



LAW OFFICES OF  
BENJAMIN L. WILLEY, LLC

June 9, 2010

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**VIA HAND DELIVERY**

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2<sup>nd</sup> Floor  
Harrisburg, PA 17120

Re: Joint Application of West Penn Power Company *dba* Allegheny Power, Trans-Allegheny Interstate Line Company and FirstEnergy Corp for a Certificate of Public Convenience Under Section 1102(a)(3) of the Public Utility Code Approving A Change In Control of West Penn Power Company and Trans-Allegheny Interstate Line; Docket Nos.: A-2010-2176520 and A-2010-2176732

Dear Secretary Chiavetta:

Enclosed for filing in the proceedings captioned above are an original and three copies of the York County Solid Waste and Refuse Authority's *Petition to Intervene* and an original and three copies of a *Motion for Admission Pro Hac Vice*. The enclosed pleadings have been served in accordance with the Certificate of Service attached to each of them.

One additional copy each pleading is enclosed. Please date stamp the extra copy of each pleading and return it to the courier for return to this office.

If you have any questions about this filing, please call me at 301-941-1972.

Sincerely,

Benjamin L. Willey

Encls:

Copy to:  
David Vollero, Executive Director, YCSWA  
Robert M. Strickler, Esq.

7272 WISCONSIN AVENUE, SUITE 300, BETHESDA, MD 20814  
TELEPHONE: 301-941-1972 FACSIMILE: 301-656-0183 (OFFICE -GENERAL)  
CELLULAR: 202-365-2713 FACSIMILE: 240-235-7775 (OFFICE - DIRECT)  
EMAIL: BLW@BWILLEYLAW.COM

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**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Joint Application of West Penn Power Company :  
*dba Allegheny Power, Trans-Allegheny Interstate* :  
Line Company and FirstEnergy Corp for a : Docket Nos. A-2010-2176520 and  
Certificate of Public Convenience Under Section : A-2010-2176732  
1102(a)(3) of the Public Utility Code Approving :  
A Change In Control of West Penn Power Company :  
and Trans-Allegheny Interstate Line :

**PETITION TO INTERVENE  
OF THE  
YORK COUNTY SOLID WASTE AND REFUSE AUTHORITY**

Pursuant to Rules 5.71-5.75 of the Rules of Administrative Practice and Procedure of the Pennsylvania Public Utility Commission, 52 Pa. Code §§ 5.71-5.75, the York County Solid Waste and Refuse Authority (“YCSWA”), by counsel, respectfully submits this Petition to Intervene in the matter captioned above.

Pursuant to PUC Rule 1.24(b)(1), the undersigned counsel of record, Robert M. Strickler, requests that this first responsive pleading be treated as an entry of appearance by the aforesaid Robert M. Strickler.

In support of its Petition to Intervene, the YCSWA states as follows.

**I. BACKGROUND INFORMATION**

**A. THE YCSWA**

1. The YCSWA was organized in 1971 as a public corporation under the Pennsylvania Municipality Authorities Act of 1945<sup>1</sup> as part of a comprehensive solid waste management plan by York County in response to the Pennsylvania Solid Waste Management

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<sup>1</sup> 53 P.S. § 301, *et. seq.*, as amended.

Act.<sup>2</sup> The YCSWA developed and owns the York County Resource Recovery Center (“YCRRC”), which uses municipal solid waste (“MSW”), a recognized renewable fuel, to generate electric energy. The YCRRC was qualified under the Public Utility Regulatory Policies Act of 1978<sup>3</sup> on November 3, 1986,<sup>4</sup> as a qualifying small power production facility (“QF”).

2. The electric energy output of the YCSWA’s QF, a non-utility generator (“NUG,”) is sold to Metropolitan Edison Company, (“MetEd”) pursuant to a Power Purchase Agreement (“PPA”) between the YCSWA and MetEd, dated November 25, 1986, as amended on April 2, 1993, and June 22, 1994. Unless otherwise extended, the PPA will terminate on December 31, 2016.

#### **B. PROCEDURAL HISTORY**

3. On May 18, 2010, West Penn Power Company, dba Allegheny Power (“West Penn”), Trans-Allegheny Interstate Line Company (“TrAllCo”), and FirstEnergy Corporation (“FE”),<sup>5</sup> filed a joint application pursuant to Chapters 11 and 28 of the Pennsylvania Public Utility Code for a change of control whereby Allegheny Energy, Inc. (“Allegheny”), the ultimate parent company of West Penn and TrAllCo, would become a wholly owned subsidiary of FE.

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<sup>2</sup> 35 P.S. § 6018.101, *et. seq.*, as amended

<sup>3</sup> 16 U.S.C. §824a-3 (2000). See also REGULATIONS UNDER SECTIONS 201 AND 210 OF THE PUBLIC UTILITY REGULATORY POLICIES ACT OF 1978 WITH REGARD TO SMALL POWER PRODUCTION AND COGENERATION, 18 C.F.R. Part 292 (2004).

<sup>4</sup> *York County Solid Waste and Refuse Authority*, 37 FERC ¶ 62,100 (1986). On October 11, 1991, the Federal Energy Regulatory Commission granted a request by the YCSWA for recertification to reflect an increase of the QF’s net electric power production capacity to 37 MW. *York County Solid Waste and Refuse Authority*, 57 FERC ¶ 62,023 (1991).

<sup>5</sup> When referred to collectively herein, West Penn, TrAllCo, and FE will be referred to as the “Joint Applicants.”

Additionally, the Joint Applicants requested approval of revisions to affiliated interest agreements pursuant to Chapter 21 of the Pennsylvania Utility Code.<sup>6</sup>

4. The merger herein proposed will affect and impact the operations of FE and its subsidiaries, including MetEd, in ways and to an extent that is not at this time fully discernible without the benefit of discovery and review.

5. The YCSWA, in its status as a NUG selling energy to MetEd pursuant to the YCSWA-MetEd PPA until December 31, 2016, and in its status as a potential electric generation supplier after December 31, 2016, providing service to customers in the MetEd service territory, will be affected, both now and in the future, to a degree as yet unknown by changes in the operations of FE through its subsidiary operating company, MetEd.

## II. SERVICE ON THE YCSWA

6. The YCSWA requests that all communications, discovery, pleadings, and briefs in these consolidated proceedings be served on the YCSWA through counsel, Benjamin L. Willey, as follows:

Benjamin L. Willey  
Law Offices of Benjamin L. Willey, LLC  
7272 Wisconsin Avenue  
Suite 300  
Bethesda, MD 20814  
Telephone: 301-941-1972  
Telefax: 240-235-7775  
Email: blw@bwilleylaw.com

7. The YCSWA also requests that parties provide a courtesy copy (via electronic mail only) of all communications, pleadings, discovery, and briefs in these consolidated

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<sup>6</sup> 66 Pa.C.S. §§ 2102.

proceedings to the following persons at the electronic mail addresses stated:

David Vollero  
Executive Director, York County Solid Waste and Refuse Authority  
Email: d.vollero@ycswa.com

Robert M. Strickler  
Griffith, Strickler, Lerman, Solymos & Calkins  
Counsel for the York County Solid Waste and Refuse Authority  
Email: rstrickler@gslsc.com

### **III. THE YCSWA'S INTERESTS**

8. In accordance with PUC Rules 5.72(a)(2) and 5.73, the YCSWA states and avers that as a present supplier of electric energy to FE's subsidiary operating company, MetEd, and as a potential future EGS providing service in the MetEd service territory, the YCSWA will be bound by any Commission order in these proceedings and has a direct and compelling interest in the outcome of these proceedings which cannot be adequately represented by any other party.

### **IV. THE YCSWA'S POSITION**

9. The YCSWA believes that the Joint Applicants' proposed merger raises concerns about the scope and degree of changes the proposed merger will have or may have on the operations of MetEd as a FE operating subsidiary and that those changes in the operations of MetEd will concomitantly impact and affect the YCSWA in its present and possible future posture.

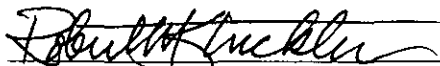
10. The YCSWA's interests are unique to its operational and contractual situation in relation to MetEd, in particular, in relation to the Joint Applicants, in general, and in relation to any one of myriad other potential parties, as yet unidentified, whose positions, as these proceedings progress, could adversely impact the YCSWA's interests.

**V. CONCLUSION**

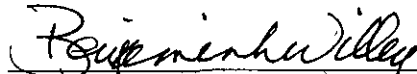
11. The YCSWA respectfully files this Petition to Intervene based on its existing and future interests that are at stake in this proceeding and cannot be adequately represented by any other party. Accordingly, for the reasons stated herein, the YCSWA respectfully prays that this Petition to Intervene be granted.

Date: June 9, 2010

Respectfully submitted,



Robert M. Strickler  
Attorney Registration No. 07496  
Griffith, Strickler, Lerman, Solymos & Calkins  
110 S. Northern Way  
York, PA 17402-3737  
Telephone: 717-757-7602  
Facsimile: 717-757-3783  
Email: rstrickler@gslsc.com  
Counsel of Record



Benjamin L. Willey  
Law Offices Of Benjamin L. Willey  
7272 Wisconsin Avenue  
Suite 300  
Bethesda, MD 20814  
Telephone: 301-941-1972  
Telefax: 240-235-7775  
Email: blw@bwilleylaw.com  
Counsel *pro hac vice*  
(Motion for Admission *pro hac vice*  
Pending)

**COUNSEL FOR THE  
YORK COUNTY SOLID WASTE AND REFUSE AUTHORITY  
2700 BLACKBRIDGE ROAD  
YORK, PA 17406  
TELEPHONE: 717-845-1066**

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Company and Trans-Allegheny Interstate Line :

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a true copy of the foregoing Petition to Intervene on the participants, listed below, in accordance with the requirements of § 1.54 (relating to service by a participant).

Date: June 9, 2010

**Service by Hand Delivery, Addressed as Follows:**

Rosemary Chiavetta  
Secretary  
Pennsylvania Public Utility Commission  
2<sup>nd</sup> Floor  
Commonwealth Keystone Building  
Harrisburg, PA 17120

**Service by Electronic Mail and by USPS First-Class Mail, Postage Prepaid Addressed as Follows:**

Thomas P. Gadsden, Esquire  
Kenneth M. Kulak, Esquire  
Anthony C. DeCusatis, Esquire  
Lewis & Bockius LLP  
1701 Market Street  
Philadelphia, PA 19103-2921  
tgadsden@morganlewis.com  
kkulak@morganlewis.com  
adecusatis@morganlewis.com

William R. Lloyd, Esquire  
Office of Small Business Advocate  
1102 Commerce Building  
300 North Second Street  
Harrisburg, PA 17101  
Email: willlloyd@state.pa.us

Regina L. Matz, Esq.  
Thomas T. Niesen, Esq.  
Thomas, Long, Niesen & Kennard  
P.O. Box 9500  
Harrisburg, PA 17108-9500  
Email: rmatz@thomaslonglaw.com  
Email: tniesen@thomaslonglaw.com

Randall R. Palmer, Esq.  
Jennifer L. Petrisek, Esq.  
Allegheny Energy, Inc.  
800 Cabin Hill Drive  
Greensburg, PA 15601  
rpalmer@alleghenyenergy.com  
jpetrisek@alleghenyenergy.com

Scott J. Rubin  
333 Oak Lane  
Bloomsburg, PA 17815  
Email: scott.j.rubin@gmail.com

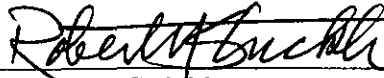
Wendy E. Stark, Esq.  
Bradley A. Bingaman, Esq.  
FirstEnergy Service Company  
2800 Pottsville Pike  
P.O. Box 16001  
Reading, PA 19612-6001  
Email: starkw@firstenergycorp.com  
Email: bingamanb@firstenergycorp.com

W. Edwin Ogden, Esq.  
Alan Michael Seltzer, Esq.  
Ryan Russell Ogden & Seltzer, PC  
Suite 210  
1150 Berkshire Blvd  
Wyomissing, PA 19610-1208  
Email: eogden@ryanrussell.com  
aseltzer@ryanrussell.com

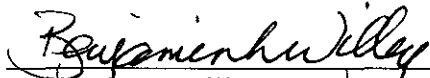
Irwin Popowsky  
Office of Consumer Advocate  
5<sup>th</sup> Floor Forum Place  
555 Walnut Street  
Harrisburg, PA 17101-1923  
Email: spopowsky@paoca.org

Johnnie E. Simms, Esq.  
PA PUC Office of Trial Staff  
P.O. Box 3265  
Harrisburg, PA 17105-3265  
Email: josimms@state.pa.us





Robert M. Strickler  
Attorney Registration No. 07496  
Griffith, Strickler, Lerman, Solymos & Calkins  
110 S. Northern Way  
York, PA 17402-3737  
Telephone: 717-757-7602  
Facsimile: 717-757-3783  
Email: rstrickler@gslsc.com  
Counsel of Record



Benjamin L. Willey  
Law Offices Of Benjamin L. Willey  
7272 Wisconsin Avenue  
Suite 300  
Bethesda, MD 20814  
Telephone: 301-941-1972  
Telefax: 240-235-7775  
Email: blw@bwilleylaw.com  
Counsel *pro hac vice*

**COUNSEL FOR THE  
YORK COUNTY SOLID WASTE AND REFUSE AUTHORITY  
2700 BLACKBRIDGE ROAD  
YORK, PA 17406  
TELEPHONE: 717-845-1066**