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July 28, 2009

VIA ELECTRONIC FILINGJames J. McNulty, Secretary
PA Public Utility Commission
400 North Street, Keystone Bldg., 2nd Fl.
P.O. Box 3265
Harrisburg, PA 17105-3265

Re: Petition of West Penn Power Company d/b/a Allegheny Power for Approval of its Energy Efficiency and Conservation Plan, Approval for Recovery Costs through a Reconcilable Adjustment Clause and Approval of Matters Relating to the Energy Efficiency and Conservation Plan; Docket No. M-2009-2093218

Dear Secretary McNulty:

Enclosed please find the original, Petition to Intervene of Direct Energy Business, LLC, which was electronically filed yesterday, but with an incorrect docket number, so it is being refiled today in the above-referenced matter. As evidenced by the attached Certificate of Service, the parties of record have been served in the manner indicated.

If you have any questions regarding this filing, please contact me at your convenience.

Very truly yours,


Kevin J. MoodyKJM/jls
Enclosure

cc: Certificate of Service (w/enc)

CERTIFICATE OF SERVICE

I hereby certify that this day I served a copy of the foregoing Petition to Intervene of the Direct Energy Business, LLC on the persons listed below in the manner indicated in accordance with the requirements of 52 Pa. Code Section 1.54.

VIA EMAIL & FIRST CLASS MAIL

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Date: July 28, 2009

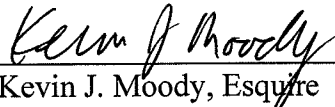
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Kevin J. Moody, Esquire

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of West Penn Power Company :
d/b/a/ Allegheny Power for Approval of :
its Energy Efficiency and Conservation : Docket No. M-2009-2093218
Plan, Approval for Recovery of Costs :
through a Reconcilable Adjustment :
Clause and Approval of Matters Relating :
to the Energy Efficiency and :
Conservation Plan :

**PETITION TO INTERVENE OF
DIRECT ENERGY BUSINESS, LLC**

Pursuant to 52 Pa. Code §§ 5.72-5.75, Direct Energy Business, LLC (“Direct Energy”) petitions to intervene in this matter. In support of its intervention, Direct Energy avers as follows:

1. Direct Energy is an electric generation supplier (“EGS”) (A-110125) licensed to provide retail electricity supply and related services to commercial, industrial and governmental customers in Pennsylvania.

2. Direct Energy’s representatives in this matter are:

Daniel Clearfield, Esquire
Kevin J. Moody, Esquire
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3. On June 25, 2009, Direct Energy filed an application for approval for listing on the Commission's conservation service provider ("CSP") registry. The application was docketed at A-2009-2116236.

4. The Commission's CSP registry final implementation order requires Commission staff to review all applications for completeness within 20 days of filing and to render a final determination within 30 days of filing.¹ Direct Energy believes that its CSP registry filing was complete upon filing, and that Direct Energy's application will be approved and Direct Energy will be listed on the Commission's CSP registry in due course. Direct Energy has received no communications from Commission staff to indicate otherwise.

5. On July 1, 2009, West Penn Power Company d/b/a Allegheny Power ("Allegheny") filed its Act 129 Plan explaining how it intends to meet the energy demand and consumption reductions required by Act 129 of 2008.

6. A person claiming a right to intervene or an interest of such nature that intervention is necessary or appropriate to the administration of the statute under which the proceeding is brought may file a petition to intervene. The right or interest must be at least one of the following:

- (1) A right conferred by a statute of the Commonwealth;
- (2) An interest that may be directly affected by the Commission's resolution of the proceeding and which is not adequately represented by existing parties, and as to which the petitioner may be bound by the Commission's action in the proceeding; or
- (3) Another interest of a nature such that the petitioner's participation may be in the public interest.²

7. Direct Energy satisfies each of the criteria for intervention.

¹ Implementation of Act 129 of 2008 Phase 2 – Registry of Conservation Service Providers, Docket No. M-2008-2074154, Final Order entered February 5, 2009, at 4.

² 52 Pa. Code § 5.72(a).

8. Action 129 required the Commission to adopt, by January 15, 2009, an energy efficiency and conservation (“EE&C”) program to require electric distribution companies (“EDCs”) to adopt and implement plans to meet the energy demand and consumption reductions required by the Act.³ As required by Act 129, the Commission’s EE&C program includes “[a] requirement for the participation of conservation service providers in the implementation of all or part of a plan.”⁴ Participation in the implementation of an Act 129 Plan includes participation in the Commission’s review of the plan; to effectively participate in the implementation of Allegheny’s plan, Direct Energy must participate in the Commission’s review of the plan. Accordingly, Direct Energy has a right conferred by 66 Pa. C.S. § 2606.1(a)(10) to intervene as a CSP in this proceeding, subject to final approval of Direct Energy’s CSP application and listing on the Commission’s CSP registry.

9. As a CSP, Direct Energy has an interest which may be directly affected by the resolution of this proceeding and which is not adequately represented by existing parties, including other registered CSPs that may intervene or seek to intervene. A CSP’s interest in an EDC’s Act 129 Plan is recognized by Act 129.⁵ As set forth in Direct Energy’s CSP application, Direct Energy can provide EDCs with information, technical assistance, and analysis for a host of energy control (building automation controls, FM smart grid communications, cable smart grid communications), reduction (customer education/awareness programs, lighting retrofits, HVAC retrofits) and replacement (solar, wind) technologies. Also, it is clear that as a CSP, Direct Energy will be bound by the Commission’s action in this proceeding.

³ 66 Pa. C.S. § 2601.1(a).

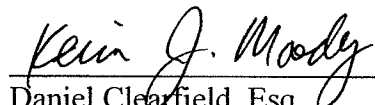
⁴ 66 Pa. C.S. § 2606.1(a)(10); *Energy Efficiency and Conservation Program*, Docket No. M-2008-2069887, Order entered January 16, 2009, at 31.

⁵ 66 Pa. C.S. § 2606.1(a)(8) (review of CSP contracts to implement the plans) and (10) (participation of CSPs in plan implementation required).

10. Direct Energy's participation is also in the public interest. As both an EGS and CSP and member of a corporate family of providers of energy, energy efficiency and demand reduction services and products, Direct Energy has experience and a unique perspective concerning the subject matter of this proceeding which will inform recommendations Direct Energy believes will improve Allegheny's plan and thus assist the Commission's review and evaluation of Allegheny's plan, consistent with Act 129.⁶

WHEREFORE, Direct Energy Business, LLC respectfully requests that its petition to intervene in this proceeding be granted.

Respectfully submitted,



Daniel Clearfield, Esq.
Kevin J. Moody, Esq.
Eckert Seamans Cherin & Mellott, LLC
213 Market Street, 8th Floor
P.O. Box 1248
Harrisburg, PA 17108-1248

Counsel for Direct Energy Business, LLC

Dated: July 27, 2009

⁶ 66 Pa. C.S. § 2806.1(a)(6) (Commission's EE&C Program must provide for recommendations of additional measures to enable EDCs to improve their Act 129 plans).

VERIFICATION

I, Carl W. Boyd, hereby verify that I am the Manager of Regulatory Compliance and Licensing for Direct Energy Business, LLC, ("Direct Energy") that I am authorized to make this verification on behalf of Direct Energy, that the facts set forth in the Petition to Intervene are true and correct to the best of my knowledge, information and belief, and that Direct Energy expects to be able to prove the same at a hearing held in this matter. This verification is made subject to the penalties relating to unsworn falsification to authorities as prescribed by 18 Pa. C.S. § 4904.



Carl W. Boyd
Manager, Regulatory Compliance and Licensing
Direct Energy Business, LLC

Date: July 27, 2009