**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Harrisburg, Pennsylvania 17105-3265**

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| **In Re: Petition of West Penn Power Company d/b/a Allegheny Power for Expedited Approval of its Smart Meter Technology and Installation Plan**  |  | **Public Meeting held July 15, 2010****2123951-OSA****Docket No. M-2009-2123951** |

**DISSENTING STATEMENT OF COMMISSIONER GARDNER**

West Penn has asked the Commission to stay the Exception period in its Smart Meter Plan which was filed on August 14, 2009.

West Penn argues that a Stay of the Exception period in this case is necessary and appropriate so that the Parties may consider the impact of the proposed merger or acquisition of West Penn’s parent, Allegheny Power and its affiliates, with or by FirstEnergy Corp., on West Penn’s Smart Meter Plan.

The majority today grants what is effectively a 120-day stay of proceedings to West Penn. I do not believe that granting a stay is in the public interest. I doubt that we can accurately predict when the merger proceeding will be concluded especially given the fact that multiple jurisdictions must approve the action. Furthermore, we cannot rule out the possibility of the merger proceeding stalling or ultimately being denied. West Penn filed its Smart Meter Plan last August. As such, the Company has already expended considerable resources to create the Plan and to litigate it. Delaying the proceeding at this very late stage in litigation cannot turn the clock back to save the Parties those resources and related expenses.

I believe that a better course of action would be to allow the Smart Meter proceeding litigation to proceed. Should the FirstEnergy/Allegheny merger prove successful, West Penn could amend its Smart Meter Plan at that time. Should the merger fail, West Penn’s customers will not have been unduly delayed in realizing the benefits of smart meters.

Based on the foregoing, I respectfully register my dissent.

 **July 15, 2010 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

 **Date Wayne E. Gardner, Commissioner**