

PENNSYLVANIA PUBLIC UTILITY COMMISSION
Harrisburg, Pennsylvania 17105-3265

Joint Application of West Penn Power Company d/b/a Allegheny Power, Trans-Allegheny Interstate Line Company and FirstEnergy Corp. for a Certificate of Public Convenience under Section 1102(a)(3) of the Public Utility Code

**Public Meeting held February 24, 2011
2176520-OSA
Docket Nos. A-2010-2176520 and
A-2010-2176732**

DISSENTING STATEMENT OF VICE CHAIRMAN TYRONE J. CHRISTY

Before the Commission is the Initial Decision of Administrative Law Judges (ALJs) Wayne Weismandel and Mary Long issued on December 20, 2010, recommending approval of a Joint Petition for Partial Settlement. Exceptions to the Initial Decision were filed by the Retail Energy Supply Association (RESA), Direct Energy Services, LLC (Direct Energy), Citizen Power, Inc. (Citizen Power) and the Office of Small Business Advocate (OSBA). Reply Exceptions were filed by the West Penn Power Company, Trans-Allegheny Interstate Line Company, and FirstEnergy Corp. (collectively Joint Applicants), the Office of Consumer Advocate (OCA), OSBA and Direct Energy.

The Joint Petition for Partial Settlement was filed by the Joint Applicants, the Office of Trial Staff (OTS), OCA, the International Brotherhood of Electrical Workers (IBEW), the York County Solid Waste and Refuse Authority (YCSWA), the Pennsylvania Rural Electric Association (PREA), the West Penn Power Sustainable Energy Fund (WPPSEF), the Pennsylvania State University (PSU), ARIPPA, the West Penn Power Industrial Interveners (WPPII), the Met-Ed Industrial Users Group (MEIUG), the Penelec Industrial Customer Alliance (PICA), the Pennsylvania Department of Environmental Protection (DEP), Pennsylvania Mountains Healthcare Alliance (PMHA), the Utility Workers Union of American, AFL-CIO and the UWUA System Local No. 102 collectively (UWUA Interveners), the Clean Air Council (CAC), Constellation NewEnergy, Inc. and Constellation Commodities Group, Inc. (collectively Constellation), and Citizens for Pennsylvania's Future (PennFuture).

The only parties not joining in the Joint Petition were the OSBA, Citizen Power, Direct Energy and RESA. The Exceptions filed by RESA, Direct Energy and OSBA are unpersuasive, and raised arguments that the ALJs thoroughly addressed and convincingly rejected in their Initial Decision. The Exceptions filed by Citizen Power regarding the potential loss of jobs in Greensburg raise a valid concern; however, there are provisions in the Settlement that provide a five-year minimum job commitment and a commitment to keep West Penn's regional headquarters in Greensburg. Noting that the UWUA supports the settlement, on balance I believe that the Exceptions of Citizen Power should be denied.

The Partial Settlement is a comprehensive resolution of many difficult issues that was crafted by nearly all of the numerous and varied parties to this proceeding. In my view, the Commission should deny the Exceptions and adopt the ALJs' Initial Decision. I do not support the majority's decision to add provisions to the Partial Settlement, and am particularly troubled

by the majority's decision to launch an investigation into the merits of eliminating the role of the EDCs in providing default service to customers.

2-24-11

DATE

Tyrone J. Christy

TYRONE J. CHRISTY, VICE CHAIRMAN