event will the reconciliation adjustment result in a separate reconciliation charge to customers. The GPC will be calculated by customer groupings consistent with the wholesale bid process. If the wholesale bid payments are equal to or greater than the retail generation revenues for a customer grouping, the GPC for that customer grouping will be set to zero. Appendix E to the Amended Joint Petition provides a sample GPC calculation.

13 f.) West Penn commits to working with interested Electric Generation Suppliers (EGSs) to develop an automated process to permit the confidential exchange of historic customer interval data between Electric Distribution Companies (EDCs) and EGSs and will arrange meetings with EGSs to facilitate the development of such a process. These meetings will begin no later than 60 days after final approval of this settlement by the Commission. The customer data exchanges with this new process will comply with 52 Pa. Code §54.8 and all other applicable Commission Rules and Regulations for consumer protection, and will enable the EGS to access accurate interval data for customer interval accounts within a timeframe consistent with or better than other non-interval historical data requests. The system will be operational within twelve months of the approval of this settlement, and will include all information necessary to price and enroll retail electric customers, when combined with existing EDI historical data responses. West Penn agrees

to waive fees associated with providing historical data and monthly EGS usage and billing data for enrolled customers to Electric Generation Suppliers through 2010. However, West Penn reserves the right to file, during the term of this Amended Joint Petition, a request with the Commission to implement supplier fees for coordination services or fees for other supplier services in conjunction with the filing by West Penn of a future distribution service rate case, provided that West Penn will continue to waive any fee for historical data and monthly EGS usage and billing data for enrolled customers through 2010 should the Commission approve this and/or other fees. All parties to this Amended Joint Petition reserve all rights to contest any such future filing. Furthermore; West Penn will not seek recovery from customers of any costs incurred through 2010 associated with providing historical data and monthly EGS usage and billing data as a result of this agreement.

13 g.) The Amended Joint Petition revises Appendix A to the Joint Petition by increasing the ITC-2 rate in year 2009 and reducing it in 2010. This has the impact of increasing the original Joint Petition's proposed price to compare in year 2010 which will facilitate a better transition to competitive retail markets for customers and EGSs in 2010 and beyond.

13 h.) To the extent that the RFP process results in wholesale payments that are in excess of the capped generation rates for 2009 and 2010, West Penn customers shall be held harmless for the difference and shall pay the capped generation rates set forth in Revised Appendix A. This provision is to be read consistent with Paragraph 14 of the Amended Joint Petition.

14. The provisions of the 1998 Restructuring Settlement and Commission Orders relating thereto shall remain applicable except as specifically amended in this proceeding pursuant to this Amended Joint Petition. In particular, the rate cap exceptions

provided in the 1998 Restructuring Settlement, which expressly incorporate the rate cap exceptions of Section 2804 of the Public Utility Code, shall remain applicable during the rate cap extensions provided in this Amended Joint Petition.

15. This Amended Joint Petition is conditioned upon the Commission's approval of the terms and conditions contained herein in their entirety. If the Commission should fail to grant such approval in whole or in part, or should it modify the terms and conditions contained herein, participation in this Amended Joint Petition may be withdrawn by any Party upon written notice to the Commission and all Parties within five (5) business days. In the event the Commission does not approve the Amended Joint Petition in its entirety or the Commission modifies the terms and conditions in any way and any Party elects to withdraw, the Parties reserve their respective rights to proceed in any manner allowable under the law. Should the Commission approve the Amended Joint Petition and one or more elements of the Commission's order is reversed on appeal, each of the Joint Petitioners reserves its right to withdraw from the Amended Joint Petition. Pending any appellate review of a Commission Order adopting the Amended Joint Petition, the Parties shall continue to implement the terms of the Amended Joint Petition in good faith as feasible or appropriate.

16. This Amended Joint Petition is proposed by the Joint Petitioners solely for the purpose of fully and completely settling this proceeding and is made without any admission by any Party hereto as to any matter of fact or law, is without prejudice to any position advanced by any Party or Joint Petitioner on the record in this proceeding or other proceedings, and is without prejudice to any position that might be adopted or advocated during subsequent litigation before the Commission or elsewhere in this or any other proceeding. This Amended Joint Petition is conditioned upon the Commission's approval of the terms set forth herein in a final order as aforesaid. In the event the Commission does not approve this Amended Joint Petition in its entirety or the

Commission modifies the Amended Joint Petition in any way and the proceeding continues before the Commission or elsewhere, the Joint Petitioners reserve all of their respective rights.

19. If the ALJ, in a Recommend Decision, recommends that the Commission adopt the Amended Joint Petition as herein proposed, the Joint Petitioners agree to waive the filing of Exceptions. However, the Joint Petitioners do not waive their rights to file Exceptions with respect to any modifications to the terms and conditions of this Amended Joint Petition, or any additional matters proposed by the ALJ in the Recommended Decision. In the event Exceptions are filed by a non-settling party, the Joint Petitioners reserve the right to file a Reply to those Exceptions.

The Amended Joint Petition provides West Penn the opportunity to recover all of the stranded cost authorized under the 1998 Restructuring Settlement while at the same time providing for continued rate stability and rate protection for consumers during stranded cost recovery. Given West Penn's current rate of recovery, and the interest accruing at 11% on the unrecovered stranded cost balances, West Penn was projecting that it would have \$157 million of unrecovered stranded cost, and the associated interest, at the end of the stranded cost recovery period in 2008. Both ratepayers and West Penn could have been faced with negative impacts or consequences from such a large underrecovery at that time. Through the Amended Joint Petition, West Penn is provided an additional two years to recover its stranded cost and ratepayers are provided an additional two years of generation rate cap protection at higher rates that will move West Penn's rates closer to anticipated market prices. The Amended Joint Petition thus enables West Penn to address its stranded cost underrecoveries, and significantly reduce the interest rate on the unrecovered balance, so that it is able to fully recover its allowed stranded cost within the rates and time frames set forth in the Amended Joint Petition. The salient features of the Amended Joint Petition that argue for its approval as being in the public interest are the

following:

West Penn has agreed that customers generating surplus energy for sale may choose either a two-meter option or a smart-meter option, for the purpose of monitoring their production and consumption. Further, West Penn has agreed to fund the first \$1,000 of local distribution system upgrades needed to accommodate West Penn's purchases from these customers. West Penn has agreed not to seek recovery of current costs incurred in furtherance of this provision, and all parties have reserved their rights with respect to any future rate impacts.

West Penn has agreed to ongoing funding for Citizen's Energy Services Program, in the amount of \$500,000 for each of four years, 2007 through 2010. The Amended Joint Petition specifies that these funds shall be expended exclusively for the purpose of developing, promoting and delivering energy programs designed to advance the interests of low-income customers in obtaining affordable electricity service, and to promote the increased use of renewable energy and energy efficiency technologies in Western Pennsylvania. The settlement also provides that West Penn's contribution for these purposes shall not be the basis for any expense claim for ratemaking purposes. The Amended Joint Petition also obligates Citizen to provide annual financial statements through the end of 2010 accounting for expenditures of these funds to the Commission and the Joint Petitioners, in sufficient detail to confirm that the expenditures are consistent with the terms of the Amended Joint Petition and to permit the audit of expenditures by the Commission, at the Commission's option.

West Penn has agreed to spend all funds budgeted for its Low Income Usage Reduction program (LIURP) within each of the years 2008 through 2010, and that no carry-overs will occur. To the extent all eligible customers below 150% of the poverty line have been served by this program in each of these years, West Penn has further agreed to

reallocate the remaining budgeted amount to customers falling between 150% and 200% of the poverty level. These provisions assure that the aim of the LIURP program will be accomplished to the maximum extent possible, within the limitations of the funding level previously agreed upon.

The Amended Joint Petition provides a means of allowing West Penn the opportunity to collect substantial stranded cost amounts that it was unable to collect due to falling system throughput, combined with some of the lowest transition period generation rates in the Commonwealth. This combination of circumstances created the justification for the unique solution embodied in the Amended Joint Petition. In West Penn's circumstances, further extension of the capped rate periods that go beyond the periods agreed to as part of its Restructuring Settlement are justified, especially when combined with the pro-competitive adjustments to the settlement in the Amended Joint Petition.

The Amended Joint Petition contains provisions that will augment the ability of consumers to benefit from competitive markets during the extended transition period. Specifically, the Amended Joint Petition will provide EGSs with access to customer data in a similar time frame and at similar cost (i.e., free) to that available to the utility. This free and automated access to customer information will enhance consumers' ability to obtain offers from EGSs, and will minimize inefficient, manual processes that currently inhibit EGSs' ability to respond quickly with competitive offers to consumers.

Another aspect of the Amended Joint Petition is the introduction of a competitive bid process for the provision of full-requirements wholesale supply service for West Penn's supply obligation in 2009 and 2010. By requiring West Penn to conduct a competitive bid process, customers may see reductions in their bills relative to the capped rate commitments contained in the Amended Joint Petition during 2009 and 2010. To the extent that the competitive bid process does produce such savings, all West Penn customers

will benefit, since the proposed Generation Procurement Credit (GPC) provides a credit to all customers, regardless of who their current supplier is. Thus, the GPC crediting mechanism does not have the effect of reducing the shopping credit.

Consumers may then have additional opportunities to reduce energy costs if EGSs can render offers to consumers below the capped rates. In addition, by conducting a process that invites wholesale suppliers to compete for load-serving opportunities, the Amended Joint Petition will enhance the number of wholesale participants active in the West Penn control area. An increase in wholesale competition will, in turn, promote the development of retail competition, since EGSs rely on a robust wholesale market to support their competitive offerings to consumers.

Additionally, the Amended Joint Petition produces higher shopping credits in 2010, which will increase the likelihood of competitive energy savings for consumers in 2010 prior to transitioning to market pricing for POLR supply service. Although this does not guarantee that EGSs will be able to make competitive offers in 2010, it does create a situation that may be more conducive to competitive offers.

The Amended Joint Petition continues the intent of the 1998 Restructuring Settlement by providing for gradual and measured increases to West Penn's generation rates during the extended transition period to avoid dramatic increases as rate caps expire. Under the 1998 Restructuring Settlement, West Penn's generation rates would increase in 2006 and 2008. Recognizing that West Penn's generation rates were the lowest in Pennsylvania at the time of restructuring, the Amended Joint Petition steadily increases generation rates throughout the extended transition period to mitigate the risk of rate shock. The Amended Joint Petition also adjusts the shopping credits for 2009 and 2010 set forth in the Joint Petition in order to better position EGSs and customers for participation in the retail electricity market in 2010 and beyond.

The Amended Joint Petition does not impair in any way customers' right to shop for competitive electric supply during the extended transition period. Thus, as shopping credits increase, customers may take advantage of any opportunities to avail themselves of the benefits of competitive markets, while still being assured of the protection of generation rate caps during the extended stranded cost-recovery period.

A major change between the Joint Petition and the Amended Joint Petition is the inclusion of a competitive bid process for the generation supply associated with West Penn's obligation to serve customers without competitive supply in 2009 and 2010. The incorporation of a competitive bid process in 2009 and 2010 thus introduces competitive market forces into West Penn's retail market and may encourage greater competitive activity in the service territory. To the extent that the competitive bid process produces wholesale bid payments that are less than the retail generation revenues produced by the rates set forth in the Amended Joint Petition, all West Penn customers will realize the benefits through the GPC, refunded to all retail customers. To the extent that the competitive bid process produces wholesale bid payments that are more than the retail generation revenues produced by the rates set forth in the Amended Joint Petition, however, West Penn has agreed to shoulder such risk and hold ratepayers harmless for the difference.

By providing authority for the securitization of all of West Penn's remaining stranded costs, the Amended Joint Petition resolves issues relating to West Penn's stranded cost underrecoveries in a manner that benefits customers by reducing the 11% carrying charge allowed on West Penn's deferred stranded costs in the 1998 Restructuring Settlement. By enabling West Penn to securitize its remaining uncollected stranded costs at an interest rate expected to be significantly below 11%, the Amended Joint Petition will reduce ratepayers' responsibility for the increasing carrying charge expense otherwise associated with West Penn's stranded cost under-recoveries. West Penn will share these

savings with its customers, with customers receiving 75% of the savings and the Company receiving 25%.

The cap on West Penn's distribution rates, which would otherwise expire pursuant to the 1998 Restructuring Settlement on December 31, 2005, will be extended until December 31, 2007, with an additional distribution rate cap throughout 2009. During this period, West Penn commits to continue to meet or exceed the reliability requirements for distribution service contained in the applicable Commission regulations and orders. Thus, customers will benefit from distribution rate stability for an extended period of time without any impact on the quality of distribution service received by customers.

The Amended Joint Petition limits West Penn's opportunity to seek an automatic rate adjustment mechanism, known as a Distribution System Improvement Charge (DSIC), to recover fixed costs associated with delivery system improvement and relocation projects made prior to January 1, 2010, with certain limited exceptions. This provision is in the public interest because it ensures that adequate regulatory review of West Penn's distribution investment will occur during the term of the Amended Joint Petition, thereby allowing a full accounting of cost changes that may potentially offset increases and would otherwise be considered in a base rate proceeding.

West Penn's current generation rates under Schedule 20 (small business customers) contain two features which fall inequitably on those small business customers using the least amount of electricity and having the lowest load factors. The Amended Joint Petition will reduce these inequities on a revenue neutral basis. First, the Amended Joint Petition will modify the hours use provision in the first rate block. The result will be a modest reduction in the rates for the smallest users (who are not demand-metered) and only a minimal increase for the remaining Schedule 20 customers who will make up the difference. Second, the Amended Joint Petition will mitigate the rate increases assigned to

the first block generation charge, thereby reducing the rate increases for smaller and lower load factor customers to below the class average. Although Schedule 20 customers with higher usage and higher load factors will make up the difference, their overall rate increase will be only modestly above the class average. The net effect of these rate design changes will be a shopping credit which is more consistent and more equitable among Schedule 20 customers.

For all of the foregoing reasons, we find that the settlement embodied in the Amended Joint Petition is both just and reasonable and its approval is in the public interest. However, while we support the approval of the Amended Joint Petition without modification, we find that two provisions of the Settlement Agreement require comment and Commission action.

West Penn has agreed to provide additional funding for Citizen Energy Services Program, in the amount of \$500,000 for each of four years, 2007 through 2010. Specifically, the Amended Joint Petition provides that these funds shall be for energy programs designed to advance the interests of low-income customers in obtaining affordable electricity service, and to promote the increased use of renewable energy and energy efficiency technologies in the western Pennsylvania region. Additionally, the Settlement requires Citizen to provide annual financial statements to the Commission and Joint Petitioners through the end of 2010 accounting for expenditures of these funds and to permit the audit of expenditures by the Commission. To this end, we will direct that Citizen file its annual financial statements with the Commission and the Joint Petitioners by March 31st of each year, beginning in 2008, for review and audit by the Commission's Bureau of Audits. Further, to assist the Commission in its audit, our Bureau of Consumer Services, in conjunction with the Bureau of Audits, shall meet with Citizen to become familiar with the proposed program and identify anticipated expenditures.

The Amended Joint Petition also contains a Settlement provision stated to improve upon West Penn's net metering rules. On April 19, 2005, the Commission, in its ongoing work to implement the Alternative Energy Portfolio Standards Act, Act 213 of 2004, held the first of several anticipated meetings of the Interconnection Standards/Net Metering sub-working group. The Commission's Regulations relative to interconnection standards and net metering rules will be promulgated through a formal rulemaking proceeding. While we commend the Parties for proactively addressing this important topic, we also note that the Settlement provides the net metering provision may be subject to modification if required by any net metering rules adopted by the Commission.

Conclusion

For the foregoing reasons, we find that the Amended Joint Petition for Settlement is in the public interest; **THEREFORE,**

IT IS ORDERED:

1. That the terms and conditions of the Amended Joint Petition for Settlement and for Modification of the 1998 Restructuring Settlement (Amended Joint Petition) submitted on March 8, 2005, by West Penn Power Company, the Office of Consumer Advocate, the Office of Small Business Advocate, the West Penn Industrial Intervenor, AK Steel Corporation, Citizen Power, Inc., and Constellation NewEnergy, Inc., and Constellation Power Source, Inc., are in the public interest, and the Amended Joint Petition is hereby approved.

2. That as agreed in Paragraph 12b of the Joint Petitioners' Settlement Agreement, in order to facilitate the Commission's audit of the Citizen Power Energy Services Program, Citizen Power shall serve its annual financial statements on the

Commission and on the Joint Petitioners by March 31st of each year, beginning in 2008, for review and audit by the Commission's Bureau of Audits.

3. That the Commission's Bureau of Consumer Services, in conjunction with the Bureau of Audits shall meet with Citizen Power, Inc., regarding the Citizen Power Energy Services Program for the purpose of identifying and reviewing Program expenditures.

4. That the request for issuance of the Second Supplemental Qualified Rate Order is hereby approved pursuant to Section 2812 of the Public Utility Code, 66 Pa. C.S. § 2812.

5. That the Commission's Bureau of Audits shall conduct an annual audit of the Citizen Power Energy Services Program consistent with Ordering Paragraph 2 above.

6. That the Second Supplemental Qualified Rate Order (Second Supplemental QRO) issued on behalf of West Penn Power Company (West Penn) shall be irrevocable for purposes of Section 2812 of the Public Utility Code, 66 Pa. C.S. § 2812. Furthermore, this Commission agrees that it will not directly or indirectly, by any subsequent action, reduce, postpone, impair or terminate this Second Supplemental QRO or the Intangible Transition Charges (ITC) authorized to be imposed or collected under this Second Supplemental QRO, the initial QRO (Initial QRO) or First Supplemental QRO (First Supplemental QRO). The Initial QRO was issued by the Commission as part of its Final Order, approving the settlement of West Penn's Restructuring Proceeding under the Electricity Generation Customer Choice and Competition Act (Competition Act), entered on November 19, 1998, at Docket No R-00973981 (Final Order). The First Supplemental QRO was issued by the Commission by qualified rate order entered August 12, 1999 at Docket No. R-00994649. This Commission further declares that Second Intangible

WEST PENN POWER COMPANY

TRADING AND DOING BUSINESS AS ALLEGHENY POWER

TARIFF

Rate Schedules
and Rules and Regulations

FOR

ELECTRIC SERVICE

IN

The Territory as Defined on
Pages 3-1, 3-2, 3-3, 3-4, 3-5, 3-6 and 3-7 of this Tariff

Issued: December 21, 2006

Effective: January 1, 2007

David E. Flitman

President

Cabin Hill

Greensburg, PA

RECEIVED

APR 18 2007

NOTICE

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

RULES AND REGULATIONS (Continued)

"Qualified Transition Expenses (QTE)": Qualified Transition Expenses shall have the meaning as set forth in the Customer Choice and Competition Act.

"Revenue": Revenue or "Annual Revenue" when used with guarantee, guarantee of Revenue, Revenue guarantee or financing means the Revenue derived only from the Variable Distribution Charge or Distribution Charges that vary with billing determinants.

"Service": Any regulated supply of electricity by the Company, or provision to supply electricity, or any work or material furnished, or any obligation performed by the Company under its Rules and Regulations or Rate Schedules. Regulated charges for Service are published in the Rules and Regulations and Rate Schedules of this Tariff, including Distribution, Transmission, CTC/ITC, and PLR Service charges within each Rate Schedule. Charges for Service exclude Rate Schedule Transmission and Generation charges when Customer receives Competitive (C) Energy Supply.

"Transition or Stranded Costs": Transition or Stranded Costs shall have the meaning as set forth in the Customer Choice and Competition Act.

"Transmission Charge": Transmission Charge is based on PJM's Open Access Transmission Tariff which (C) will change from time to time and is subject to Federal Energy Regulatory Commission (FERC) approval. The Transmission Charges are included in this tariff for the Customers' information only.

"Universal Service": Policies, protections and services that help residential low-income Customers maintain electric service. The term includes Customer assistance programs, termination of service protections and policies and services that help low-income Customers to reduce or manage energy consumption in a cost-effective manner, such as the low-income usage reduction program, application of renewable resources and consumer education of defined programs.

"Variable Distribution Charges": Charges to recover the balance of distribution costs, not recovered in the Fixed Distribution Charge, which are stated as variable charges and based on the billing determinants to which they are most closely associated.

"Volunteer Fire Company Service": A separately metered establishment consisting of a building, sirens, a garage for housing vehicular fire fighting equipment, or a facility certified by the Pennsylvania Emergency Management Agency (PEMA) for fire fighter training. The use of electric service at this establishment shall be to support the activities of the volunteer fire company. Any fund raising activities at this establishment must be used solely to support volunteer fire fighting operations. The Customer of record at this establishment must be a predominantly volunteer fire company recognized by the local municipality or PEMA as a provider of fire fighting services.

(C) Indicates Change

Continued on Page No. 4-4

WEST PENN POWER COMPANY

DOMESTIC SERVICE
SCHEDULE 10

AVAILABILITY

Available for single-phase service to a single-family residence served through one meter.

MONTHLY RATE (For a Single Residence)

DISTRIBUTION CHARGES

FIXED DISTRIBUTION CHARGE

\$ 5.00 PER MONTH

VARIABLE DISTRIBUTION CHARGE

All kilowatt-hours \$0.01874 per kilowatt-hour

TRANSMISSION CHARGES

All kilowatt-hours \$0.00308 per kilowatt-hour

Ancillary Service (all kilowatt-hours)

Scheduling, System Control & Dispatch \$0.00000 per kilowatt-hour

Energy Imbalance \$0.00000 per kilowatt-hour

Reactive and voltage control \$0.00019 per kilowatt-hour

Regulation and Frequency Response \$0.00020 per kilowatt-hour

Spinning Reserve \$0.00055 per kilowatt-hour

Supplemental Reserve \$0.00049 per kilowatt-hour

The transmission charges are based on PJM's Open Access Transmission Tariff which will change from time to time and is subject to Federal Energy Regulatory Commission (FERC) approval.

COMPETITIVE TRANSITION CHARGE

All kilowatt-hours \$0.00000 per kilowatt-hour

INTANGIBLE TRANSITION CHARGE

All kilowatt-hours \$0.00468 per kilowatt-hour

(I)

GENERATION CHARGE

All kilowatt-hours \$0.04167 per kilowatt-hour

The transmission and generation charge applies only to Customers receiving PLR service from Company. These charges do not apply to Customers obtaining Competitive Energy Supply.

(I)

(I) Indicates Increase

Concluded on Page No. 6-2

SCHEDULE 10 (Concluded)

Tax Adjustment Surcharge

The Tax Adjustment Surcharge included in this Tariff applies to charges under this Schedule.

Late Payment Charge

The above net rates apply if the current bill is paid in full within 20 days of the date of such bill and if all previous undisputed bills have been paid in full. A late payment charge of 1.25% per month of the unpaid balance of a bill will be made for failure to make payment in full by the due date. These charges are to be calculated on the overdue portion of the bill only. Such interest rate when annualized shall not exceed 15% simple interest per annum. A late payment charge on a disputed bill may be reduced or eliminated by the Company, or upon order by the Commission, to facilitate payment by the disputing Customer.

WATER HEATING

Water heaters shall be storage type equipped with a pressure-temperature relief valve located in the top of the tank and an over-temperature cutoff switch. Heating elements shall not exceed 5,500 watts each, shall be for 200 volts or more, shall be thermostatically controlled, and shall be interlocked to prevent simultaneous operation. The water heater, wiring, and piping shall also conform to Company standards in all other respects.

GENERAL

Compensating for Transmission and Distribution Losses

Multiplying Customers' on-peak metered energy by 1.09333 and off-peak metered energy by 1.04808 produces the generation energy that must be delivered to the West Penn system (C)

When two or more residential units up to a maximum of five units are supplied through a single meter, each shall be classed as a Single Family Residence, and the above appropriate Monthly Rate shall apply to each.

This Schedule is available for single-phase service to farms when supplied along with service for the residence through one meter.

Combination residential and commercial service may be taken on this Schedule when the entire service is taken through one meter and the total commercial connected load does not necessitate upgrade of service facilities.

(C) Indicates Change