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OCT 29 2010

October 29, 2010

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

**VIA FEDERAL EXPRESS**

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
P.O. Box 3265  
Harrisburg, PA 17120

**Re:    Joint Application of West Penn Power Company doing business as 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 of Control of West Penn Power Company and Trans-Allegheny Interstate Line Company, Docket Nos. A-2010-2176520, A-2010-2176732**

Dear Secretary Chiavetta:

Enclosed for filing are an original and three copies of the **Statement Of FirstEnergy Corp., West Penn Power Company, And Trans-Allegheny Interstate Line Company In Support Of The Joint Petition For Partial Settlement** in the above-captioned matter. A copy of the Statement in Support in searchable PDF format is also enclosed. As evidenced by the attached Certificate of Service, a copy of the Statement in Support is being served upon Administrative Law Judges Wayne L. Weismandel and Mary D. Long and all parties.

Pursuant to 52 Pa. Code § 1.11(2), the enclosed Statement In Support shall be deemed filed on the date shown on the express delivery receipt attached to the delivery envelope.

Rosemary Chiavetta, Secretary  
October 29, 2010  
Page 2

Should you have any questions regarding this matter, please do not hesitate to contact me.

Very truly yours,



Kenneth M. Kulak

KMK/ap  
Enclosures

c: Per Certificate of Service

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PA PUBLIC UTILITY COMMISSION  
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**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION OCT 29 2010**

**JOINT APPLICATION OF WEST PENN :  
POWER COMPANY *doing business as* :  
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 OF :  
CONTROL OF :  
WEST PENN POWER COMPANY AND :  
TRANS-ALLEGHENY INTERSTATE :  
LINE COMPANY :**

**PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU**

**DOCKET NOS. A-2010-2176520  
A-2010-2176732**

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**STATEMENT OF FIRSTENERGY CORP.,  
WEST PENN POWER COMPANY, AND  
TRANS-ALLEGHENY INTERSTATE LINE COMPANY  
IN SUPPORT OF  
THE JOINT PETITION FOR PARTIAL SETTLEMENT**

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**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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SECRETARY'S BUREAU**

**JOINT APPLICATION OF WEST PENN  
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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 OF CONTROL OF  
WEST PENN POWER COMPANY AND  
TRANS-ALLEGHENY INTERSTATE LINE  
COMPANY**

**DOCKET NOS. A-2010-2176520  
A-2010-2176732**

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**STATEMENT OF FIRSTENERGY CORP.,  
WEST PENN POWER COMPANY, AND  
TRANS-ALLEGHENY INTERSTATE LINE COMPANY  
IN SUPPORT OF  
THE JOINT PETITION FOR PARTIAL SETTLEMENT**

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**I. INTRODUCTION**

On October 25, 2010, FirstEnergy Corp. ("FirstEnergy"), West Penn Power Company ("West Penn"), doing business as Allegheny Power, Trans-Allegheny Interstate Line Company ("TrAILCo") (collectively the "Joint Applicants"), the Pennsylvania Public Utility Commission Office of Trial Staff ("OTS"), the Office of Consumer Advocate ("OCA"), the Pennsylvania Department of Environmental Protection ("DEP"), the International Brotherhood of Electrical Workers ("IBEW"), the Utility Workers Union of America, AFL-CIO ("UWUA") and UWUA System Local No. 102 ("Local 102") (collectively, "UWUA Intervenors"), the Pennsylvania State University ("PSU"), the Met-Ed Industrial Users Group ("MEIUG") and the Penelec Industrial Customer Alliance ("PICA") (collectively, "MEIUG/PICA"), the West Penn Power Industrial Intervenors ("WPPII"), the Pennsylvania Rural Electric Association ("PREA"), the Pennsylvania Mountains Healthcare Alliance ("PMHA"), the West Penn Power Sustainable

Energy Fund (“WPPSEF”), the York County Solid Waste and Refuse Authority (“YCSWA”), ARIPPA, the Clean Air Council (“CAC”), Citizens for Pennsylvania’s Future (“PennFuture”), and Constellation New Energy, Inc. and Constellation Energy Commodities Group, Inc. (“Constellation”) (collectively, the “Joint Petitioners”) filed with the Pennsylvania Public Utility Commission (the “Commission”) a Joint Petition For Partial Settlement (“Joint Petition”) in the above-captioned proceeding. The Joint Petition resolved all issues in this proceeding for the Joint Petitioners.<sup>1</sup> This Statement in Support (the “Statement”) is filed pursuant to Paragraph 61 of the Joint Petition. In addition, the Joint Applicants will be filing a brief supporting the Merger (as modified by the Settlement) and addressing the issues raised by the non-settling parties and the 12 issues provided by the Commission in its June 3, 2010 Secretarial Letter.

The settlement embodied in the Joint Petition (the “Settlement”) was achieved only after an extensive investigation by the parties of the Joint Applicants’ requested change of control of West Penn and TrAILCo, which included substantial discovery, the submission of direct, rebuttal, surrebuttal and oral rejoinder testimony, and four days of hearings before Administrative Law Judges Wayne L. Weisman and Mary A. Long. In addition, over a period of several weeks, the Joint Petitioners engaged in extensive discussions and negotiations about the terms of the Settlement.

The Joint Applicants are in full agreement with the Settlement and each of the affirmative public benefits identified in the Joint Petition. In this Statement, the Joint Applicants offer additional reasons why the Settlement is in the public interest and should be approved.

## **II. OVERVIEW OF THE SETTLEMENT**

On May 14, 2010, West Penn, TrAILCo and FirstEnergy filed a Joint Application to obtain the approval of the Commission under Chapters 11 and 28 of the Public Utility Code for a

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<sup>1</sup> Four parties to this proceeding did not join the Joint Petition: the Office of Small Business Advocate (“OSBA”); Direct Energy Services, LLC; the Retail Energy Supply Association, and Citizen Power.

change of control of West Penn and TrAILCo to be effected by the merger of Allegheny Energy, Inc. (“Allegheny”) with Element Merger Sub., Inc., a wholly-owned subsidiary of FirstEnergy (the “Merger”). The Joint Applicants also requested that the Commission approve, under Chapter 21 of the Public Utility Code, certain revisions to affiliated interest arrangements that are designed to facilitate the sharing of services between the Allegheny and FirstEnergy systems and thereby take advantage of the synergies that the proposed Merger is expected to produce.

Section 1102(a)(3) of the Public Utility Code requires the Commission to issue a certificate of public convenience, upon application, to authorize a “public utility or an affiliated interest of a public utility” to “acquire from, or transfer to [any other entity by any means whatsoever] the title to, or the possession or use of, any tangible or intangible property used or useful in the public service.” 66 Pa. C. S. § 1102(a)(3). In *City of York v. Pa. P.U.C.*, 449 Pa. 136, 295 A.2d 825, 828 (1972), the Pennsylvania Supreme Court held that those seeking approval of a utility merger must demonstrate that the merger “will affirmatively promote the ‘service, accommodation, convenience, or safety of the public’ in some substantial way.” Evidence deemed sufficient to satisfy this standard has included testimony that the merger would produce a stronger company; that investors would be more attracted to a larger enterprise; that certain duplicative tasks would be eliminated; that service would be improved; that economies of scale or scope would result in lower costs and could give rise to lower rates in the future than would otherwise be the case; and that the merged entities could improve their operations by sharing best practices. *City of York, supra*; see also *Popowsky v. Pa. P.U.C.*, 937 A.2d 1040, 1056-1060 (Pa. 2007).

The Joint Application set forth substantial affirmative public benefits from the Merger, including the following:

- **Increased Scale, Scope and Diversification.** With ten utility franchises serving more than six million customers in seven states in a service territory comprising approximately 67,000 square miles, the combined company is expected to generate many benefits in terms of improved service, reliability, and operational flexibility. (Joint Application, p. 11)
- **Increased Financial Strength and Flexibility.** The increased scale and scope of the combined company is ultimately expected to strengthen the balance sheet of the combined company, creating a larger, financially stronger parent company that is better positioned to compete for and attract capital on reasonable terms for its public utility subsidiaries. (Joint Application, p. 12)
- **Enhanced Expertise in Competitive Energy Markets, Energy Technologies, and Regional Issues.** The combined company is expected to be able to draw upon the intellectual capital, technical expertise and experience of a deeper and more diverse workforce, with particular skills in managing distribution companies in competitive energy markets. (Joint Application, p. 12)
- **Commitment to Employees and Enhanced Employee Opportunities.** The Merger will offer expanded opportunities to Allegheny employees for career advancement and professional growth for those employees who remain with the combined company, and the Joint Applicants have made specific commitments regarding the maintenance of West Penn's regional headquarters in Greensburg, Pennsylvania as well as employment levels after the Merger and existing employee collective bargaining agreements and benefits. (Joint Application, p. 13)
- **Synergies, Efficiencies and Cost Savings.** The synergies that will accrue to the Pennsylvania utilities over time should, at least in part, offset the increasing cost of

providing regulated retail utility service and, thereby, can be expected to benefit customers by mitigating the need for future rate increases or reducing the size of future rate increase requests that would have otherwise been made absent the Merger. (Joint Application, p. 15)

- **Strong Leadership in Local Communities.** As noted previously, the regional headquarters of West Penn will remain in Greensburg, and FirstEnergy has agreed that, for a period of three years, it will maintain at least its current levels of charitable support in local communities. Thereafter, FirstEnergy will continue to support local charities at levels consistent with its commitments to other communities it serves. In addition, FirstEnergy will expand its network of Power System Institutes (“PSIs”) with the addition of a new PSI program within West Penn’s service territory to help students earn an associate’s degree in applied science or in technical studies with a focus on electric utility technology. (Joint Application, p. 16)

As a result of the Settlement, the Merger would also create significant additional substantial benefits, including:

- **Expanded employment commitments** regarding net employment levels in Greensburg, Pennsylvania and Westmoreland County following the Merger. (Joint Petition, ¶ 14)
- **Immediate rate credits** to West Penn residential customers totaling \$3.57 million per year for three years and rate credits under existing West Penn Tariff 37. (Joint Petition, ¶ 17)
- **A commitment to not increase the distribution rates of the FirstEnergy Pennsylvania Utilities** through October 1, 2012 absent extraordinary storm expense or changes by the Federal Energy Regulatory Commission in facilities included in transmission rates. (Joint Petition, ¶ 16)



- **Expanded universal service for West Penn customers**, including attaining a 55% penetration level for West Penn’s Customer Assistance Program over a five-year period and an increase in funding for West Penn’s Low-Income Usage Reduction Program. (Joint Petition, ¶¶ 20 & 22) In addition, FirstEnergy will review methods used by West Penn in raising money for its Hardship Fund and adopt any “best practices” to achieve additional fundraising success for the hardship programs of Metropolitan Edison Company, Pennsylvania Electric Company, and Pennsylvania Power Company (the “FirstEnergy Pennsylvania Utilities”). (Joint Petition, ¶ 21)
- **Commitments to specific reliability and customer service improvements** at West Penn. (Joint Petition, ¶ 49)
- **Expanded procurement of solar energy** by West Penn and the FirstEnergy Pennsylvania Utilities and funding of Commonwealth programs to support solar development. (Joint Petition, ¶¶ 25-29)
- **Additional financial governance commitments** by FirstEnergy, including ensuring that each FirstEnergy Pennsylvania utility maintains its own credit rating so long as it has debt outstanding and credit rating agencies are willing to provide such rating. (Joint Petition, ¶ 35)
- **Expanded retail market enhancements in West Penn’s service territory** consistent with programs offered in the service territory of the FirstEnergy Pennsylvania Utilities, including a similar purchase of receivables program.

### III. ADDITIONAL REASONS FOR APPROVAL OF THE SETTLEMENT

The Joint Applicants believe that the Joint Petition effectively explains why approval of the Settlement is in the public interest. *See* Joint Petition, ¶¶ 58-59. In this Statement, the Joint Applicants wish to also emphasize the following provisions of the Settlement which are

significant and unique commitments by the FirstEnergy Pennsylvania Utilities and West Penn that provide additional substantial affirmative benefits for customers and the Commonwealth:

- **Credit to customers of excess earnings.** As part of the Settlement, each of the FirstEnergy Pennsylvania Utilities will credit excess earnings to customers between the consummation of the Merger and October 1, 2012, if the utility earns a return on equity that exceeds 10.1% (subject to adjustments for pension normalization). (Joint Petition, ¶ 16)
- **Large-scale solar procurements for AEPS compliance.** While several Pennsylvania EDCs have undertaken solar procurements, the FirstEnergy Pennsylvania Utilities and West Penn are committing to procure **40%** of their solar requirements under Pennsylvania's Alternative Energy Portfolio Standard **through 2021** through the use of long-term contracts. This long-term market commitment (in addition to the solar funding described above) should significantly enhance opportunities for Pennsylvania's growing solar industry, to the benefit of all Pennsylvanians. (Joint Petition, ¶¶ 25-26)
- **A Joint Utility-Industrial Customer Committee** will be established to identify, discuss and address local power and service quality issues. (Joint Petition, ¶ 51)
- **Commitment to continued reliability investments for rural electric cooperatives.**
- **Expanded information on default supply procurements will be furnished to the Office of Consumer Advocate, Office of Trial Staff, and Office of Small Business Advocate,** including annual reports through 2015 addressing wholesale market prices and trends in the PJM markets. (Joint Petition, ¶ 54)

Together, the Joint Application and the Settlement ensure that the Merger will result in significant, substantial affirmative benefits for the customers of West Penn, TrAILCo, the FirstEnergy Pennsylvania Utilities, and all citizens of the Commonwealth of Pennsylvania. Therefore, the Merger should be approved by the Commission.

#### IV. CONCLUSION

For the reasons set forth herein and in the Joint Petition, the Joint Applicants respectfully request that Administrative Law Judges Weismandel and Long and the Commission enter an order:

1. Approving the Joint Petition for Partial Settlement submitted by the Joint Petitioners as set forth therein without modification, including all terms and conditions; and

2. Approving the change in control of West Penn Power Company and Trans-Allegheny Interstate Line Company and proposed affiliated interest agreements as set forth in the Joint Application, including all other additional approvals requested therein.

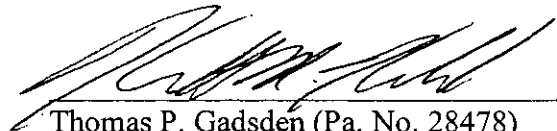
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Dated: October 29, 2010



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BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

JOINT APPLICATION OF WEST PENN :  
POWER COMPANY doing business as :  
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COMPANY AND FIRSTENERGY CORP. :  
FOR A CERTIFICATE OF PUBLIC : DOCKET NOS. A-2010-2176520  
CONVENIENCE UNDER SECTION : A-2010-2176732  
1102(A)(3) OF THE PUBLIC UTILITY CODE :  
APPROVING A CHANGE OF CONTROL OF :  
WEST PENN POWER COMPANY AND :  
TRANS-ALLEGHENY INTERSTATE LINE :  
COMPANY :

CERTIFICATE OF SERVICE

I hereby certify and affirm that I have this day served a copy of the **Statement Of FirstEnergy Corp., West Penn Power Company, And Trans-Allegheny Interstate Line Company In Support Of The Joint Petition For Partial Settlement** on the following persons in the matter specified in accordance with the requirements of 52 Pa. Code § 1.54:

**VIA ELECTRONIC MAIL AND FEDERAL EXPRESS**

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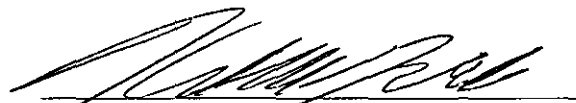
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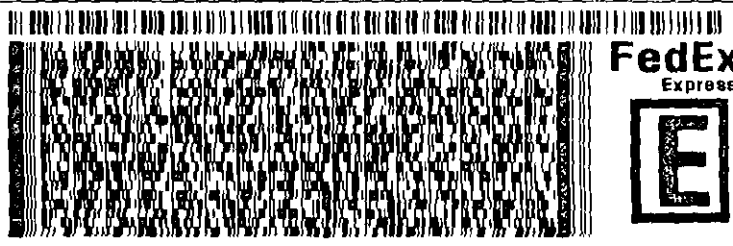
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**TO ROSEMARY CHIAVETTA, SECRETARY  
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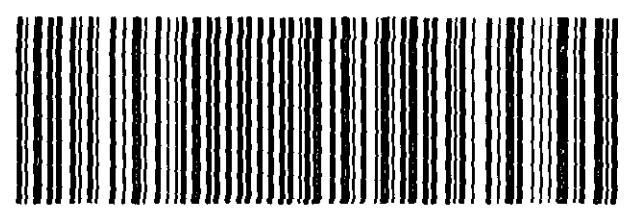
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