

PENNSYLVANIA UTILITY LAW PROJECT

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September 10, 2009

VIA ELECTRONIC FILING (E-FILING)

James J. McNulty
Secretary
Pennsylvania Public Utility Commission
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 of Recovery of Costs through a Reconcilable Adjustment Clause, and Approval of Matters Relating to the Energy Efficiency and Conservation Plan

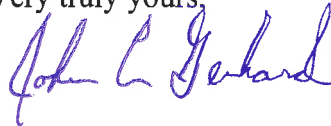
Docket No. M-2009-2093218

Dear Secretary McNulty:

Enclosed for filing in the above-captioned proceeding, please find the Reply Brief on behalf of the Pennsylvania Association of Community Organizations for Reform Now ("ACORN"). Parties of record have been served as indicated on the attached Certificate of Service.

If you have any questions, please do not hesitate to contact me directly.

Very truly yours,



John C. Gerhard, Esq.
Counsel for ACORN

Enclosure

cc: Honorable Katrina L. Dunderdale
Cert. of Service

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

CERTIFICATE OF SERVICE

I hereby certify that I have today served a true copy of ACORN's Reply Brief upon the parties of record in this proceeding listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

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Dated: September 10, 2009

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Relating to the Energy Efficiency and	:	
Conservation Plan	:	

REPLY BRIEF ON BEHALF OF THE PENNSYLVANIA
ASSOCIATION OF COMMUNITY ORGANIZATIONS
FOR REFORM NOW ("ACORN")

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Dated: September 10, 2009

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I. INTRODUCTION

On July 1, 2009, West Penn Power Company d/b/a/ Allegheny Power (“Allegheny” or “the company”), pursuant to Act 129 of 2008, filed an Energy Efficiency and Conservation Plan (“EE&C Plan” or “Plan”) proposing to meet the legal requirements of Act 129. The Pennsylvania Association of Community Organizations for Reform Now (“ACORN”) respectfully asserts that elements of Allegheny’s Plan pertaining to low income households require revision prior to approval by the Pennsylvania Public Utility Commission (“Commission”).

II. PROCEDURAL HISTORY

Please refer to ACORN’s Main Brief at pages 2-4 for a procedural history.

III. DESCRIPTION OF EDC PLAN

Please refer to ACORN’s Main Brief at pages 4-5 for a description of Allegheny’s EE&C Plan.

IV. SUMMARY OF ARGUMENT

ACORN maintains its position advocated in stakeholder meetings through this Reply Brief that Act 129 requires EDCs to accrue special, targeted energy savings for low income households, defined as households with income at or below 150 percent FPIG. 66 Pa.C.S. § 2806.1(b)(1)(I)(G). ACORN continues to maintain that determining the exact level of those low income energy savings is a difficult process and so the methodology used by the company must be as transparent as possible. ACORN respectfully requests the Commission require Allegheny

to file a revised Plan in which the company provides complete information, including clear calculations with all underlying assumptions, justifying its Plan does indeed substantially comply with the Act 129 low income requirements.

V. ARGUMENT

A. Act 129 Conservation and Demand Reduction Requirements

N/A.

1. Overall Conservation Requirements

N/A.

a. 2011 Requirements

N/A.

b. 2013 Requirements

N/A.

2. Overall Peak Demand Reduction Requirements

N/A.

3. Requirements for a Variety of Programs Equitably Distributed

N/A.

4. 10% Government/Non-Profit Requirement

N/A.

5. Low Income Program Requirements

ACORN maintains its position advocated in stakeholder meetings through this Reply Brief that Act 129 requires EDCs to accrue special, targeted energy savings for low income households, defined as households with income at or below 150 percent FPIG. 66

Pa.C.S. § 2806.1(b)(1)(I)(G). ACORN continues to maintain that determining the exact level of those low income energy savings is a difficult process and so the methodology used by the company must be as transparent as possible. ACORN respectfully requests the Commission require Allegheny to file a revised Plan in which the company provides complete information, including clear calculations with all underlying assumptions, justifying its Plan does indeed substantially comply with the Act 129 low income requirements.

- a. **While ACORN supports Allegheny's Plan as substantially complying with Act 129's Requirements, that support does not obviate the need for the company to file a revised Plan clearly showing Act 129 low income requirements have been indeed satisfied.**

ACORN's Direct Testimony stated Allegheny's Plan provided insufficient information with which to determine whether enough energy savings would accrue to low income households to satisfy Act 129. ACORN St. No. 1 at 4. Part of the problem with determining whether sufficient low income energy savings were targeted derives from ambiguity contained in the statutory language at Section 2806.1 (b)(1)(I)(G). ACORN St. No. 1 at 14-15; ACORN Main Brief at 9. ACORN postulated, since governmental entities are to receive a percentage share of overall energy savings, it is appropriate to interpret the parallel language of Section 2806.1(b)(1)(I)(G) as granting low income customers a percentage share of energy savings based on their proportionate energy usage in the service territory. ACORN St. No. 1 at 18-19; ACORN Main Brief at 6-8. ACORN noted in its Direct Testimony that Allegheny's Plan provides almost no information with which to determine whether proper calculations were made or with which to determine if the amount of energy savings targeted to low income households meets Act 129 requirements. ACORN St. No. 1 at 19-20. Allegheny's Plan does not even

include all of the low income households in its discussion, such as might be found in census data, only those households that are low income according to Allegheny's records. Allegheny EE&C Plan at 83 and 95; ACORN St. No. 1 at 21-22.

ACORN's Main Brief advocates the Commission should approve the low income segments of the Plan. ACORN Main Brief at 13 and 21. This recommendation was made based on the good faith assumption that the Plan substantially complies with the requirements of Act 129, even though the company did not explicitly provide all of the information related to calculating the low income energy saving targets. However, that does not obviate the need for the company to come forward in a revised Plan with the complete information justifying that the Plan does indeed comply with the Act 129 requirements. The burden of explicitly demonstrating the Plan's low income programs comply with Act 129's requirements for low income energy savings remains on the company and remains unmet. The Commission should require the company to satisfy that burden by filing a revised Plan in which the company provides complete information, including clear calculations, justifying that the Plan does indeed comply with the Act 129 low income requirements.

b. ACORN supports the analysis and critique by the Office of the Consumer Advocate of Allegheny's low income segments of its EE&C Plan.

The Office of the Consumer Advocate ("OCA") makes several cogent arguments in its Main Brief about problems with Allegheny's Plan's treatment of low income programs. These arguments harmonize with what ACORN has proposed and substantiate the argument that the Commission should require Allegheny to file a revised Plan in

which the company provides complete information, including clear calculations, justifying that the Plan does indeed comply with the Act 129 low income energy saving requirements.

The OCA comes to a similar conclusion as ACORN in determining Act 129 requires EDCs to target to low income households specific energy savings as a percentage of the overall savings. OCA Main Brief at 15. OCA, like ACORN, notes the parallel between the treatment of low income energy savings at Section 2806.1(b)(1)(I)(G) and those for governmental entities at Section 2806.1(b)(1)(I)(B). *Id.* OCA submits that “the most effective way to implement this Section [2806.1(b)(1)(I)(B)] is to require each EDC to ensure that a specific percentage of the overall savings to be achieved from the Plan is realized through programs and measure directed to the low-income customer segment.” *Id.* ACORN supports OCA’s analysis and conclusions.

OCA also critiques Allegheny’s method of identifying the number of low income customers in the service territory by relying on information about “confirmed or stated” low income customers in the company billing system. *Id.* at 17. OCA’s preferred method, like that of ACORN, is to rely on census data as the best indicator of how many low income customers reside in the service territory. *Id.*; ACORN St. No. 1 at 20. ACORN supports the OCA’s analysis and critique.

The OCA goes further than ACORN and critiques the specific mathematical analysis Allegheny performed and several of the assumptions those calculations were based upon. OCA Main Brief at 17-18. OCA postulates that the company should seek to attain 4.8 percent of its total Plan energy savings from the low income customer segment, rather than the 2.7 percent project savings of the company (or 2.8 percent of the Commission’s identified goal). *Id.*

While ACORN did not perform the same mathematical analysis as the OCA, nor recommend a specific alternative low income energy savings target for the company, ACORN agrees with and supports the OCA's analysis and recommendations. It is clear the company needs to provide an explicit method of calculating low income energy savings targets that uses a reliable source for the number of low income households in the service territory (such as the U.S. census) and explicitly enunciates all of the assumptions used to perform the calculations. ACORN respectfully recommends the Commission should require the company to file a revised Plan in which the company provides this explicit methodology.

6. Issues Relating to Individual Conservation and Demand Reduction Programs

a. **Residential**

N/A.

b. **Commercial**

N/A.

c. **Industrial**

N/A.

7. Proposals for Improvement of EDC Plan

a. **Residential**

No further reply is required.

b. **Commercial**

N/A.

c. **Industrial**

N/A.

B. Cost Issues

N/A.

1. Plan Cost Issues

N/A.

2. Cost Effectiveness/Cost-Benefit Issues

N/A.

3. Cost Allocation Issues

N/A.

4. Cost Recovery Issues

N/A.

C. CSP Issues

N/A.

D. Implementation and Evaluation Issues

1. Implementation Issues

N/A.

2. QA Issues

N/A.

3. Monitoring and Reporting Issues

a. Stakeholder Meetings and Involvement

N/A.

b. Tracking of Costs

N/A.

4. Evaluation Issues

N/A.

E. Other Issues

N/A.

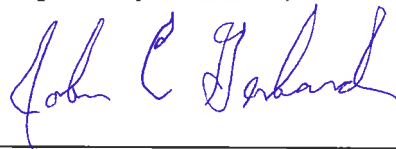
VI. CONCLUSION

In conclusion, ACORN reaffirms the position stated in its Direct Testimony and Main Brief, urges the Commission to consider the concurring arguments made in the OCA's Main Brief, and respectfully requests the Commission require Allegheny to file a revised Plan in which the company provides complete information, including clear calculations, justifying that the Plan does indeed substantially comply with the Act 129 low income energy savings requirements.

VII. PROPOSED ORDERING PARAGRAPHS

N/A.

Respectfully submitted,



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