PENNSYLVANIA PUBLIC UTILITY COMMISSION
HARRISBURG, PENNSYLVANIA 17105-3265

Petition of Pennsylvania Power Company For Approval of Default Service Program For Period from January 1, 2011 through May 31, 2013	**PUBLIC MEETING October 21, 2010 2157862-ALJ Docket No. P-2010-2157862**

MOTION OF COMMISSIONER JOHN F. COLEMAN, JR.

Before the Commission is a Recommended Decision to approve a Joint Petition for Settlement in the above-captioned proceeding filed by the Pennsylvania Power Company ("Penn Power"), the Office of Consumer Advocate, the Office of Small Business Advocate, the Office of Trial Staff, Dominion Retail, Inc., Direct Energy Services, LLC, Constellation New Energy, Inc. and Constellation Energy Commodities, Group, Inc., Exelon Generation Company and Exelon Energy Company, and FirstEnergy Solutions Corporation (collectively the "Joint Petitioners"). No party to this proceeding opposes this Joint Petition, and no exceptions have been filed to the Recommended Decision.

The Joint Petition resolves all issues relating to Penn Power's default service program for the next program period, including its procurement method, compliance with the Alternative Energy Portfolio Standards Act, rate design, and retail market issues. The presiding Administrative Law Judges concluded that the terms of the Joint Petition were just and reasonable, and complied with the provisions of the Public Utility Code and associated regulations, including the requirement that the plan contain prudent means of obtaining generation supply on a least cost basis over time. Generally, I concur with the Recommended Decision.

However, our approval of one provision of this Joint Petition should be made conditional. Penn Power will be leaving the Midwest Independent System Operator, Inc. ("MISO") and joining the PJM Interconnection, LLC ("PJM") effective June 1, 2011. This change is the result of an application filed on behalf of Penn Power and several affiliated companies. The realignment application was approved by the Federal Energy Regulatory Commission ("FERC") on December 17, 2009.[1] The Joint Petition identifies a cost-recovery mechanism for MISO exit fees and one-time PJM integration costs and a method of allocating these costs to Penn Power's retail customers. The Joint Petition describes these exit fees and integration costs as having been approved by FERC in the December 17, 2009 Order.

Our review of the FERC Order approving the realignment indicates that these fees and costs have not yet been approved. FERC acknowledged that the withdrawal from MISO would require the satisfaction of all associated financial obligations, such as MISO exit fees, but declined to rule on their recovery at that time. The American Transmission System, Inc. was directed to make a subsequent filing in which MISO exit fees would be addressed.[2] PJM one-time integration costs do not appear to have been specifically addressed in the FERC Order. While the Joint Petitioners may find it to be a reasonable assumption that FERC, having approved the realignment, will also approve these costs and their allocation to First Energy affiliates, I find the final approval of this provision of the Joint Petition to be premature.

[1] *American Transmission Systems, Inc.*, Docket No. ER09-1589-000 (Issued December 17, 2009).
[2] *Id.*, paragraphs 51 - 52.

It is the Commission's policy to promote negotiated settlements of proceedings, and on balance, I find this settlement to be just and reasonable. I also find that the Joint Petitioners treatment of the realignment costs includes several affirmative benefits to ratepayers.[3] One, Penn Power has agreed to cap the recovery of these costs at $3.5 million. Penn Power's testimony included an estimate of these costs of $2.98 million.[4] However, to the extent that actual exit fees and integration costs exceed $3.5 million, Penn Power has agreed to forego their recovery. Two, Penn Power has agreed to defer the recovery of the costs, and to collect them over a minimum five year period. Penn Power will only seek interest on this deferral to the extent that the FERC approved recovery period is less than five years.

In the interest of preserving these ratepayer benefits, which were negotiated by the signatories to the Joint Petition, I move that the provisions relating to the recovery of MISO exit fees and one-time PJM integration costs be approved, but made subject to the approval of cost recovery by FERC. Penn Power may not put these provisions into effect until FERC has approved the recovery and allocation of MISO exit fees and PJM integration costs, and Penn Power has provided detailed written notice to the Commission at this docket.

THERFORE, I MOVE THAT:

1. The Recommended Decision is approved, consistent with this Motion.

2. The Office of Special Assistants prepare an Order consistent with this Motion.

<u>October 21, 2010</u>
Date

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JOHN F. COLEMAN, JR., COMMISSIONER

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[3] There is precedent for approving recovery of RTO related costs in default service cases. The Commission approved a surcharge to allow Duquesne Light Company to recover non-generation, incremental expenses associated with joining PJM. *Petition of Duquesne Light Company for Approval of Plan for Post-Transition Period Provider of Last Resort Services*, Docket P-00032071 (Order entered August 23, 2004).

[4] Rebuttal Testimony of Witness Brian Farley, Penn Power Statement No. 6-R, pg. 2.