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October 28, 2010

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Rosemary Chiavetta, Secretary
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400 North Street
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Harrisburg, PA 17105-3265

In re: Dockets Nos. A-2010-2176520 and A-2010-2176732
Joint Application of West Penn Power Company, d/b/a Allegheny Power, Trans
Allegheny Interstate Line Company and FirstEnergy Corporation

Dear Secretary Chiavetta:

Enclosed for filing in the above matter on behalf of the West Penn Power Sustainable Energy Fund (WPPSEF) are an original and three copies of its Statement in Support of the Joint Petition for Partial Settlement filed with the Public Utility Commission on October 25, 2010. Please include the WPPSEF's Statement in Support as an addendum to the Joint Petition for Partial Settlement.

Copies of the WPPSEF's Statement in Support are being served upon the persons and in the manner set forth on the certificate of service attached to it. A CD with the Statement in Support in searchable PDF format is also enclosed.

Very truly yours,

THOMAS, LONG, NIESEN & KENNARD

By

Thomas T. Niesen

cc: Certificate of Service (w/encl.)
Joel Morrison (w/encl.)

101028-Chiavetta (WPPSEF Statement in Support).wpd

Before The
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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Joint Application of West Penn Power : Docket No. A-2010-2176520
Company d/b/a Allegheny Power, : Docket No. A-2010-2176732
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 :

**STATEMENT OF THE WEST PENN POWER SUSTAINABLE ENERGY FUND
IN SUPPORT OF THE
JOINT PETITION FOR PARTIAL SETTLEMENT**

AND NOW comes the West Penn Power Sustainable Energy Fund ("WPPSEF"), an intervenor in the above docketed joint application proceeding, and, by its attorneys, submits this statement in support of the Joint Petition for Partial Settlement ("Settlement").

I. BACKGROUND

1. This proceeding concerns the Joint Application of West Penn Power Company ("West Penn"), Trans-Allegheny Interstate Line Company ("TrAILCo") and FirstEnergy Corp. ("FirstEnergy") (collectively "Joint Applicants") for a certificate of public convenience approving a change in control of West Penn and TrAILCo.

2. The WPPSEF is a Pennsylvania non-stock, non-profit 501(c)3 corporation which was formed after the conclusion of the West Penn restructuring proceeding. The mission of the WPPSEF is as follows (WPPSEF St. No. 1 at 3-4):

- A. To promote the use of renewable energy and clean energy among commercial, industrial, institutional and residential customers in the West Penn service territory. *Renewable* energy includes energy produced from solar, wind, low-impact hydro, sustainable biomass, ocean power and geothermal. *Clean energy* refers to advanced technologies (such as fuel cells) which use fossil fuels but which have significantly lower emissions and wastes than currently commercialized technologies and fuels that are derived from waste.
 - B. To promote *energy conservation and energy efficiency* among commercial, industrial, institutional and residential customers in the West Penn service territory.
 - C. To promote the start-up, attraction, expansion and retention of sustainable energy businesses in the West Penn service territory. Job creation and other local economic development impacts are an important component of this element of the mission. A sustainable energy business is a business which designs, develops, manufactures, sells, installs or otherwise derives income from energy conservation, energy efficiency, renewable energy or clean energy.
3. The WPPSEF intervened in this proceeding to assure that the public will benefit through continued and further funding of the WPPSEF and the application of WPPSEF funding to advance mission objectives. WPPSEF St. No. 1 at 2.
 4. The WPPSEF received initial funding of \$11,425,721 as part of the initial West Penn restructuring settlement. Following the initial settlement, the WPPSEF has received additional funding totaling \$9,367,552 as a result of an amendment to the restructuring settlement. Funding consistent with the amendment is to continue at an annual level of approximately \$1,900,000 until the funding issue is raised and concluded in a West Penn distribution rate proceeding. WPPSEF St. No. 1 at 4-5; *See also* WPPSEF St. No. 1-SR at 3.
 5. The WPPSEF submitted testimony proposing \$11,000,000 in further funding from Joint Applicants as a condition for approval of the proposed transaction. As explained by WPPSEF witness Morrison, the additional funding would ensure the

continued development of clean energy programs in the present-day West Penn Power service region and, as proposed by the WPPSEF, would come from the Joint Applicants and not the Joint Applicants' ratepayers. WPPSEF St. No. 1 at 9-10.

**II. THE SETTLEMENT PROVIDES FOR
ADDITIONAL FUNDING OF THE WPPSEF
TO FURTHER THE PUBLIC INTEREST
AND AS A MEASURE OF SUBSTANTIAL
AFFIRMATIVE PUBLIC BENEFIT**

6. The Settlement provides that West Penn will provide annual contributions to the WPPSEF in 2011 and 2012 at the same level as the current funding obligation, pursuant to Paragraph 11.1 of the Amended Joint Petition for Settlement and for Modification of the 1998 Restructuring Settlement approved by the Commission in its Opinion and Order entered May 11, 2005 at Docket Nos. R-00039022 and R-00973981. Joint Petition for Partial Settlement, ¶ 27.

7. The additional funding will be available to the WPPSEF for use in accordance with its mission statement. That mission statement includes promoting the start-up, attraction, expansion and retention of sustainable energy businesses in the West Penn service territory. Joint Petition for Partial Settlement, ¶ 27; *See also* WPPSEF St. No. 1-SR at 4-5.

8. Although reduced from the WPPSEF's original funding request, the additional funding for the WPPSEF presented in the Settlement occurs as a result of negotiation and is acceptable to the WPPSEF in resolution of its interest in this proceeding.

9. As explained in the direct testimony of WPPSEF witness Morrison, there is a direct relationship between WPPSEF funding and affirmative public benefit and there

are a multitude of funding uses and combinations of funding uses that additional funding can be used to secure affirmative public benefit. WPPSEF St. No. 1 at 10. Significant past funding commitments of the WPPSEF include the following (WPPSEF St. No. 1 at 5-6):

- ◆ \$2,000,000 to support the plant expansion of Solar Power Industries in Westmoreland County;
- ◆ \$1,000,000 to support the construction of the Bear Creek wind farm in Luzerne County;
- ◆ \$1,000,000 to support an Agricultural Commodities/Soy Energy biofuel production complex in Adams County;
- ◆ \$1,400,000 to develop and support the Keystone Home Energy Loan Program (Keystone HELP) which is now a statewide residential lending energy efficiency program;
- ◆ \$1,500,000 to develop and support PA Home Energy which is a whole-house residential energy efficiency program that promotes diagnostic energy audits using the ENERGY STAR Home Performance program and new home construction with the ENERGY STAR Qualified Home program;
- ◆ \$1,500,000 to support the construction of commercial and institutional buildings which have been designed to LEED standards in Fayette, Franklin, and Westmoreland Counties;
- ◆ \$125,000 to support the organization and hosting of the 2004 and 2006 PA Clean Energy Expos in Centre County Pennsylvania. The Expos attracted over 25,000 attendees from throughout the Commonwealth and served as a model for many energy and environmental expos held today;
- ◆ \$75,000 to support Pennsylvania entries in the 2007 and 2009 U.S. Solar Decathlon entries in the solar village on the national mall in Washington D.C.;
- ◆ \$1,000,000 to support Plextronics advanced organic solar cell and organic light emitting diode technologies;
- ◆ \$165,000 to support the development and distribution of the PA Energy and ENERGY@home television documentaries which have aired on

public broadcasting in Pennsylvania and are available for public distribution in a DVD format;

- ◆ \$65,000 to Elk Regional Health Care center to expand its biomass heating infrastructure to support its Pine Crest Manor long-term elderly care facility;
- ◆ \$75,000 to ACI to organize and host the 2009 and 2010 PA Home Energy conferences which are focused on residential energy efficiency using the Home Performance with ENERGY STAR and ENERGY STAR Qualified Home programs. The 2011 PA Home Energy conference is in its planning stage.

10. As further explained by Mr. Morrison, funding of the WPPSEF benefits the public in the West Penn service territory by enabling the development of programs that did not exist prior to WPPSEF's efforts (*e.g.* Keystone HELP, PA Home Energy), by providing project financing that may be needed to fill funding shortfalls (*e.g.* Elk Region Health Center biomass plant expansion), by providing funding to expand clean energy manufacturing in the West Penn service region (*e.g.* Solar Power Industries), by providing limited grant support to deploy sustainable energy technologies that without support would not be deployed (*e.g.* Saint Vincent College PV system, Wilson College Dedicated Outdoor Air System, McKeever Learning Center institutional-scale wind and solar hot water systems), and by providing limited grants to highly visible, community revitalization housing projects in economically depressed regions (*e.g.* Jeannette South Sixth Street Project and Uniontown Family Homes). WPPSEF St. No. 1 at 6.

11. The WPPSEF will use the additional funding provided under the Settlement in the same manner as it is using its existing funding - - WPPSEF will assess the mission-fit of funding requests, followed by an evaluation of the public benefit to the West Penn ratepayer. WPPSEF St. No. 1-SR at 4-5.

12. The commitment negotiated between Joint Applicants and the WPPSEF concerning additional funding for the WPPSEF is similar to the commitment in the proposed PECO/PSE&G combination approved by the Commission in 2006. There, the Commission approved additional funding for the PECO Sustainable Development Fund in an amount of \$7,200,000 as part of the settlement of that matter. WPPSEF St. No. 1-R at 4-5; *See also* WPPSEF St. No. 1-SR at 2-3.

III. THE SETTLEMENT AS A WHOLE IS IN THE PUBLIC INTEREST AND WILL PROVIDE SUBSTANTIAL AFFIRMATIVE BENEFITS

13. The Commission's policy is to encourage parties in contested proceedings to enter into settlements. 52 Pa. Code § 5.231(a). A settlement mitigates the time and expense of litigating the matter to its ultimate conclusion. This directly benefits all parties and the public.

14. Approval of the Settlement will avoid the necessity of further administrative and possible appellate proceedings as to the matters resolved through the Settlement, thereby affording substantial cost savings to the Commission, the parties and customers.

15. The resolution of the WPPSEF funding issue proposed in the Settlement is in the public interest, consistent with all applicable standards, rules and regulations and will provide a measure of affirmative public benefit as explained in Section II above.

16. In addition to the foregoing, Paragraph 59 of Section III of the Joint Petition for Settlement sets forth in summary fashion a number of additional reasons why the settlement is in the public interest. Those reasons, which are set forth below without amplification, require no further exposition here.

- Additional Litigation Will Be Streamlined.
- The Settlement Is Consistent With Commission Policies Promoting Negotiated Settlements.
- The Settlement Ensures the Merger Affirmatively Promotes the Service, Accommodation, Convenience or Safety of the Public in a Substantial Way.
- The Settlement Supports Universal Service Programs.
- The Settlement Promotes Environmental Issues.
- The Settlement Provides for Financial Governance Protections.
- The Settlement Enhances Retail Competition.
- The Settlement Provides for Reliability and Customer Service Enhancements.

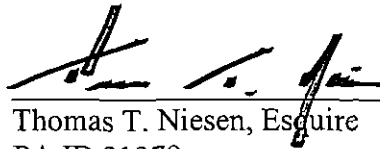
IV SECRETARIAL LETTER QUESTIONS

17. On June 3, 2010, the Commission issued a letter directing the Joint Applicants and other parties to address twelve issues and areas of concern ("Twelve Questions") identified in Attachment A to the letter. In their Scheduling and Briefing Order, dated June 23, 2010, the presiding Administrative Law Judges ordered all parties and intervenors to answer the Twelve Questions. By subsequent email, the presiding Administrative Law Judges advised that both settling and non settling parties are expected to provide answers to the Twelve Questions and that settling parties who choose not to file and serve briefs may include their answers in their Statements in Support. The WPPSEF's responses to the Twelve Questions are attached hereto as Attachment A.

V. CONCLUSION

WHEREFORE the West Penn Power Sustainable Energy Fund respectfully requests that Administrative Law Judges Wayne L. Weismandel and Mary Long recommend approval and upon their recommendation that the Pennsylvania Public Utility Commission approve the Joint Petition for Partial Settlement of these proceedings at Docket Nos. A-2010-2176520 and A-2010-2176732.

Respectfully submitted,



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Attorneys for
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DATE: October 28, 2010

ATTACHMENT A

Allegheny Energy, Inc. – FirstEnergy Corporation Merger
A-2010-2176520
A-2010-2176732

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Employment Levels and Corporate Headquarters

1. How will the merger impact employment levels in Pennsylvania, particularly, but not limited to, those employees not covered by collective bargaining agreements? What will the impact be on Allegheny Energy's corporate headquarters in Greensburg, PA, as well as the operating companies' offices?

The WPPSEF took no specific position on this issue in litigation. However, employment levels and corporate headquarters are addressed in Section II.A., pages 7-9, of the Settlement.

Customer Service and System Reliability

2. How will the merger affect the customer service and system reliability of West Penn Power and the FirstEnergy Pennsylvania utilities? How will the merger affect West Penn Power and the FirstEnergy Pennsylvania utilities ability to respond to outages and other emergencies?

The WPPSEF took no specific position on this issue in litigation. However, customer service and system reliability issues are addressed in Section II.J., pages 21-27 of the Settlement.

Corporate Structure

3. Review the impact of the initially proposed corporate structure of the merger versus the alternately proposed corporate structure. Which corporate structure will better protect the public interest?

The WPPSEF took no specific position on this issue in litigation and is not in a position to submit a response here.

Ring Fencing

4. What, if any, ring-fencing mechanisms are presently in place, or proposed as part of this transaction, to protect West Penn Power, Met-Ed, Penn Power, and Penelec from the business and financial risk of the parent and other non-regulated affiliates? Are any changes or additions necessary to better protect the public interest and make the regulated electric distribution subsidiaries bankruptcy remote?

The WPPSEF took no specific position on this issue in litigation. However, provisions regarding financial governance are addressed in Section II.H., pages 15-16, of the Settlement.

Smart Meter and Energy Efficiency Implementation

5. How will the merger impact the Act 129 smart meter and energy efficiency implementation plans of West Penn Power and First Energy's regulated utilities, Met-Ed, Penelec and Penn Power?

The WPPSEF took no specific position on this issue in litigation. However, smart meters and energy efficiency are addressed in Section II.D., pages 11-12, of the Settlement.

FirstEnergy Capital Structure and Credit Rating

6. How will the merger affect the capital structure of FirstEnergy Corporation? Will the merger create a more leveraged organization? How will the proposed merger impact the credit rating of FirstEnergy?

The WPPSEF took no specific position on this issue in litigation. However, provisions regarding each FirstEnergy Pennsylvania utility operating company's debt and credit provisions and capital structure are addressed in Section II.H., pages 15-16 of the Settlement.

Subsidiaries' External Borrowing and Bond Ratings

7. Will West Penn Power and the other Allegheny Energy subsidiaries that currently issue their own debt maintain their own external borrowing authority and separate bond rating?

The WPPSEF took no specific position on this issue in litigation. However, provisions regarding each FirstEnergy Pennsylvania utility operating company's debt and credit levels, as well as other financial governance matters including post merger equity ratios, are addressed in Section II.H., pages 15-16, of the Settlement.

Money Pools

8. Will West Penn Power participate in the FirstEnergy Utility money pool? If, yes, please provide an updated agreement.

The WPPSEF took no specific position on this issue in litigation. However, separate money pools for regulated and unregulated operations are addressed in Section II.H., pages 15-16, of the Settlement.

Merger Savings

9. How will the proposed merger savings benefit Pennsylvania ratepayers? Will cost savings benefit ratepayers or only shareholders?

The WPPSEF took no specific position on this issue in litigation. However, the sharing of merger savings is addressed throughout several sections of the Settlement, most explicitly in Sections II.A., B., C., D., and E. of the Settlement.

Affiliated Interest Agreements

10. Are the proposed affiliated interest agreements and cost allocation proposals reasonable and consistent with the public interest under Section 2102(b) of the Public Utility Code?

The WPPSEF took no specific position on this issue in litigation. However, affiliate relations are addressed in Section II.M., page 29, of the Settlement.

Impact on Competition

11. Investigate the impact the proposed merger may have on the potential for anticompetitive behavior per 66 Pa. C.S. § 2811(e)(1). How will the merger affect wholesale and retail competition for power/electric generation and transmission?

The WPPSEF took no specific position on this issue in litigation. However, competitive issues are addressed in Sections II.I., and K., pages 16-21, and 27-29, of the Settlement.

Transmission Projects

12. How will transmission projects in the western part of the state be affected by the merger?

The WPPSEF took no specific position on this issue in litigation and is not in a position to submit a response here.

**Before the
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Joint Application of West Penn Power :
Company d/b/a Allegheny Power, Trans- :
Allegheny Interstate Line Company and :
FirstEnergy Corp. for a Certificate of : Docket Nos. A-2010-2176520
Public 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 that I have on this 28th day of October, 2010, served a true and correct copy of the foregoing document upon the persons and in the manner listed below, as follows:

VIA EMAIL AND FIRST CLASS MAIL, POSTAGE PREPAID

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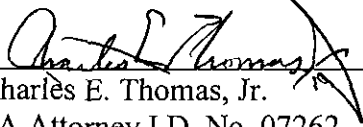
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