



National Fuel

Lee E. Hartz
Assistant General Counsel

July 31, 2009

VIA NEXT DAY UPS

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

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

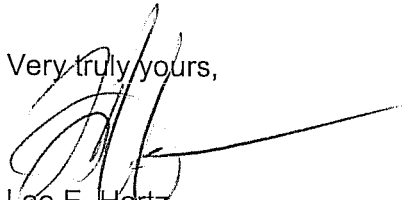
Dear Secretary McNulty:

Enclosed for filing with the Commission is an original copy of National Fuel Gas Distribution Corporation's Petition to Intervene in the above-captioned matters, along with a receipt of electronic filing.

Service is being effectuated as indicated on the Certificate of Service.

If you should have any questions regarding this filing, please contact me anytime at (814) 871-8060. Many thanks for your assistance in this matter.

Very truly yours,



Lee E. Hartz

Enclosures

cc: Per Certificate of Service

Secretary James J. McNulty
July 31, 2009
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bcc: (w/encl.):

Carl Carlotti
Eric Meinl
Bruce Heine
Mike Reville

**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 Plan, Approval of Recovery of Costs through a Reconcilable Adjustment Clause and Approval of Matters Relating to the Energy Efficiency and Conservation Plan	Docket No. M-2009-2093218 PETITION TO INTERVENE
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**PETITION TO INTERVENE OF NATIONAL FUEL GAS
DISTRIBUTION CORPORATION**

National Fuel Gas Distribution Corporation (“NFGDC”), by and through its undersigned attorney, hereby files this Petition to Intervene in the above-captioned matter pursuant to 52 Pa. Code § 5.71 through 5.74. In support of this Petition, NFGDC hereby avers as follows:

I. Timeliness of this Petition.

1. On or about July 18, 2009, notice of the Petition of West Penn Power Company d/b/a Allegheny Power (“West Penn”) for Approval of its Energy Efficiency and Conservation Plan, Approval of Recovery of Costs through a Reconcilable Adjustment Clause and Approval of Matters Relating to the Energy Efficiency and Conservation Plan (the “EEC Plan”) was published in the Pennsylvania Bulletin. The notice established that an answer along with comments and recommendations addressing the EEC Plan are to be filed on or before August 7, 2009. The notice also provided an intervention deadline of July 28th, 2009.

2. NFGDC is seeking leave to file this Petition to Intervene after the Notice date of July 28th pursuant to 52 Pa. Code § 5.74(b)(1) which establishes that Petitions to Intervene may be filed up to and including the date fixed for the filing of responsive pleadings. In this instance the Notice provided that responsive pleadings may be filed no later than

August 7th, 2009. While 52 Pa. Code § 5.74(b)(2) provides that Interventions may not be filed after the date fixed for filing protests as published in the Pennsylvania Bulletin, that rule does not apply to this filing. As such, NFGDC does not believe that the time period for filing Petitions to Intervene can be limited by the Pennsylvania Bulletin Notice.

3. NFGDC recognizes that an Initial Pre-hearing Conference occurred in this matter on July 28, 2009. As NFGDC is seeking leave to file this Petition and be granted Intervention after the date established in the Pennsylvania Bulletin, NFGDC agrees to accept the record related to this proceeding “as is” up to the point at which NFGDC is either granted or denied leave to Intervene. In this regard, NFGDC believes that there would be no prejudice to any other party in considering its Petition to Intervene.

II. Background.

4. NFGDC is a certificated natural gas distribution company providing service to approximately 213,000 customers in Northwestern and North-Central Pennsylvania. NFGDC is also a customer of West Penn through numerous accounts. NFGDC operates various facilities including, but not limited to, service centers, office buildings, customer response centers and natural gas distribution facilities served by West Penn. NFGDC has approximately 185 accounts serviced by West Penn or “Allegheny Power”.

5. NFGDC is represented in this proceeding by the following counsel:

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Notices and information regarding this matter should be sent to the above-listed counsel for all documents in this matter.

6. Having reviewed the filings in this matter to date, NFGDC expects that its participation in this proceeding would include, monitoring the proceeding, potentially filing a

response to the EEC Plans, supporting testimony provided by other participants and potential cross examination.

III. NFGDC'S Grounds for Intervention.

7. Consistent with the requirements of Act 129 and the Commission's Implementation Order thereof, West Penn filed for approval of its EEC Plan with the Commission. The EEC Plan addresses, among other things, how West Penn proposes to meet the power consumption reduction requirements of Act 129 and how it proposes to finance its EEC Plan.

8. In this Proceeding, the Commission will determine, among other things, whether the EEC Plan is in compliance with all Act 129 requirements and whether the proposed methods of cost recovery and implementation are within the public interest.

9. 52 Pa. Code § 5.72 provides that an entity may intervene in a proceeding if it claims an interest in the proceeding that may be directly affected and which is not adequately represented by existing participants or an interest of such a nature that the participation of the Petitioner may be in the public interest. See 52 Pa. Code § 5.72(a)(2)-(3). As discussed below, NFGDC has such interests as both a customer of West Penn and as a certificated natural gas company providing service in the territories where electric service is provided by West Penn.

A. NFGDC'S Interests in Intervention as a Customer.

10. As a customer of West Penn, NFGDC has an interest in this Proceeding to ensure the measures proposed in the EEC Plan would meet or exceed the required usage reduction mandated by Act 129. A major thrust of the Act 129 legislation is the potential effect that demand side response reduction would have on electricity rates. As a customer, NFGDC has an interest in the impact the EEC Plan will have on its electricity bills.

11. Similarly, the EEC Plan has a cost recovery component that may impact the rates that NFGDC pays for electric service. NFGDC has an interest in ensuring that the

EEC Plan will provide a benefit through reduction in usage that will outweigh the amount it pays for electric service. NFGDC further has an interest in ensuring that the EEC Plan will be administered in such a way as to minimize costs that will be passed on to ratepayers and that maximum usage reduction can be achieved in a cost effective manner through the methods proposed.

12. As a customer, NFGDC has an interest in evaluating whether the EEC plan fails to consider or incorporate potential alternative conservation measures that would more efficiently allow West Penn to achieve the mandated reduction requirements of Act 129.

13. As a customer, NFGDC has an interest in evaluating whether the EEC Plan will adversely impact the rates that NFGDC pays for goods and services other than electric generation or distribution.

B. NFGDC'S Interests in Intervention as a Natural Gas Distribution Company under § 5.72(a)(2).

14. NFGDC also is eligible to intervene in this Proceeding under 52 Pa. Code § 5.72(a)(2) because, as a certificated natural gas supplier in West Penn's service territories, NFGDC has an obligation to ensure that the proposed EEC Plan will not adversely impact its customers.

15. As NFGDC understands the EEC Plan, a potential exists for individuals in the service territories shared by NFGDC and West Penn to receive rebates, credits or other discounts on electric powered heating or water heating equipment. NFGDC is concerned that such a potential may result in a transfer of current natural gas based customers to electric service. Such discounts have, in the past, been responsible for customers switching from natural gas based appliances to electric based appliances. Moreover, by displacing natural gas service with possibly less efficient (from a fuel source perspective) electric service, these transfers may not be in the public interest.

16. In addition, NFGDC itself is not indifferent to load loss. To the contrary, the EEC Plans will harm NFGDC because under current rates, a loss of throughput will produce

an uncompensated loss in revenues. Since the EEC Plans have the potential to reduce NFGDC's throughput, NFGDC has a distinct interest in this proceeding, on its behalf and on behalf of its customers, to protect against the loss of natural gas load and potential load.

17. In addition, if the EEC Plan has the potential to encourage current natural gas customers to convert to electric based appliances, such conversions would, in fact, be contrary to the general electric demand side reduction goals of Act 129.

C. NFGDC'S Interests in Intervention as a Natural Gas Distribution Company under § 5.72(a)(3).

18. NFGDC has, throughout the Commission's various Act 129 proceedings, advocated the inclusion of fuel switching technologies in EEC Plans to assist in the reduction of demand side response.

19. In NFGDC's opinion, the use of natural gas resources as an electric usage reduction measure has the potential to provide significant reduction benefits at limited additional costs to the ratepayers of West Penn.

20. As a certificated natural gas distribution company serving customers in the territories served by West Penn, NFGDC is in a unique position to best evaluate the potential impact that the use of natural gas resources, particularly Pennsylvania's Marcellus Shale reserves, can have on the effectiveness and efficiency of EEC Plans. This is particularly true with respect to the total costs that West Penn's customers will ultimately pay for the implementation of the EEC Plans.

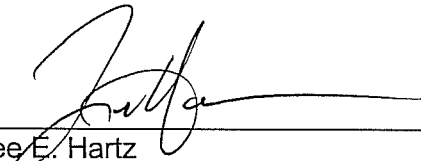
21. As such, NFGDC has an interest in participation in this Proceeding that is in the public interest.

IV. Conclusion.

22. WHEREFORE, for the foregoing reasons, NFGDC respectfully requests that the Commission grant it leave to: (1) file this Petition for Intervention; and, (2) grant NFGDC leave to intervene and admit it as a party to this proceeding.

Dated: July 31, 2009

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing Prehearing Memorandum upon the parties, listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

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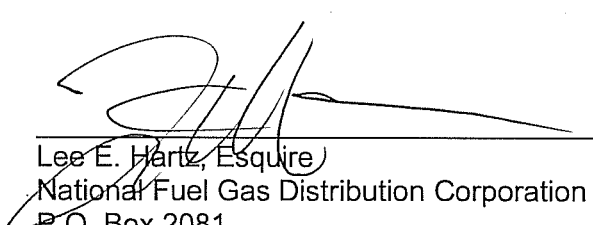
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7/31/09



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