COMMONWEALTH OF PENNSYLVANIA

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August 7, 2009

James J. McNulty
Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
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RE: Petition of West Penn Power Company d/b/a Allegheny Power for Approval of its Energy Efficiency and Conservation Plan, Approval of 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 for filing are the Comments of the Office of Consumer Advocate, in the above-referenced proceeding. On this date, the OCA is also serving the written testimony of its witness Geoffrey C. Crandall on Administrative Law Judge Katrina L. Dunderdale and the parties to the evidentiary portion of this proceeding. Hearings are scheduled for August 19 and 20, 2009 where this testimony will be moved into the record. The OCA requests that these Comments be read and considered in conjunction with the testimony of Mr. Crandall.

Copies have been served as indicated on the enclosed Certificate of Service.

Respectfully Submitted,

Christy M. Appleby

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Assistant Consumer Advocate
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Enclosures
cc: Honorable Katrina L. Dunderdale
Office of Special Assistants
James J. McNulty, Certificate of Service Only

CERTIFICATE OF SERVICE

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

I hereby certify that I have this day served a true copy of the foregoing document, the Comments of the Office of Consumer Advocate, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code Section 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 7th day of August 2009.

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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 Costs through a Reconcilable Adjustment Clause and Approval of Matters Relating to the Energy Efficiency and Conservation Plan	:	Docket No. M-2009-2093218

COMMENTS
OF THE
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Dated: August 7, 2009

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I. INTRODUCTION

The Office of Consumer Advocate (OCA) is filing these Comments in accordance with the Notice published in the Pennsylvania Bulletin on July 18, 2009. These Comments are in response to the Petition of West Penn Power d/b/a Allegheny Power for Approval of its Energy Efficiency and Conservation Plan (EE&C). On this date, the OCA is also separately serving the expert testimony Geoffrey C. Crandall of MSB Energy Associates, Inc. addressing the Company's EE&C Plan.[1] Mr. Crandall's testimony will be served on Administrative Law Judge Katrina L. Dunderdale and the parties to the evidentiary portion of this proceeding, pursuant to the litigation schedule and then moved into the record at the evidentiary hearings scheduled for August 19 and 20, 2009. The OCA asks that these Comments be read and considered in conjunction with the testimony of Mr. Crandall.

A. Background/Act 129 History

Act 129 (Act) was signed into law by Governor Rendell on October 15, 2008 and became effective on November 14, 2008. The Act provides for Energy Efficiency and Conservation Programs; Amending the Duties of Electric Distribution Companies' (EDCs) Obligation to Serve; Providing for Smart Meter Technology and Time of Use Rates; Providing Additional Market Power Remediation for Market Misconduct; Providing Additional Alternative Energy Sources; and Providing a Carbon Dioxide Sequestration Network. The Act makes a number of significant amendments to the Pennsylvania Public Utility Code, many of which will have a direct impact on the rates and service of customers of Pennsylvania's EDCs.

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1 Geoffrey C. Crandall is a principal and Vice President of MSB Energy Associates, Inc. Mr. Crandall has over 35 years of experience in utility regulatory issues, including energy efficiency, conservation and load management resources program design and implementation, resource planning, restructuring, mergers, fuel, purchase power and gas cost recovery and planning analysis, and related issues. Mr. Crandall has previously provided testimony to more than a dozen different public utility regulatory bodies in the United States and before the United States Congress on several occasions. OCA St. 1 at 2-3; see also, OCA St. 1 at Exh. GCC-1 for Mr. Crandall's curriculum vitae.

Of particular relevance here, Act 129 establishes an obligation for each EDC with 100,000 or more customers to achieve specified reductions in energy usage and peak demand. By May 31, 2011, each EDC must reduce the energy usage of its customers by 1% and by May 31, 2013, each EDC must reduce the energy usage of its retail customers by 3%. These energy consumption reductions are based on the forecasted energy usage for the June 1, 2009 to May 31, 2010 base period. Also by May 31, 2013, an EDC must reduce the weather-normalized demand of its retail customers by a minimum of 4.5% in the 100 hours of highest demand. The Act also provides for specific fines for an EDC's failure to achieve the standards for reduction contained in the Act.

Act 129 states that the Commission's energy efficiency and conservation program must include the following: (1) procedures for the approval of plans submitted by EDCs pursuant to Act 129; (2) an evaluation process "to monitor and verify data collection, quality assurance and results" of each EDC EE&C plan; (3) a cost-benefit analysis of each EDC EE&C plan in accordance with a total resource cost test approved by the Commission; (4) analysis of how the Commission's program and each EDC EE&C plan will achieve or exceed Act 129's consumption reduction requirements; (5) standards to ensure that each EDC EE&C plan includes a variety of EE&C measures that are provided equitably to all customer classes; (6) procedures to make recommendations as to additional measures that will enable EDCs to improve their EE&C plans and exceed the Act's required reductions in consumption; (7) procedures to require EDCs to competitively bid all contracts with conservation service providers (CSPs); (8) procedures to review, and modify if the Commission deems necessary, all proposed contracts with CSPs prior to execution; (9) procedures to ensure compliance with the Act's requirements for reduction in consumption; (10) a requirement for the participation of CSPs in the implementation of all or part of their respective EDCs' EE&C plans; and (11) cost recovery to ensure that the measures approved are financed by the same customer class that will receive the direct energy and conservation benefits. See 66 Pa.C.S. § 2806.1(a).

In the latter months of 2008, the Commission commenced a stakeholder process and invited written comments from the EDCs and other interested parties to develop the energy efficiency and conservation program required by Act 129. The Office of Consumer Advocate (OCA) participated by submitting Comments to the Commission on November 3, 2008, and again on December 8, 2008. The OCA also participated in a stakeholder meeting. Pursuant to the requirements of Act 129, on January 16, 2009, the Commission entered its Implementation Order at Docket No. M-2008-2069887 (Implementation Order).[2]

In the Implementation Order, the Commission called for the publication of the Plans in the *Pennsylvania Bulletin* and allowed for the filing of Comments on the Plan. The Commission also directed evidentiary and public input hearings on each EE&C plan so that recommendations for improving the plans could be submitted by the statutory advocates and the public. See Implementation Order at 8. Further, the Commission established specific litigation schedules to meet Act 129's requirement that it rule on each EDC's EE&C plan within 120 days of submission, and provisions were established for the re-submission of rejected EE&C plans.[3] Id. See also 66 Pa.C.S. § 2806.1(e)(2). In its Implementation Order, the Commission also encouraged each EDC to conduct a collaborative process during the development of its Plan to

2 The Implementation Order was adopted at the Public Meeting on January 15, 2009.

3 Based on the established consideration period of 120 days, the schedule was broken down as follows: (1) each EE&C plan is assigned to an Administrative Law Judge (ALJ), who will establish discovery, public input hearing schedule and evidentiary hearing schedules, but all hearings must be completed by September 3, 2009; (2) all briefs are due by September 14, 2009; (3) each EDCs' reply brief and/or revised plan is due by September 24, 2009; and (4) the Commission will issue its decision regarding each EDC plan by October 29, 2009. See Implementation Order at 12. The Commission extended the opportunity to file reply briefs to all parties by Order entered June 2, 2009, at Docket Number M-2008-2069887.

receive input from various stakeholders. As discussed more below, the OCA actively participated in the Allegheny Power stakeholder process. Also pursuant to the Order, each EDC was required to submit its consumption forecast with the Commission by February 9, 2009. The Commission approved the consumption forecasts and set the consumption savings and demand reduction requirements by Order entered March 30, 2009.

Pursuant to the Implementation Order, on May 7, 2009, the Commission issued a Secretarial Letter, which provided EDCs with an EE&C plan template to be used by the EDCs in preparing and filing their EE&C plans with the Commission. Thereafter, on May 28, 2009, the Commission adopted Standards for the Participation of Demand Side Management Resources in an updated Technical Reference Manual (TRM) at Docket No. M-00051865 to be used as a guide by the EDCs in evaluating the savings impacts of aspects of their plans.

Act 129 requires each EDC to demonstrate, *inter alia*, that its EE&C plan is cost-effective using the Total Cost Resource (TRC) test[4] and that its plan provides a diverse cross section of alternatives for customers of all rate classes. See 66 Pa.C.S. § 2806.1(b)(1)(i)(I). After inviting and receiving comments from interested parties on the matter, including the OCA, the Commission adopted a TRC test at Docket No. M-2009-2108601 (TRC Test) on June 18, 2009.

The OCA provides the following Comments on Allegheny Power's Plan in accordance with the Commission's Implementation Order.

B. Stakeholder Process

As described in the Direct Testimony of Allegheny Power witness Roger Heasley, Allegheny Power conducted a stakeholder process to inform stakeholders about Act 129 and the

[4] A TRC test is "a standard test that is met if, over the effective life of each plan not to exceed 15 years, the net present value of the avoided monetary cost of supplying electricity is greater than the net present value of the monetary cost of energy efficiency conservation measures." 66 Pa.C.S. § 2806.1(m).

Company's progress in developing the Plan. The Company held ten (10) stakeholder meetings at locations around the Company's service territory for various stakeholders. Allegheny Power St. No. 1 at 5-7. The first meeting was held on April 8, 2009 and was attended by Pennsylvania Public Utility Commission staff, statutory advocates and industry and customer representatives. Id. at 5. The Company held two additional general meetings: one on the Company's proposed rate options and the other on the Company's proposed Act 129 programs. The rate options meeting was attended by the statutory advocates; Commission staff members; the Penn State Extension service; smart meter gas suppliers; gas suppliers and customer representatives. Id. at 6. The OCA attended the three large group meetings.

The Company also held seven separate additional meetings around the Company's service territory and directed towards municipalities, county administrators, low income customers, small/medium businesses, and local and state regulatory representatives. Id. at 5-7.

On June 11, 2009, the Company made a pre-filing presentation to stakeholders in Harrisburg including members of the Commission staff and other regulatory representatives. The Company stated that it planned to meet with representatives of the collective bargaining unit in the near future to discuss Act 129. Id.

The OCA found the Allegheny Power stakeholder process to be a generally useful vehicle to share information regarding the development of the Act and information regarding the programs that could be deployed to meet the goals of the Act. Through its separate meetings, the Company reached a broad group of interests to assist it in developing a more informed plan.

As discussed more fully below, the OCA supports the continuation of the stakeholder process, with regularly scheduled meetings and reports, during the Plan implementation. In the OCA's view, the Plan filing is only the first step in achieving the goals of Act 129. There is much work to be done once a final Plan is approved and an active stakeholder process will be a valuable tool to assist in the continued improvement of the Plan. The OCA makes some recommendations for further improvement in Allegheny Power's stakeholder process in Section IV below.

C. Summary of Company Plan and Request

On July 1, 2009, Allegheny Power Company filed its Energy Efficiency and Conservation (EE&C) Plan with the Commission. The proposed EE&C Plan consists of 22 voluntary programs for residential, low-income, commercial, industrial, and governmental/non-profit customers and describes a portfolio of energy efficiency, conservation, demand response, and rate options. Petition at 3. These 22 programs are designed to meet the goals established by Sections 2806.1 and 2806.2 of Act 129.

For residential customers, Allegheny Power proposes to offer the following programs: (1) Residential Energy Star and High Efficiency Appliance Program; (2) Compact Fluorescent Lighting (CFL) Rewards Program; (3) Residential HVAC Efficiency Program; (4) Residential Home Performance Program; (5) Residential Low-Income Home Performance Check-up Audit and Appliance Replacement Program; (6) Residential Low-Income Joint Utility Usage Management Program; (7) Residential Low-Income Room Air Conditioner Replacement Measure; and (8) Programmable Thermostat Program. Petition at 3-7. The Company also has proposed several new residential rates including: (1) Residential Efficiency Rewards Rate; (2) Pay Ahead Service Rate: (3) Critical Peak Rebate Rate; (4) Time of Use with Critical Peak Pricing Rate; and (5) Hourly Pricing Option Rate. Petition at 5-8. Allegheny Power requests that the Commission approve all of these programs together, along with the proposed rate options and a Smart Meter plan, as an integrated portfolio designed to meet Act 129 energy efficiency and conservation goals in the Company's service territory.

Allegheny Power states that its programs are designed to provide customer benefits while also meeting the energy saving and peak load reduction goals set forth in the Act within the designated expenditure cap of two percent (2%) of 2006 annual revenues for each year of the four year plan. The total budget for four years equates to approximately $94.25 million. Specifically, Allegheny Power's Plan includes measures and programs to achieve the Company's calculated electricity consumption and peak load reduction targets of: a) 1% energy savings by 2011, which is 209,387 MWh; b) 3% energy savings by 2013, which is 628,160 MWh; and c) peak load reduction of 4.5% by 2013, which is 160 MW. Allegheny Power Plan at 28, Table 2; Allegheny Power St. 2 at 7.

The Company also proposes to implement an Act 129 Energy Conservation Surcharge to be applied, on a non-bypassable basis, to charges for electricity supplied to customers who receive distribution service from the Company. The Energy Conservation Surcharge is to be computed separately for residential, small commercial, large commercial and industrial customer classes. Allegheny Power St. 6-7. The rates for some of the larger rate schedules are as follows:

Rate Class	EE&C Surcharge Rate per kWh Post-tax	Rate per kW/kVA
Residential Schedule 10	$0.000222	--
Commercial Schedule 20	$0.00112	--
Commercial Schedule 22	$0.00099	--
Commercial Schedule 30 (small)	$0.00071	$0.34
Commercial Schedule 30 (large)	$0.00050	$0.25
Schedule 40	$0.00017	$0.13

Source: Allegheny Power Plan at 185-186.

Allegheny Power proposes that the EE&C surcharge be on the customer bill as a separately stated line item and applied to the monthly bill of each customer receiving distribution service from the Company. The Company proposes to levelize its cost recovery over 43 months. The EE&C surcharge will be reconciled on an annual basis for under-and over-collections of that levelized amount experienced during the previous year. The Company has reserved the right to make "mid-course" corrections in both the Plan and the cost recovery if there are major changes in the Plan.

D. Summary of the OCA Position

The OCA retained an expert witness to assist the Office in its the review of each EDC's Final Plan. As to Allegheny Power's Plan, the OCA is submitting the Direct Testimony of Geoffrey C. Crandall of MSB Energy Associates, Inc.. These Comments are informed by the Direct Testimony of the OCA's expert witness which will be moved into the evidentiary record of the proceeding that is being certified to the Commission. The following is a summary of the OCA's conclusions and recommendations as set forth in these Comments and the testimony of its expert witness:

Overall Plan Assessment and Compliance with the Requirements of the Act:

- The EE&C Plan is not reasonably designed to meet the requirements for energy efficiency and demand reduction set forth in Act 129 due to its over-reliance on an aggressive deployment of Smart Meter technology to meet the goals, the failure to include the full costs of the Smart Meter deployment in the 2% spending cap, and the use of a program that is not primarily directed to energy efficiency. The OCA recommendations to bring the Plan into compliance with the Act are set forth in the program design section.

- The EE&C Plan is designed to meet the requirements in Section 2806.1(b)(1)(i)(B) for savings within the government/non-profit sector.

- The EE&C Plan is designed to meet the requirements in Section 208.1(b)(1)(i)(G) for providing programs and savings for low income customers.

- The EE&C Plan is designed to provide a variety of programs to all customer classes and provides the measures equitably to all customer classes as specified in Section 2806.1(a)(1)(5).

- The EE&C Plan as a whole cannot be found to meet the benefit/cost ratio of the Total Resource Cost Test as set forth by the Commission because the Company's TRC calculation did not include the full cost of the rate option programs.

- The EE&C Plan needs to be revised before it can meet the requirements of Act 129.

Program Design:

- The Plan's reliance on rate options dependent upon Smart Meter deployment should be scaled back or eliminated if it cannot be achieved within the 2% spending cap. The proposed expenditures on these programs should be redeployed to other energy efficiency and demand response measures such as direct load control and rate options and programs that can be achieved with the existing meter infrastructure.

- Under no circumstance should the Pay Ahead Service Rate be approved for residential customers as part of this Plan.

- The following improvements should be made to the Plan:

    - Additional high efficiency LED lighting technologies should be included in the EE&C Plan.

    - Special emphasis should be placed on consumer education, specifically targeting high consumption plasma TV's, phantom load, and entertainment systems in the implementation of the EE&C Plan.

On-Going Stakeholder Process And Plan Adjustment Process:

- An on-going stakeholder process with quarterly meetings, reports on the progress of implementation of the Plan and a two-way dialogue among a broad and diverse group of stakeholders to address any issues that arise should be an integral part of the Plan approval.

Cost Recovery:

- The Company's proposal to recover the costs of the EE&C Plan on a levelized basis over 43 months, without interest, should be approved.

- The PUC assessment costs must be removed from the proposed EE&C surcharge.

- The Company's proposal to include a separate line item on the customer bill for the EE&C surcharge should be rejected. The EE&C surcharge should be rolled into the non-bypassable distribution rates.

- The Company should be required to bid any qualifying energy efficiency and demand response measures into the PJM RPM auctions and credit customers with any benefits received through the cost recovery mechanism.

Evaluation, Measurement and Verification Process:

- Contractors hired by Allegheny Power to perform evaluation, measurement and verification should have the necessary autonomy to offer independent, professional opinions related to the results of the EE&C Plan programs implemented by Allegheny Power.

- The Company should implement the proper accounting methodology, categorization and tracking of costs to ensure accurate accounting and tracking.

These issues will be discussed below.

II. COMMENTS ON THE PLAN AND PROGRAMS

A. Introduction

The OCA submits that Allegheny Power's proposed EE&C Plan is flawed and must be modified. The Plan, as proposed, relies too heavily on the deployment of AMI strategies for achieving the requirements of the Act and misses some key opportunities. As set forth in these Comments and in the testimony of OCA witness Geoffrey C. Crandall, Allegheny Power's EE&C Plan should be revised.

B. Specific Program/Plan Design Issues and Recommendations

1. The Company's Reliance On Advanced Meter Infrastructure/Smart Meter Plan For Achieving The Consumption And Demand Reduction Targets Cannot Be Supported.

The Company proposes to achieve consumption savings and demand reductions from a number of rate option programs that depend on AMI/Smart Meter deployment for operation. The programs include the Residential Efficiency Rewards, Programmable Controllable Thermostat, Pay Ahead (Smart) Service Rate, Customer Load Response Program, Critical Peak Rebate Rate, Time Of Use Rate With Critical Peak Pricing Rate, Distributed Generation Program and the Hourly Pricing Option Rate. Allegheny Power St. 2 at 9-10. The reliance on these programs and Smart Meter deployment as provided in the Company's Plan is flawed for several reasons. First, the Company has not included the full costs of these programs in either its Total Resource Cost (TRC) test or in its expenditure budgets. Importantly, Allegheny Power's budgeted expenditures are already at the 2% spending limitation. When the full cost of these metering programs is included, the Company's Plan will exceed the 2% spending limitation required by the Act. Additionally, when the full costs are included in the TRC, it is likely that the benefit/cost ratio will drop and perhaps even fall below 1.

While the OCA supports the use of rate options that can be implemented within the existing infrastructure and within the 2% spending limitation, this is not the approach taken by Allegheny Power. Rather, Allegheny Power's Plan attempts to merge two different aspects of Act 129 without recognition of the different processes involved. Importantly, the Act contemplates a longer term deployment schedule for the smart meters and provides that early deployment of the Smart Meters would be upon request of the customer who agrees to pay the cost of the Smart Meter at the time of the request. 66 Pa. C.S. § 2806.2(F)(2). Further, the Act contemplates that rate filings for Smart Meter deployment will be made in 2010, after the EE&C Plans have been approved by the Commission.

The OCA would note that Allegheny Power witness Cohen's testimony acknowledges that Allegheny Power will need a significant capital investment to change out 100% of the residential and small commercial meters "with more expensive meters, installing a system-wide communication network, developing a new meter data management system and rewriting software and business operation protocols to make optimal use of the new data and operational capabilities." Allegheny Power St. 4 at 10. These issues are too complex and significant to be resolved in the timeframe for this proceeding.

As noted, Allegheny Power has not identified the costs of the AMI related programs in its filing. The General Assembly required that all EE&C Plans be capped at 2% of 2006 revenue. The proposed EE&C Plan budget is already at the 2% of revenue limit, without factoring in the additional costs of implementing the meter infrastructure to operate the proposed rate option programs. Based on the information available in the filing, the Commission cannot conclude that the Plan meets the requirements of the Act.

The OCA recommends that the Company's Plan be revised. The funds directed toward the Smart Meter rate options should be redirected to other cost-effective energy efficiency programs or rate options that can be achieved with the existing meter infrastructure or direct load control programs. The OCA recommends that the identification of the use of this funding be addressed through the stakeholder process as soon as possible.

2. <u>The Pay Ahead Smart Service Rate Should Not Be Approved Under Any Circumstances.</u>

The Company has proposed a Pay Ahead Smart Service Rate as part of its filing. Under this program, the residential customer would make a pre-payment for a specified dollar amount of energy usage. [5] The customer would use an associated in-home display which would show the customer consumption relative to the prepaid account balance. The program would be targeted specifically to customers with high consumption levels, college students, or landlord accounts. The OCA submits that this program should not be approved.

The question of pre-paid service, whether voluntary or not, raises significant public policy concerns that cannot be addressed in the context of this proceeding. Importantly, the use of pre-paid service as an energy efficiency measure has not been demonstrated or supported. The Company's own testimony shows that this service is more of a billing management service than an energy efficiency service. It simply has no place in an EE&C Plan. Moreover, the Company has not addressed the requirements of 52 Pa. Code § 56.17 regarding the specific requirements of a prepayment program for residential customers. Although the Company states that it would not plan to terminate customers or violate Chapter 56, the Company has not expressed how the proposed program actually meets the requirements of 52 Pa. Code § 56.17. The OCA would note that the Company's proposal to offer this program to landlord accounts in particular may violate Section 56.17, which requires that the service can only be "rendered to an individually-metered residential dwelling, and the ratepayer and occupants are the only individuals affected by the installation of a prepayment meter." 52 Pa. Code § 56.17(3)(iii). Additionally, the Company must be assured that the customer is not low-income. Customers

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[5] The Company also proposes to offer this program to small commercial, industrial and governmental/non-profit customers. Allegheny Power Plan at 74.

below 150% of the Federal Poverty Level are prohibited from participating in such programs. The Company has not stated how it plans to exclude these customers from participation in such this program.

The OCA submits that the proposed Pay Ahead Service Rate is not an appropriate component of an energy efficiency and conservation plan. This program should be removed from the Plan for residential customers.

3. Other Program Improvements

The OCA found the bulk of the energy efficiency and demand response programs, other than the Smart Meter rate options, to be soundly designed and reasonable for achieving the goals of the Act. The OCA offers the following suggestions to further improve the Plan:

a. The Company Should Consider SSL Technologies.

The Company only included very limited LED technology, such as exit lights and traffic lights in its Plan. With the emergence of solid state lighting (SSL) technologies and the promise that they hold, the OCA recommends that Allegheny Power should give more consideration to the SSL measures in the EE&C Plan. The OCA suggests that in the custom program for commercial customers and government/non-profit customers, there may be opportunities to assess and include SSL technologies and incentives to customers. See, OCA St. 1 at 19.

b. The Company Should Consider A Compact Fluorescent Lighting Rewards Program.

The OCA recommends that Allegheny Power offer an incandescent light bulb turn-in program as an element to its CFL Rewards Program. The OCA proposes that this approach would be available to residential, commercial, non-profit, governmental or industrial customers and could be incorporated within the existing education initiatives in the EE&C Plan. The OCA recommends that if a customer turns in two (functioning and operational) 100 watt incandescent bulbs they would be eligible and would be provided one equivalent 100 watt CFL bulb in exchange. The OCA submits that it would provide multiple benefits, including improving customer awareness of newer highly efficient lighting technologies, stimulating and increasing customer participation in the Company's proposed CFL rebate program, and accelerating the EISA initiatives to eliminate inefficient lighting that is currently in operation. See, OCA St. 1 at 19-20.

c. The Company Should Expand Its Energy Education Information.

The OCA recommends that the Company specifically include in its EE&C Plan marketing and implementation activities public education activities, with an emphasis on energy consumption of home entertainment systems, TVs and phantom power loads. See, OCA St. 1 at 20-22.

C. Special Plan Requirements

1. Low Income Program Requirements

Section 2806.1(b)(1)(i)(G) establishes a requirement for specific energy efficiency measures for low income households. Section 2806.1(b)(1)(i)(G) reads in pertinent part:

> (G) The plan shall include specific energy efficiency measures for households at or below 150% of the Federal poverty income guidelines. The number of measures shall be proportionate to those households' share of the total energy usage in the service territory.

66 Pa.C.S. §2806.1(b)(1)(i)(G). It is the OCA's view that the General Assembly sought to establish a set aside for low income customers through this language to ensure that low income customers received the benefits that energy efficiency can bring to a customer. This becomes even more pressing in light of the Commission's conclusion in its Implementation Order that all

customers be required to pay the costs associated with Act 129, including low income customers. Implementation Order at 37.

The language of the Act uses the terms "measures" within the section but also refers to "in proportion to usage." The OCA submits that the most effective way to implement this Section is to require each EDC to assure that a specific percentage of the overall savings to be achieved from the Plan are realized through programs and measures directed to the low income customer segment. This approach would parallel the set aside approach for the government/non-profit sector. See, Section 2806.1(b)(1)(i)(B).

2. Government, Non-Profit, Schools, Etc.

Section 2806.1(b)(1)(i)(B) establishes a specific requirement for achieving reductions from the government/non-profit/school sector. The section provides:

> (B) A minimum of 10% of the required reductions in consumption under subsections (c) and (d) shall be obtained from units of Federal, State and local government, including municipalities, school districts, institutions of higher education and nonprofit entities.

66 Pa.C.S. §2806.1(b)(1)(i)(B). Allegheny Power's expected compliance with this requirement is set forth in Table 2 on page 28 of the Company's EE&C Plan. From the OCA's review of the filing, it is the OCA's view that the Company's Plan meets the specific requirements of Section 2806.1(b)(1)(i)(B).

3. Equitable Distribution of Measures/Variety of Programs

The Act requires that the Plan to include a variety of measures and that the measures be provided equitably to all customer classes. 66 Pa. C.S. § 2806.1(a)(5). The Company's Plan contains 22 different programs distributed across all of its customer classes. The Company has provided at least one energy efficiency and one demand response program for each customer class in accordance with the Commission's Implementation Order, and in fact, offers multiple programs for each customer class. See, EE&C Plan at 33-34.

CHART 1

Customer Class	Budget	Percentage of Total Budget	Revenue	Percentage of Total Customer Revenue
Residential	$53,722,623	57%	$494,664,993	42%
C&I Small	$19,460,085	21%	$293,832,582	25%
C&I Large	$15,465,105	16%	$382,115,769	32%
Governmental/Non-Profit	$5,602,059	6%		
Street Lighting			$7,516,761	1%
Total	$94,249,873		$1,178,130,105	

Source: Allegheny Power Plan at 40, 177-178.

CHART 2

Customer Class	Energy Usage Forecast Mwh	Percentage of Consumption Total	Mwh Saved Through 2012	Percentage of Total Mwh Saved Through 2012	Percentage of Total Mwh Saved Goal Through 2012
Residential	7,231,347	35%	282,249	43.70%	44.93%
Sm. C&I	5,097,326	24%	222,734	34.45%	35.46%
Large C&I	8,557,651	41%	76,878	11.90%	12.24%
Street Lighting	52,326	0%			
Gov't/Non-Profit			63,997	9.90%	10.19%
Total	20,938,650		645,859		
Commission Goal			628,160		

Source: Allegheny Power Plan at 36, 177.

CHART 3

Rate Class	Average Total Bill Impact	EE&C Surcharge Rate per kWh Post-tax	Rate per kW/kVA	Surcharge for average usage per month
Residential Schedule 10	2.3%	$0.00222	--	$2.14
Commercial Schedule 20	1.3%	$0.00112	--	$2.79
Commercial Schedule 22	1.0%	$0.00099	--	$2.50
Commercial Schedule 30 (small)	0.9%	$0.00071	$0.34	$124.82
Commercial Schedule 30 (large)	0.7%	$0.00050	$.25	$423.73
Schedules 40, 41,44, 46	0.3% 0.2% (Schedule 41)	$0.00017	$0.13	$1,291.89 (Schedule 40) $1,791.60 (Schedule 41) $2,320.48 (Schedule 44) $34,516.64 (Schedule 46)
Tariff No. 37	0.5%	$0.00035	$0.18	$17,725.29

Sources: Allegheny Power Plan at 185-186, Calculations and Supporting Cost Documentation for Cost Recovery Mechanism at 2-11.

When these charts are reviewed, keeping in mind the other requirements of the Act for particular customer segments, the budgetary constraints and the need for the Plan to pass the TRC, in OCA's view, Allegheny Power has achieved a portfolio that is balanced.

III. COMMENTS ON COST RECOVERY

A. Introduction

The Company's Direct Testimony sets forth Allegheny Power's proposed cost recovery mechanism for its EE&C Plan expenses. Specifically, Company witness Valdes states that an EE&C Surcharge will be implemented. Allegheny Power St. 3 at 10. The EE&C Surcharge will operate as a reconcilable recovery mechanism and, as the EE&C Plan is expected to benefit both shopping and non-shopping customers, the surcharge will be non-bypassable. Allegheny Power St. 3 at 4. The surcharge would appear as a separate line-item on the customers' bills. Id. at 10. The Company proposes to levelize its cost recovery over a period of 43 months. Id. at 11-12. The Company has not included interest as part of this levelized recovery on any over- and under-collections in its surcharge cost recovery mechanism. The Company has proposed to include a PUC assessment charge in the surcharge recovery.

In order to ensure that EE&C measures are paid for by the same customer class that receives the energy and conservation benefits of those measures, Allegheny Power proposes to directly assign the costs relating to each measure to those classes that will receive the benefits. Id. at 5. For costs related to EE&C measures that are applicable to more than one customer class, Allegheny Power proposes to allocate such common costs separately for the residential customer class and the non-residential customer classes. These common costs were then allocated to specific programs or equally shared by programs "that would have applicability to the common costs." Id. at 6.

The Company also proposes to separately calculate the applicable EE&C costs for each of four major customer classifications: (1) residential, (2) small commercial and industrial, (3) large commercial and industrial, and (4) governmental/school/non-profit. Id. at 6. These costs will vary in each program year of the EE&C Plan. In other words, in some program years, the costs may be greater than the annual 2% cost cap, while in other program years, the costs may be less than the cap. Id. at 11-12. Over the four program years, the total costs of the EE&C Plan for all customers will not exceed $94.25 million. Id. at 12.

The Company proposes that cost recovery will be accomplished via a per kilowatt-hour energy surcharge for Schedules 10 (residential), 20, and 22 (small commercial) since the majority of customers on these rate schedules do not have demand meters. Since all customers on the Company's other rate schedules have meters capable of recording demand, cost recovery will be accomplished via a per kilowatt-hour energy surcharge and a per kilowatt (or kilovolt-ampere) demand surcharge. Id. at 11. The EE&C program costs allocated to each tariff and tariff rate schedule are separated into an energy-related portion and a demand-related portion, based upon the resultant load factor calculated from the energy and demand savings projections for each program. Id.

The Company's proposed EE&C surcharge would be subject to an annual reconciliation as to collection of the levelized amount and a reconciliation to actual expenditures near the end of the Plan.

B. OCA Issues/Recommendations With Cost Recovery

1. The OCA Supports The Levelized Cost Recovery Mechanism Proposed By Allegheny Power Without Interest Collections.

The OCA anticipates that Plan expenditures will vary, perhaps significantly on a year by year basis. To provide more stability for customer rates, the Company is proposing to recover the same levelized amount each year from customers. This will allow the Company the flexibility to spend each year based on program ramp up needs, program success and market conditions (within the total spending cap) to maximize Plan implementation without undue volatility in customer rates. The OCA supports this approach to cost recovery, particularly for residential customers to avoid any undue volatility and confusion in rates.

The OCA also supports the Company's proposal that no interest be charged on any under- or over-collection that may occur as a result of this levelization. The spending constraint in the Act does not contemplate any interest charges. In other words, in the OCA's view, Allegheny Power can spend an amount of $94.25 million, not $94.25 million plus interest. The OCA also expects that with levelization, the interest would likely balance out over time.

2. The Company Should Be Required To Bid Qualifying Energy Efficiency and Demand Response Resources Into The PJM RPM Auction And Credit Customers For The Value Received In The Cost Recovery Mechanism.

As of May 2009, PJM has modified its Reliability Pricing Model (RPM) auction process to allow for the inclusion of energy efficiency and demand response resources. Qualifying energy efficiency and demand response resources can now bid into the PJM auctions as a capacity resource and if cleared receive capacity payments. The OCA submits that Allegheny Power should be directed to explore this option and to bid its qualifying resources into the auctions. Capacity payments can provide a significant value that should then be credited to all customers through the cost recovery mechanism to offset the costs that they must bear under the Act.

3. The Company Should Not Include The Costs Of Its EE&C Plan As A Separate Line Item On The Customer Bill.

The OCA does not support the Company's proposal to include the costs of its EE&C Plan as a separate line item on the customer bill. Customer bills already consist of charges to cover numerous costs incurred by Allegheny Power to serve its customers, such as the costs of meter reading, customer billing systems and activities, legal costs, health care for employees, transmission, distribution, insurance, safety, regulatory activities, financing, salaries & wages, security, operations and maintenance, fleet vehicle costs, operations of buildings, etc. The EE&C Plan is now the normal course of business for the Company. The OCA submits that if EE&C costs alone are identified on the customer bill, it is an incomplete presentation because no corresponding benefits to customers are quantified and shown as well. The OCA opposes the concept of including only the EE&C related costs alone on the customer's monthly bill because the EE&C Plan has both costs and program benefits and to show only the costs would be misleading and potentially confusing to customers. See, OCA St. 1 at 27-28. The OCA recommends that the Company include the EE&C costs in the non-bypassable distribution rates for each customer and to treat these expenses the same as any other normal, on-going expenses.

4. PUC Assessment

The Company has included costs associated with the PUC assessment in its surcharge recovery mechanism. Recovery of the PUC assessment as part of the Section 1307 cost recovery mechanism is not permitted by the Commission. These costs must be removed from the cost recovery mechanism.

Act 129 permits Allegheny Power to recover only those costs for the provision and management of the program. Act 129 specifically states that:

> An electric distribution company shall recover on a full and current basis from customers, through a reconcilable adjustment clause under Section 1307, all reasonable and prudent costs incurred in the provision or management of a Plan provided under this Section.

66 Pa. C.S. 2806.1(K)(1). The OCA submits that the PUC assessment is not related to the costs for the provision and management of Allegheny Power's EE&C Plan. Further, it is the OCA's understanding that it is the Commission policy that such PUC assessment costs are not recoverable through such a surcharge.

5. The Company Should Not Be Authorized To Recover $433,074 Of Administrative Costs At This Time.

The Company proposed to include administrative costs for the Customer Load Response Program of $433,074 for 2009 and the Distributed Generation Program of $433,074 for 2009. These programs, however, will not be available to customers until 2011. The OCA submits that at this time, the Company has not demonstrated sufficiently why it needs 24 months of program development prior to offering these programs. Therefore, the OCA submits that these proposed administrative costs should be eliminated from the budget at this time. See, OCA St. 1 at 26-27.

6. The Company Has Correctly Included The Cost Of The Statewide Evaluator In Its Two Percent Spending Limitation.

The Company has proposed to include the $4,203,683 cost of the statewide evaluator in the 2% spending limitation as is required by Act 129. Allegheny Power Plan at 242. The OCA agrees that the inclusion of these costs is appropriate.

IV. NEED FOR ON-GOING PROCESS TO MAKE ADJUSTMENTS

The OCA recommends an on-going stakeholder process be included in any Final Plan approved. The OCA submits that the Commission should include details regarding the stakeholder process in Allegheny Power's Plan and its Order to ensure that the process continues on a regular basis and provides a reasonable means of addressing Plan implementation and any needed Plan modifications.

The stakeholder process should include meetings on a quarterly basis, at minimum, during the Plan implementation. The Company should provide the stakeholders with necessary information regarding Plan implementation, including reports on the progress of selecting Conservation Service Providers, the expected costs, the progress toward implementation, penetration rates and savings levels achieved to date, and cost recovery to date. The OCA would also expect that the Company will work with the stakeholder group to review implementation issues, program issues that arise, educational or promotional materials that are being developed so that the stakeholders can provide their input. Other information and exchanges would also be included within the process, such as information regarding the American Recovery and Reinvestment Act funding or any new legislation that impacts the EE&C Plan.

The OCA recommends that the process be an open exchange of ideas and information and that a broad and diverse group of stakeholders be included. A meaningful process needs to be developed to assist in program implementation, mid-course corrections, and necessary program adjustments. The OCA submits that ongoing stakeholder involvement is critical to the design, implementation, monitoring, evaluation, modification or elimination of programs and to the ultimate success of energy efficiency programs.

Given the significance of the effort needed to implement the EE&C Plan in a cost-effective manner for all customers, the OCA urges that this process be included in the Commission Order in a detailed manner so that all stakeholders can count on continuing to make contributions to the EE&C Plans.

V. CONCLUSION

The OCA appreciates this opportunity to provide Comments and the testimony of its expert witness (which will be presented in the evidentiary portion of the proceeding) on this important topic. Allegheny Power's EE&C Plan is not reasonably designed to meet the requirements for energy efficiency and demand reductions set forth in Act 129 due to the Plan's over-reliance on an aggressive deployment of Smart Meter technology, the failure to include the full costs of the Smart Meter deployment in the 2% spending cap, and the use of the Pay Ahead

Smart Service rate option which is not primarily directed to energy efficiency. The OCA submits that the EE&C Plan design does meet the Act 129 requirements for savings within the government/non-profit sector and for low-income customers. The overall Plan is also designed to provide a variety of programs to all customer classes and does provide the measures equitably to all customer classes. However, the EE&C Plan as a whole cannot be found to meet the benefit/cost ratio of the Total Resource Cost Test as set forth by the Commission because the Company's TRC calculation did not include the full cost of the Company's proposed Smart Meter rate option programs. The EE&C Plan needs to be revised before it can meet the requirements of Act 129. Accordingly, the OCA submits that Allegheny Power's EE&C Plan should not be approved as filed.

Respectfully Submitted,

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