**PENNSYLVANIA**

**PUBLIC UTILITY COMMISSION**

**Harrisburg, PA 17105-3265**

Public Meeting held June 16, 2010

Commissioners Present:

James H. Cawley, Chairman

Tyrone J. Christy, Vice Chairman

Wayne E. Gardner

Robert F. Powelson

Petition of West Penn Power Company Docket No. M-2009-2093218

d/b/a Allegheny Power for Approval

of its Energy Efficiency and Conservation

Plan, Approval of Recovery of its Costs

through a Reconcilable Adjustment Clause

and Approval of Matters Relating to the

Energy Efficiency and Conservation Plan

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**OPINION AND ORDER**

**BY THE COMMISSION:**

# I. Introduction

In the *Petition of West Penn Power Company d/b/a Allegheny Power for Approval of its Energy Efficiency and Conservation Plan, Approval of Recovery of its Costs through a Reconcilable Adjustment Clause and Approval of Matters Relating to the Energy Efficiency and Conservation Plan*, Docket No. M‑2009‑2093218 (Order entered October 23, 2009) (*October 2009 Order*), the Pennsylvania Public Utility Commission (Commission) approved in part and rejected in part the Energy Efficiency and Conservation Plan (Plan) filed by West Penn Power Company d/b/a Allegheny Power (Allegheny or the Company) pursuant to Act 129 of 2008 (Act 129 or the Act). The Commission required Allegheny to submit a revised Plan within sixty days.

The Company submitted its revised Energy Efficiency and Conservation Plan (Revised Plan) to the Commission for consideration and disposition. By Order entered March 1, 2010 (*March 2010 Order*) the Commission approved in part and rejected in part Allegheny’s Revised Plan. The Commission required the Company to submit a further revised Plan within sixty days.

Now before the Commission for consideration and disposition is the Company’s amended Energy Efficiency and Conservation Plan (Amended Plan) submitted by the Company on April 29, 2010. For the reasons set forth herein, we will approve Allegheny’s Amended Plan.

# II. Procedural History

A detailed procedural history was set forth in the *October 2009 Order* with subsequent procedural history set forth in the *March 2010 Order*. Consequently, this section summarizes the prior procedural history of this matter with the recent procedural history set forth in detail.

Allegheny filed its original Plan on July 1, 2009. The Plan was referred to Administrative Law Judge (ALJ) Katrina L. Dunderdale, who held public input hearings at Butler, Pennsylvania on July 31, 2009. ALJ Dunderdale also held evidentiary hearings on August 19 and 20, 2009.

The parties in this proceeding are: the Department of Environmental Protection (DEP); the Office of Consumer Advocate (OCA); the Office of Small Business Advocate (OSBA); the Office of Trial Staff (OTS); UGI Utilities, Inc.-Gas Division, UGI Penn Natural Gas, Inc., UGI Central Penn Gas, Inc., The Peoples Natural Gas Company d/b/a Dominion Peoples (collectively, the NGDCs); EnerNOC, Inc. (EnerNOC); West Penn Power Industrial Intervenors (WPPII); Association of Community Organizations for Reform Now (ACORN); Comperio Energy LLC d/b/a ClearChoice Energy (ClearChoice); Direct Energy Business, LLC; the Pennsylvania State University (Penn State); Field Diagnostic Services, Inc. (Field Diagnostic); and Constellation New Energy (CNE).

On September 10, 2009, ALJ Dunderdale certified the record to the Commission for consideration and disposition.

As stated previously, the *October 2009 Order* approved in part and rejected in part Allegheny’s Plan. *Inter alia*, the *October 2009 Order* directed Allegheny to file a revised Plan within sixty days. On November 9, 2009, the OSBA filed a Petition for Reconsideration (Petition) of the *October 2009 Order.* The Commission denied in part and granted in part the OSBA Petition by Opinion and Order entered on December 23, 2009 (*December 2009 Order)*. Specifically, the Commission denied the OSBA’s request that Allegheny be required to recognize Lighting customers served under Tariff No. 39, Schedules 51-59 and 71, as a separate class or classes for purpose of cost-recovery. *December 2009 Order* at 8. The Commission did, however, grant OSBA’s request that Allegheny be required to file a red‑line version of its revised plan. *December 2009 Order* at 11.

Allegheny filed its Revised Plan on December 21, 2009, with a corrected red‑lined version being filed on January 4, 2010. On December 24, 2009, the Commission issued a Secretarial Letter directing that Comments on the Revised Plan would be considered timely if filed on or before January 8, 2010, with Reply Comments being considered timely if filed on or before January 19, 2010.

Comments on the Revised Plan were submitted by OSBA and OCA. WPPII filed a letter noting that it did not object to Allegheny’s Revised Plan. Allegheny filed Reply Comments. By its *March 2010 Order,* the Commission approved in part and rejected in part Allegheny’s Revised Plan. The Company was directed to file a further revised Energy Efficiency and Conservation (EE&C) Plan within sixty days of the entry of the March 1, 2010 Order. Interested parties were given ten days following the filing of the further revised Plan in which to file comments, with reply comments due ten days thereafter.

On April 29, 2010, the Company submitted its Amended Plan. The Company also submitted a separate redline version of the Amended Plan showing changes to the version filed on December 21, 2009.

On May 10, 2010, EnerNOC filed Comments to the Amended Plan. No additional Comments or Reply Comments were filed.

# III. Description of the Amended Plan

The Plan was described in detail in the *October 2009 Order*, with changes to the Plan described in detail in the *March 2010 Order.* As a result, only the Plan changes filed on April 29, 2010, will be described in detail here.

The Amended Plan filed on April 29, 2010, proposes numerous changes in response to the *March 2010 Order*. Following is a list of changes contained in the Amended Plan:

* It contains revised program descriptions for the Customer Load Response and Customer Resources Demand Response Programs, to include additional information about the administrative, marketing and incentive cost structures for these two programs.
* It again adds the Distributed Generation Program as a separate program and provides additional information about the program and its budget.[[1]](#footnote-1)
* It revises the projected consumption and demand savings.
* It incorporates access to energy data and adds additional supporting information for the three demand response programs.
* It adds a chart showing projections of the consumption and demand reductions for each of the Company’s EE&C programs based on both existing metering and smart metering infrastructure.
* It contains additional minor edits that update implementation activities that have occurred since the original filing, as well as providing additional information on the Company’s plans and status of contracts with conservation service providers.

Allegheny cover letter to Amended Plan at 1 and 2. Allegheny notes that it pursued extensive input from demand response stakeholders and has included their input as part of the additional information and program revisions contained in the Amended Plan. Allegheny cover letter to Amended Plan at 1.

# IV. Discussion

In Commission proceedings, the proponent of a rule or order bears the burden of proof. 66 Pa. C.S. § 332(a). To satisfy that burden, the proponent of a rule or order must prove each element of its case by a preponderance of the evidence. *Samuel J. Lansberry, Inc. v. Pa. PUC*, 578 A.2d 600 (Pa. Cmwlth. 1990), alloc. denied, 529 Pa. 654, 602 A.2d 863 (1992). A preponderance of the evidence is established by presenting evidence that is more convincing, by even the smallest amount, than that presented by the other parties to the case. *Se-Ling Hosiery v. Margulies*, 364 Pa. 45, 70 A.2d 854 (1950). Additionally, this Commission’s decision must be supported by substantial evidence in the record. More is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established. *Norfolk & Western Ry. Co. v. Pa. PUC*, 489 Pa. 109, 413 A.2d 1037 (1980).

We note that any issue that we do not specifically address herein has been duly considered and will be denied without further discussion. It is well settled that we are not required to consider expressly or at length each contention or argument raised by the parties. *Consolidated Rail Corporation v. Pa. PUC*, 625 A.2d 741 (Pa. Cmwlth. 1993); *also see, generally, University of Pennsylvania v. Pa. PUC,* 485 A.2d 1217 (Pa. Cmwlth. 1984).

## A. Act 129 Conservation and Demand Reduction Requirements

### 1. Overall Conservation Requirements

The Opinion and Order entered January 16, 2009 at Docket No. M-2008-2069887 (*Implementation Order)*, at 8, noted that both the 1% consumption reduction, to be met by May 31, 2011, and the 3% consumption reduction, to be met by May 31, 2013, are to be measured against the electric distribution company’s (EDC’s) expected consumption as forecasted by the Commission for June 1, 2009, through May 31, 2010. 66 Pa. C.S. § 2806.1(c)(1) and (2). Each EDC that was required to file an EE&C plan was required to file its consumption forecast for the period of June 1, 2009, through May 31, 2010 by February 9, 2009.

In *Energy Consumption and Peak Demand Reduction Targets,* Docket No. M-2008-2069887 (Order entered March 30, 2009) (*Reduction Target Order*), the Commission approved Allegheny’s forecast of 20,938,650 MWh, its proposed 1% reduction of 209,387 MWh as of May 31, 2011, and its proposed 3% reduction of 628,160 MWh as of May 31, 2013.

The plan must include specific proposals to achieve or exceed these required reductions in consumption. 66 Pa. C.S. § 2806.1(b)(1)(i)(A) . The Commission is required to analyze how the program and individual plans will enable the EDC to achieve or exceed the requirements for reductions in consumption. 66 Pa. C.S.   
§ 2806.1(a)(4). The Commission is also required to develop procedures to ensure compliance with these requirements. 66 Pa. C.S. § 2806.1(a)(9).

#### a. 2011 Requirements

##### *March 2010 Order*

In our *March 2010 Order*, we found that the recalculated figures contained in the Revised Plan projected total energy savings that will meet the 2011 target set forth in the *Reduction Target Order*. *March 2010 Order* at 7. Nevertheless, as Allegheny added and revised some of its Plan measures, as directed by the Commission, its Amended Plan contains an updated projected total energy savings.

1. **Positions of the Parties**

Allegheny’s Amended Plan proposes energy efficiency and conservation measures that are estimated to produce total energy savings of 209,446 MWh by the end of the 2010 program year (May 31, 2011), which is slightly more than 100% of the established goal. Amended Plan at 31.

No Parties commented on the 2011 total energy savings projections.

1. **Disposition**

We find that the recalculated figures contained in the Amended Plan project total energy savings that will meet or exceed the 2011 target set forth in the *Reduction Target Order*.

#### b. 2013 Requirements

##### *March 2010 Order*

In our *March 2010 Order*, we found that the recalculated figures contained in the Revised Plan projected total energy savings that will meet the 2013 targets set forth in the *Reduction Target Order*. *March 2010 Order* at 8. Nevertheless, as Allegheny added and revised some of its Plan measures, as directed by the Commission, its Amended Plan contains an updated projected total energy savings.

1. **Positions of the Parties**

Allegheny’s Amended Plan proposes energy efficiency and conservation measures that are estimated to produce total energy savings of 649,059 MWh by the end of the 2012 program year (May 31, 2013), which is 103.3% of the established goal. Amended Plan at 31.

No Parties commented on the 2013 total energy savings projections.

##### Disposition

We find that the recalculated figures contained in the Amended Plan project total energy savings that will meet or exceed the 2013 targets set forth in the *Reduction Target Order*.

### 2. Overall Demand Reduction Requirements

The *Implementation Order*, at 9, noted that the 4.5% reduction in peak demand, to be met by May 31, 2013, is to be measured against the EDC’s historical peak load for June 1, 2007, through May 31, 2008. 66 Pa. C.S. § 2806.1(d). Each EDC that was required to file an EE&C plan was required to file, by February 9, 2009, certain peak load data for the period June 1, 2007, through May 31, 2008. To be in compliance with this directive, each EDC must demonstrate that its Plan produced demand savings during the 100 hours of highest demand for the period June 1, 2012, through September 30, 2012, equal to at least 4.5% of the average of the 100 highest peak hours during the period from June 1, 2007 to September 30, 2007. *Implementation Order* at 29. *See also*, Opinion and Order entered June 2, 2009, at Docket No. M-2008-2069887 (*Reconsideration Order)* at 4‑8.

In the *Reduction Target Order*, the Commission approved Allegheny’s calculation of its average historical peak loads for the top 100 hours as 3,496 MW and its proposed 4.5% reduction of 157 MW as of May 31, 2013.

The Plan must include specific proposals to achieve or exceed the required reductions in consumption. 66 Pa. C.S. § 2806.1(b)(1)(i)(A). The Commission is required to analyze how the program and individual plans will enable the EDC to achieve or exceed the requirements for reductions in consumption. 66 Pa. C.S.   
§ 2806.1(a)(4). The Commission is also required to develop procedures to ensure compliance with these requirements. 66 Pa. C.S. § 2806.1(a)(9).

#### *March 2010 Order*

In the *March 2010 Order*, we found that the recalculated figures contained in Allegheny’s Revised Plan projected total energy savings that would meet the 4.5% peak demand reduction target by September 30, 2012, as mandated by the Act and the *Implementation Order*. *March 2010 Order* at 10. Nevertheless, as Allegheny added and revised some of its Plan measures, as directed by the Commission, its Amended Plan contains an updated cumulative peak demand savings.

1. **Positions of the Parties**

Allegheny’s Amended Plan proposes energy efficiency and conservation measures that are estimated to produce cumulative peak demand savings of 204,334 kW by the end of the 2012 program year (May 31, 2013), which is 129.9% of the established goal. Amended Plan at 31.

No Parties commented on the 2013 total energy savings projections.

#### Disposition

We find that the recalculated figures contained in Allegheny’s Amended Plan project cumulative peak demand savings that will meet or exceed the 4.5% peak demand reduction target by September 30, 2012, as mandated by the Act and the *Implementation Order*.

**3. Requirements for a Variety of Programs Equitably Distributed**

The Commission’s EE&C Program must include “standards to ensure that each plan includes a variety of energy efficiency and conservation measures and will provide the measures equitably to all classes of customers.” 66 Pa. C.S.   
§ 2806.1(a)(5). Each EDC is required to demonstrate that its plan “provides a diverse cross section of alternatives for customers of all rate classes.” 66 Pa. C.S.   
§ 2806.1(b)(1)(i)(I).

#### *March 2010 Order*

In the *March 2010 Order*, we concluded that Allegheny’s Revised Plan met the requirement of the Act to equitably provide a variety of measures to all customer classes. The Commission recognized that Allegheny’s Revised Plan contained twenty‑one programs distributed across all customer classes, with at least one energy efficiency program and one demand response program for each customer class. *March 2010 Order* at 11.

1. **Positions of the Parties**

Allegheny’s Amended Plan has a portfolio of twenty‑two programs and rate offerings for all customer classes – residential, small commercial and industrial, large commercial and industrial, and government/nonprofit. Amended Plan at 13. Allegheny’s Amended Plan has eleven programs for the residential customer class, six programs for the small commercial and industrial customer class, four programs for the large commercial and industrial customer class and one for the government, school and non‑profit sector. Amended Plan at 13 and 29.

No Parties submitted comments on this aspect of the Amended Plan.

#### Disposition

We conclude that the Company’s Amended Plan meets the requirement of the Act to provide a variety of measures to all customer classes in an equitable manner. The Amended Plan contains twenty‑two programs distributed across all customer classes. Allegheny has provided at least one energy efficiency program and one demand response program for each class in accordance with the Commission’s *Implementation Order*.

### 4. Ten Percent Government/Non-Profit Requirement

The Act requires that “a minimum of 10% of the required reductions in consumption . . . 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).

#### a. *March 2010 Order*

The *March 2010 Order* stated that Allegheny’s approach to the government/non-profit sector contained in its Revised Plan was in substantial compliance with this requirement. *March 2010 Order* at 12.

**b.** **Positions of the Parties**

Allegheny revised its Government/School/Non-profit Lighting Efficiency Program by revising the program description for T8 lamp replacements. Amended Plan at 161. In addition, Allegheny has added the Distributed Generation Program as a program offering to the government/non-profit sector. Amended Plan at 167 and 168.

No Parties commented on this aspect of the Amended Plan.

#### c. Disposition

We find Allegheny’s approach to the government/nonprofit sector in its Amended Plan to be satisfactory and in substantial compliance with the Act, as well as our *October 2009 Order* and *March 2010 Order*.

### 5. Issues Relating to Individual Conservation and Demand Reduction Programs

#### a. Residential

#### *March 2010 Order* –Smart Meters

In the *March 2010 Order, we* reiterated our recognition that Allegheny’s reliance on the rapid deployment of smart meters and the associated network infrastructure does add an element of increased risk to its Plan. We noted that Allegheny’s Revised Plan acknowledged a revised smart metering implementation schedule, but failed to clearly denote which EE&C programs and measures are dependent upon implementation of its smart metering plan. As such, we required Allegheny to provide a chart clarifying its kilowatt‑hour (kWh) and kilowatt (kW) reductions for each of its programs that are achievable if its smart metering plan was not implemented within the established EE&C Plan timeline. *March 2010 Order* at 17 and 40.

In the *March 2010 Order*, we again strongly encouraged Allegheny to develop an alternate “back‑up” plan that is less reliant on smart meter deployment if the revised chart indicates that Allegheny will fall short of its minimum EE&C requirements if its smart metering plan is not implemented during the initial EE&C Plan period. We again stressed that such an alternate plan should be a readily available option that can be implemented on short notice, after Commission approval, should any unforeseen circumstances delay or disrupt Allegheny’s smart meter deployment. In addition, as we have continually encouraged the development of EE&C plans by engaging interested stakeholders, we encouraged Allegheny to continue to use this process in developing any such back‑up plan. *March 2010 Order* at 17 and 18.

1. **Positions of the Parties**

Allegheny added Appendix F.3 that provides a chart showing projections of the energy and demand reductions for each of the Amended Plan’s EE&C programs, based on existing metering versus smart metering infrastructure. Allegheny asserts that these projections are based on the load ratio share of the customers the Company can leverage with existing interval metering in providing the programs prior to deployment of smart metering infrastructure. Allegheny Cover letter at 2 and Amended Plan at 269‑271.

No Parties commented on this aspect of the Amended Plan.

##### Disposition

Because Allegheny bears the sole risk of significant penalties if it fails to meet the mandated targets, we have not directed Allegheny to eliminate the proposed programs that rely on smart meter deployment. The estimates contained in the chart found in Appendix F.3 of the Amended Plan, reveal that with existing meters Allegheny estimates that it will obtain 208,137 MWh savings by May 31, 2011, or 99.4% of its target. These estimates further reveal that with existing meters, Allegheny estimates that it will obtain 624,919 MWh of savings by May 31, 2013, or 99.5% of its target. Finally, the estimates contained in the chart reveal that with existing meters, Allegheny estimates that it will obtain 153,481 kW of demand savings by May 31, 2013, or 97.6% of its demand target. Amended Plan at 271.

The chart at Appendix F.3 indicates that Allegheny may fall short of its minimum EE&C requirements if its smart metering plan is not implemented as planned, therefore, the Commission once again strongly encourages Allegheny to develop an alternate “back‑up” plan that is less reliant on smart meter deployment. Such an alternate plan should be a readily available option that can be implemented on short notice, after Commission approval, should any unforeseen circumstances delay or disrupt Allegheny’s smart meter deployment. Having such a “back‑up” plan ready and available should reduce any delay in implementing such a plan to the time it takes to complete the Commission’s review process. In addition, as we have continually encouraged the development of EE&C plans by engaging interested stakeholders, we encourage Allegheny to continue to use this process in developing any such back‑up plan.

We recognize that the Amended Plan, as filed, is estimated to meet the Act’s targets in both 2011 and 2013. Therefore, as indicated in Sections A.1. and A.2. above, we still find that the Amended Plan projects consumption and demand savings that will meet or exceed the targets set forth in the *Reduction Target Order*, if implemented as planned. Consequently, we will not require Allegheny to revise its plan at this time. Again, as noted in our prior Orders at this Docket, we will closely monitor this element of Allegheny’s Amended Plan during the annual plan reviews and its review and monitoring of Allegheny’s Smart Meter Technology Procurement and Installation Plan.

#### b. Commercial/Industrial‑Distributed Generation & Demand Response

We will address issues related to programs targeting the small and large commercial and industrial sectors together in this section of the Order.

##### (1) *March 2010 Order*

In the *March 2010 Order*, the Commission rejected Allegheny’s proposed Customer Resources Demand Response Program due to the fact that the administrative costs were high and that there was an appearance of discrimination against Curtailment Service Providers that did not participate in the program. *March 2010 Order* at 21‑26. We directed Allegheny to provide revised estimates and detailed working papers on the marketing and administrative costs and to provide specific supporting information related to the program. *March 2010 Order* at 25, 26, 39 and 40.

In addition, in the *March 2010 Order*, we directed Allegheny to provide a more detailed and transparent explanation of the incentives to be provided under the Customer Resources Demand Response and Customer Load Response Programs. *March 2010 Order* at 39. We further directed Allegheny to develop a more integrated marketing and education plan for these two programs and to consult with stakeholders to develop a more transparent incentive price for them. *Id*.

**(2) Positions of the Parties**

Allegheny states that it has revised its Customer Load Response (CLR) and Customer Resources Demand Response (CRDR) Programs to address our concerns. Allegheny met with interested stakeholders on March 19, 2010 to further develop its CRDR, CLR and Distributed Generation Programs. Amended Plan at 27.

The significant changes to the CLR Program are as follows:

* Customers will receive incentives based on their actual hourly load reduction from their calculated baseline during events called by Allegheny.
* Customers will have flexibility in selecting how many hours they participate.
* Allegheny will educate customers on the CRDR program in conjunction with its education efforts for the CLR program.
* Allegheny reduced the CLR administrative costs from 60.4% to 51.8% of total costs.
* Estimated incentives paid by Allegheny range from $218 to $368 per MWh.
* The program incentives increased from 37.3% to 45.6% of total costs.
* The Total Resource Cost Ratio (TRC) for this program decreased from 2.3 to 1.3.

Amended Plan at 142‑147 and 272‑276.

The significant changes to the CRDR Program are as follows:

* Its implementation will begin in January 2011.
* Allegheny will contract with PJM Curtailment Service Providers (PJM CSPs) to provide services to register and dispatch customer curtailable load during targeted hours of Allegheny’s 100 hours of highest demand.
* The PJM CSPs and customers will have flexibility in selecting how many hours they will participate.
* Allegheny will pay the PJM CSP based on the actual load reduction that occurs during the curtailment events.
* The customer can choose any registered PJM CSP and Allegheny will provide a list of PJM CSPs that can register in the PJM markets.
* Allegheny will provide a list of eligible customers to the contracted PJM CSPs.
* Allegheny will develop sales, marketing and educational materials and assist PJM CSPs with recruiting potential customers.
* Allegheny will host an annual demand response seminar for customers, PJM CSPs and other stakeholders.
* Allegheny’s payments to PJM CSPs will be based on the actual measured load reduction from the customer baseline for each hour the load curtailment events.
* Prior to smart metering infrastructure installation, Allegheny will provide interval metering data via its Energy Data Services at no cost to any participating customer.
* PJM CSPs will be subject to an under‑performance penalty of 150% for hourly shortfalls and rewarded for over‑performance, capped at 10% of total contract.
* Allegheny reduced the CRDR administrative costs from 34% to 28% of total costs.
* Estimated incentives paid by Allegheny range from $275 to $425 per MWh.
* The program incentives increased from 64% to 69.7% of total costs.
* The distributed customer generation resource element was separated from this program.
* The TRC for this program increased from 0.7 to 1.7.

Amended Plan at 148‑153 and 272‑276.

Allegheny separated the Distributed Generation (DG) Program from the CRDR Program. Under the DG program, Allegheny will contract with a third‑party dispatchable generation provider (DG Manager) that will operate, maintain and dispatch a customer’s standby generator. The DG Manager will dispatch the customer generator up to 100 hours in response to notices issued by Allegheny. The participating customer will be paid an incentive on a dollar amount per MWh basis for each hour the customer generator is dispatched due to an Allegheny notice. Estimated incentives paid by Allegheny range from $275 to $425 per MWh. The estimated incentive costs amount to 60.9% of total program costs, while the estimated administrative costs amount to 34.8% of total program costs. This program has a TRC of 0.9. Amended Plan at 154‑159 and 272‑276.

EnerNOC comments that Allegheny’s Amended Plan is a significant improvement over the previous version. EnerNOC supports the Amended Plan’s reliance on market mechanisms to determine prices that will be paid to PJM CSPs, noting that such an approach will lead to a more accurate and comparable result. EnerNOC Comments at 5. EnerNOC comments that the penalty provision increases the credibility of the CRDR program. Finally, EnerNOC states that the Amended Plan provides all PJM “CSPs with an equal opportunity to compete on a level playing field.” EnerNOC Comments at 6.

##### (3) Disposition

We find that Allegheny’s Amended Plan addresses the concerns raised in our *March 2010 Order*. In the *March 2010 Order*, we directed Allegheny to submit a revised Customer Resources Demand Response Program that addressed the Commission’s concerns, which Allegheny has done. In our *March 2010 Order*, we directed Allegheny to include an explanation of how it will provide equitable access to data in situations where smart meters have not been deployed. *March 2010 Order*, Ordering ¶ 4 at 39. In its Amended Plan, Allegheny specifically notes that participants in the CRDR program without smart meters will have access to interval metering data via Allegheny’s Energy Data Services, at no cost to the customer. Amended Plan at 149. This data will be available in an excel spreadsheet on a monthly or daily basis, with the daily data available the next day. Amended Plan at 149 and 150. We find that Allegheny’s Amended Plan appropriately addresses our concern about customer access to data where smart meters have not been deployed.

In the *March 2010 Order*, we directed Allegheny to include detailed cost information and an explanation associated with the various elements of the CRDR program. *March 2010 Order*, Ordering ¶ 5 at 39. In its Amended Plan, Allegheny provided an expanded explanation of its marketing, incentive and administrative costs associated with the CRDR program. See Amended Plan at 148‑153 and Appendices F.4‑F.8 at 272‑276. We find that Allegheny’s Amended Plan provides detailed cost information and an explanation associated with the various elements of the Customer Resources Demand Response Program in compliance with the *March 2010 Order*.

In the *March 2010 Order*, we directed Allegheny to provide a more detailed and transparent explanation of the incentives to be provided under the Customer Resources Demand Response and Customer Load Response programs. *March 2010 Order*, Ordering ¶ 6 at 39. In Appendix F.6 to its Amended Plan, Allegheny provided a detailed summary of the customer incentives expected to be paid by Allegheny and PJM for each of the Customer Load Response, Customer Resources Demand Response and Distributed Generation Programs. Amended Plan at 274. In addition, Allegheny provided a detailed explanation of each of these programs’ incentives in the Programs section of its Amended Plan. See Amended Plan at 145, 151 and 157. We find that Allegheny’s Amended Plan provides detailed and transparent explanations of the incentives being offered under the Customer Resources Demand Response and Customer Load Response programs, as well as the Distributed Generation Program, in compliance with the *March 2010 Order*.

In the *March 2010 Order*, we directed Allegheny to consult with stakeholders to develop a more transparent incentive price for both the Customer Resource Demand Response and Customer Load Response Programs. *March 2010 Order*, Ordering ¶ 7 at 39. In its Amended Plan, Allegheny notes that it met with interested stakeholders on March 19, 2010 and other occasions to develop the Customer Resource Demand Response, Customer Load Response and Distributed Generation Programs. See Amended Plan at 27 and Appendix F.4 at 272. In addition, Allegheny states that it plans to host an annual seminar focused on providing information on these three programs to customers, PJM CSPs and other stakeholders. Amended Plan at 144, 150 and 151. We find that Allegheny has consulted with stakeholders to develop more transparent incentives for the Customer Resources Demand Response and Customer Load Response programs, as well as the Distributed Generation Program, in compliance with the *March 2010 Order*.

In the *March 2010 Order*, we directed Allegheny to develop a more integrated marketing and education plan for its Customer Resource Demand Response and Customer Load Response Programs. *March 2010 Order*, Ordering ¶ 8 at 39. In its Amended Plan, Allegheny states that it will develop sales, marketing and educational materials that provide details on all curtailment type programs, including the Customer Resource Demand Response, Customer Load Response and Distributed Generation Programs. All such marketing materials will promote all demand response programs equally and will encourage customers to select a PJM CSP that can best address their needs. Furthermore, Allegheny will assist PJM CSPs in recruiting potential customers. Amended Plan at 144, 150 and 156. We find that Allegheny’s Amended Plan provides a more integrated marketing and education plan for its Customer Resources Demand Response and Customer Load Response programs, as well as the Distributed Generation Program, in compliance with the *March 2010 Order*.

In the *March 2010 Order*, we directed Allegheny to provide revised estimates and detailed working papers on the marketing and administrative costs related to the services provided under the Customer Resource Demand Response and Customer Load Response Programs, along with additional supporting information. *March 2010 Order*, Ordering ¶ 9 at 40. Allegheny’s Amended Plan provided revised estimates and detailed working papers on the marketing and administrative costs related to the Customer Resource Demand Response, Customer Load Response and Distributed Generation Programs in Appendices F.5‑F.8. Amended Plan at 273‑276. The Amended Plan also gave a more detailed description of the marketing and administrative work to be performed under each of these three programs. See Amended Plan at 144, 146, 150, 151, 152, 156 and 158. We find that Allegheny’s Amended Plan provides revised estimates and detailed working papers on the marketing and administrative costs related to services provided under the Customer Resources Demand Response and Customer Load Response programs, as well as the Distributed Generation Program, in compliance with the *March 2010 Order*.

We further find that Allegheny’s Customer Resources Demand Response, Customer Load Response and the Distributed Generation Programs, as set forth in its Amended Plan, address the concerns raised in our prior Orders at this Docket. As proposed in the Amended Plan, these three programs are more transparent and do not favor one program over the others. The marketing of each program will be coordinated, in that all three programs will be promoted equally. The incentives for each program are comparable. The customer will be free to choose to participate through its current PJM CSP, a new PJM CSP, an Allegheny selected CSP or Allegheny itself. Allegheny has reduced the administrative costs associated with these programs. Finally, these three programs will assist Allegheny in meeting the Act 129 consumption and peak demand reduction targets. For these reasons, we approve Allegheny’s Customer Resources Demand Response, Customer Load Response and Distributed Generation Programs as submitted in Allegheny’s Amended Plan.

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## B. Cost Issues

### 1. Cost Effectiveness/Cost-Benefit Issues

Each EDC must demonstrate that its plan is cost effective using a total resource cost test approved by the Commission. 66 Pa. C.S. § 2806.1(b)(1)(i)(I). In addition, the Commission’s EE&C Program must include an analysis of the cost and benefit of each plan, in accordance with a total resource cost test approved by the Commission. 66 Pa. C.S. § 2806.1(a)(3).

#### a. *March 2010 Order*

In the *March 2010 Order*, we found that the Revised Plan continued to pass the Commission’s approved TRC Test. The Commission went on to note that Allegheny’s TRC Test results were based on estimates; as such, the Plan’s cost effectiveness is to be reviewed annually per the Act. *See* 66 Pa. C.S. §§ 2806.1(b)(1)(i)(J) and 2806.1(i). *March 2010 Order* at 31 and 32. As such, we required Allegheny to provide an updated TRC analysis of its Plan as part of its annual report. *March 2010 Order* at 32.

**b. Positions of the Parties**

Allegheny completed the Total Resource Cost Test on all programs based on the changes it made to programs, in accordance with the final Total Resource Cost Test. Allegheny updated its TRC Benefits Table, Table 7D, to include the changes to the Customer Load Response, Customer Resources Demand Response and Distributed Generation Programs. Amended Plan at 207. Allegheny also updated its Portfolio Summary of Lifetime Costs and Benefits, Table 1. Amended Plan at 40.

No Parties commented on this aspect of the Amended Plan.

1. **Disposition**

Allegheny has filed updated TRC calculations for all modifications made to its EE&C Plan. These revised calculations include new estimates for the annual energy savings, capacity savings, program costs, and program benefits for all programs within Allegheny’s Amended Plan. See Amended Plan, Tables 7A‑7E at 204‑207. Allegheny also included TRC calculations for its revised Customer Load Response, Customer Resources Demand Response and Distributed Generation Programs. Amended Plan, Table 7D at 207. Based on the estimates found in Allegheny’s Amended Plan, we find that it is possible to evaluate the changes made to the Plan. Using the estimates provided, it is possible to calculate the avoided cost per MWh saved as well as the avoided capacity costs used by Allegheny. While these remain estimates, we find that they meet the overall requirements of the TRC Test. While the Amended Plan shows minor changes to the calculated TRC values of some components, the overall TRC for the Plan remains unchanged at 4.1, due to rounding. Amended Plan at 40. As this still exceeds the threshold of a portfolio TRC ratio greater than or equal to 1, as set forth in the *Implementation Order* at 16, we find that the Amended Plan continues to pass the Commission’s approved TRC Test. We continue to note that the costs and benefits in Allegheny’s Revised Plan are estimates. As such, the Plan’s cost effectiveness will be reviewed annually and Allegheny will be required to provide an updated TRC Analysis as part of its Annual Report.

**V. Conclusion**

For the reasons set forth above, we approve the Amended Energy Efficiency and Conservation Plan submitted by West Penn Power Company d/b/a Allegheny Power, on April 29, 2010. West Penn Power Company d/b/a Allegheny Power is permitted to implement any portion of its Amended Energy Efficiency and Conservation Plan that has been approved without modification by the Commission in the *October 2009 Order*, the *March 2010 Order* or this Opinion and Order. As directed in the *Implementation Order* at 24, West Penn Power Company d/b/a Allegheny Power, as well as other interested parties, are permitted to propose plan changes in conjunction with its annual report filing required by Act 129 at 66 Pa. C.S. § 2806.1(i)(1). Furthermore, if West Penn Power Company d/b/a Allegheny Power believes it is necessary to modify its approved Plan, it may file, at any time, a petition requesting that the Commission rescind and amend its prior order approving the plan, in accordance with 52 Pa. Code §§ 5.41 (relating to petitions generally) and 5.572 (relating to petitions for relief); **THEREFORE;**

**IT IS ORDERED:**

1. That the Amended Energy Efficiency and Conservation Plan filed on April 29, 2010, by West Penn Power Company d/b/a Allegheny Power is approved consistent with this Opinion and Order.

2. That any directive, requirement, disposition or the like contained in the body of this Opinion and Order that is not the subject of an individual Ordering Paragraph, shall have the full force and effect as if fully contained in this part.

3. That a copy of this Opinion and Order be served on all of the parties of record and on Steven Pincus, Assistant General Counsel for the PJM Interconnection, L.L.C.

4. That West Penn Power Company d/b/a Allegheny Power is permitted to implement its Amended Energy Efficiency and Conservation Plan consistent with this Opinion and Order.

** BY THE COMMISSION,**

Rosemary Chiavetta

Secretary

(SEAL)

ORDER ADOPTED: June 16, 2010

ORDER ENTERED: **June 23, 2010**

1. The Distributed Generation Program was a separate program in the Company’s original June 30, 2009 filing, but was consolidated with the Customer Resources Demand Response Program in the Company’s December 21, 2009 filing..ms, to include additional information about the adminis [↑](#footnote-ref-1)