COMMONWEALTH OF PENNSYLVANIA

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September 12, 2011

Rosemary Chiavetta
Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

RE: Petition of West Penn Power Company for Amendment of the Orders Approving Energy Efficiency and Conservation Plan and Petition for Approval of Amended Energy Efficiency and Conservation Plan
Docket No. M-2009-2093218

Dear Secretary Chiavetta:

Enclosed for filing are the Comments of the Office of Consumer Advocate, in the above-referenced proceeding.

Copies have been served as indicated on the enclosed Certificate of Service.

Respectfully Submitted,

Christy M. Appleby

Christy M. Appleby
Assistant Consumer Advocate
PA Attorney I.D. # 85824

Enclosures

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of West Penn Power Company for Amendment of the Orders Approving Energy Efficiency and Conservation Plan and Petition for Approval of Amended Energy Efficiency and Conservation Plan	:	Docket No. M-2009-2093218

COMMENTS OF THE
OFFICE OF CONSUMER ADVOCATE

I. INTRODUCTION/HISTORY

The Office of Consumer Advocate (OCA) is filing these Comments in accordance with the Commission's June 10, 2011 Order at Docket No. M-2008-2069887. These Comments are in response to the August 9, 2011, Petition of West Penn Power Company for Amendment of the Orders Approving Energy Efficiency and Conservation Plan and Petition for Approval of Amended Energy Efficiency and Conservation Plan.

Act 129 (Act) was signed into law by Governor Rendell on October 15, 2008 and became effective on November 14, 2008. Act 129 establishes an obligation for each electric distribution company (EDC) with 100,000 or more customers to achieve specified reductions in energy usage and peak demand. By May 31, 2011, each EDC was required to reduce the energy usage of its customers by 1% and by May 31, 2013, each EDC must reduce the energy usage of its retail customers by 3%. These energy consumption reductions were based on the forecasted energy usage for the June 1, 2009 to May 31, 2010 base period. Also by May 31, 2013, an EDC must reduce the weather-normalized demand of its retail customers by a minimum of 4.5% in the 100 hours of highest demand. The Act also provides for specific fines for an EDC's failure to achieve the standards for reduction contained in the Act.

On July 1, 2009, West Penn filed its original Energy Efficiency and Conservation (EE&C) Plan. On October 23, 2009, the Commission issued an Order, adopting in part and rejecting in part the original EE&C Plan. On December 21, 2009, West Penn filed its Revised EE&C Plan. The Revised EE&C Plan was filed in accordance with the Commission's October 23, 2009 Order which approved, with modifications, West Penn's original July 1, 2009 EE&C Plan. On March 10, 2010, the Commission issued an Order, approving in part and rejecting in part the Revised Plan. On April 29, 2010, pursuant to the March 10, 2010 Order, West Penn filed a Second Revised Plan, and on June 23, 2010, the Commission entered an Order approving the Second Revised Plan

On November 20, 2009, the OCA filed a Petition for Review with the Commonwealth Court of the Commission's October 23, 2009 Order. The issues raised by the Commission's Orders regarding the Revised Plan and the Second Revised Plan did not address the issues raised by the OCA's Petition for Review of the October 23, 2009 Order. After lengthy Settlement discussions, the OCA and the Company reached a Settlement Agreement in West Penn's Smart Meter case as Docket No. M-2009-2123951. As a result of the Settlement in West Penn's Smart Meter case, on August 2, 2011, the OCA filed a Praecipe to Discontinue Petition for Review in the instant case, docketed at 28 C.D. 2010.

On September 10, 2010, West Penn filed its Petition for Approval of its Amended EE&C Plan (First Amended Plan). On January 13, 2011, the Commission adopted the Administrative Law Judges' Recommended Decision to approve the First Amended Plan as modified by the Joint Stipulations.

On February 25, 2011, Allegheny Energy and FirstEnergy merged, at which time West Penn Power became a part of the FirstEnergy companies, which also include the Pennsylvania electric distribution companies, Met-Ed, Penelec, and Penn Power.

On August 9, 2011, West Penn filed its Petition of West Penn Power Company for Amendment of the Orders Approving Energy Efficiency and Conservation Plans and Petition for Approval of its Amended Energy Efficiency and Conservation Plans. Pursuant to the Commission's June 10, 2011 Implementation Order at Docket No. M-2008-2069887, the OCA files these Comments in response.

II. COMMENTS ON THE PLAN AND PROGRAMS

A. Introduction

The overall budget for West Penn's EE&C Plan is $94.29 million which is within the 2% limitation set forth in Section 2806.1(G). The OCA submits that overall the Company has made positive improvements to the EE&C Plan including the addition of 35 additional energy efficiency measures; less reliance on Smart Meter technology for its program; synergies and administrative efficiencies with the other Pennsylvania FirstEnergy Company EE&C Plans; more lighting measures in the Residential, Government and Non-Profit Sector programs; and that the overall Plan has a Total Resource Cost (TRC) cost/benefit value of 2.2.

For its overall EE&C Plan, West Penn has proposed the following changes: (1) addition of a new program, the Conservation Voltage Reduction (CVR) Program and (2) administrative changes to the ranges of incentives and addition of new program measures added to the Technical Resource Manual (TRM). For the residential program, the Company proposed the following changes: (1) a reduction of $143,000 in the low-income program budget; (2)

elimination of the dishwasher incentive program; and (3) overall increase in the residential customer class budget of $608,000. The OCA specifically addresses these issues below.

B. Overall Program/Plan Design Issues and Recommendations

1. Conservation Voltage Reduction Program

a. Introduction

West Penn has proposed the addition of a Conservation Voltage Reduction (CVR) program. West Penn St. No. 1 at 11. The proposed CVR program is designed to effectuate a permanent reduction in the voltage on specific distribution circuits to achieve system energy savings and demand reductions. The Company states that the "voltage set points for select Company distribution substations with automatic voltages controls (AVCs) and load tap changers (LTCs) will be recalibrated to deliver a 1.5% lower voltage." West Penn EE&C Plan at 46. West Penn expects to achieve 45,000 MWh of energy savings and 5 MW of peak demand reductions from this program. It is important to note that CVR programs do not involve efficiency on the customer side of the meter or changes in customer behavior. As such, a CVR Program is not a traditional energy efficiency/demand response program. Typical EE&C programs modify equipment on the customer's side of the meter, rendering the equipment more efficient or change customer behavior to use energy more efficiently. Voltage reduction can actually make some of the equipment, particularly the dynamic loads, less efficient. [1] The OCA submits that a program like this should only be used sparingly.

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[1] Briefly, there are two generic types of electric loads. Passive, or purely resistive loads, have constant impedance. As voltage is reduced to serve these loads, current is also reduced and the amount of electric energy consumed is reduced. Examples of such loads are incandescent lighting and electric water heating. By consuming less electric energy, the output of the load device, such as lumens of light or gallons of hot water, is also reduced. The second type of load is dynamic, or constant power loads. Some large electric motors are examples of this type of load. As voltage is decreased, current actually increases in order to maintain constant output. But the higher losses associated with the higher current may actually increase the load on the distribution system. While the net effect of the voltage reduction on passive and dynamic loads is a small decrease to load on the distribution system, such savings are typically maintained over a relatively short period of time (i.e. several hours per day).

The program has a budget of approximately \$2 million, \$1 million for Residential customers (\$832,218 for residential customers and \$208,054 for low-income residential customers) and \$1 million for all other eligible customer classes. Id. at 13, Exh. ECM-3. [2] The program funds will be used for the following distribution improvements:

> In addition to program administration, the funds will be used (i) to perform limited circuit upgrades, such the installation of capacitor banks and regulators that are necessary to support the required voltage levels on the circuit; (ii) to perform upgrades, such as the installation of larger transformers or wires, on individual customer facilities to resolve any individual customer voltage issues; and (iii) to install metering if deemed necessary to monitor circuit conditions.

West Penn St. No. 1 at 13-14.

The OCA acknowledges that a CVR program was approved for PECO Electric Company's (PECO) EE&C Plan at Docket No. M-2009-2093215. The OCA expressed operational concerns with the CVR program in the PECO EE&C proceeding regarding: (1) how the program would be impacted if PJM calls for a voltage reduction under its emergency operating procedures and conservation reductions are in place and (2) how voltage reductions might make some equipment, particularly dynamic loads, less efficient. The OCA requested in that case that PECO perform specific evaluations of the operational aspects of the program and provide that information to stakeholders and the Commission. If the evaluation reflected problems with the Voltage Reduction Program in PECO, the dollars associated with this program would then be shifted to other programs that are performing well and are in need of expansion. The Commission's Order in the PECO case approved the OCA's recommendation for a program

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[2] West Penn Power witness Ray Valdes clarifies that "Because this is a distribution circuit related program, no costs are being allocated to Schedules 40, 41, 44 and 46 since customers on these rate schedules typically receive service at sub-transmission or transmission voltages. In addition, costs are not allocated to street and area lighting Schedules 51 , 52, 53, 54, 55, 56, 57, 58 and 71 since customers on these rate schedules will not benefit from the CVR program." West Penn Power St. No. 2 at 6.

evaluation as part of the annual evaluation process, including an assessment of the impact of the program on customer voltage levels and any mitigation strategies that were implemented. PECO EE&C Plan Order, Docket No. M-2009-2093215 at 44-45 (Order entered August 28, 2009).

The OCA has similar concerns with West Penn's proposed program, but those concerns are magnified due to West Penn's proposed variations from PECO's program. Although West Penn states that its program closely resembles the program implemented in PECO, West Penn Power's program varies in significant ways from PECO's proposed program. The primary difference between West Penn's proposed CVR program and PECO's program is that West Penn will reduce voltage on selected circuits by 1.5% rather than the 1% used in PECO's program. West Penn St. No. 1 at 11. West Penn has also not proposed any mitigation plan or on-going evaluation of the impacts of the voltage reduction on customers as in the PECO program. West Penn has also not addressed other operational aspects of the program, such as coordination with PJM emergency procedures, as was done for the PECO program.

As discussed below in more detail, West Penn's CVR Program raises serious concerns and issues that must be addressed if such a program is to be implemented. At a minimum, West Penn's program should be subject to the same conditions that govern the approved PECO program.

b. 1.5% Voltage Reduction

As discussed above, West Penn states that it has modeled the program after PECO's CVR program at Docket No. M-2009-2093215. The Company has made important variances from PECO's proposed program, however. Of particular note, West Penn proposes to increase the voltage reduction from 1% to 1.5%. West Penn St. No. 1 at 11. The Company has not provided any basis for the higher voltage level than what was proposed in PECO. Although it would garner larger reductions, the OCA submits that the impact on the system or on more sensitized, energy efficient equipment could be more significant. With the Plan's encouragement of investment in more energy efficient equipment which is likely to be more sensitized to changes in voltage, such a program could actually work counter to the intent of Act 129. The OCA recommends that if the program is to be considered, the voltage reduction should be limited to no more than 1%.

c. Impact on PJM Emergency Procedures

One major concern that OCA has with the CVR Program is the interaction of the program with PJM's emergency procedures. For example, if PJM calls an emergency event requiring a 5% voltage reduction, yet some West Penn circuits have already been reduced by 1.5%, what would be the impact? West Penn's filing does not address how PJM's emergency procedures will be impacted by or coordinated with the 1.5% voltage reduction. In an informal discovery conference call, West Penn indicated that it had spoken with PECO and evaluators on the program but not with PJM. If the Company institutes a permanent 1.5% reduction and PJM calls for a temporary voltage reduction on top of that, it is possible that customers could see voltages fall below the minimum level contained in the Company's terms and conditions in its tariff and required under 52 Pa. Code §57.14(b). The Company's plan does not provide any contingency or plan for how this issue would be addressed. The OCA submits that before the program is approved, some plan for addressing this potential conflict should be put in place.

d. Customer Impact

The Company avers that there should be no real customer impact. West Penn proposes that it will monitor its distribution system through standard practices and that the voltage reductions would occur at the substation level. Each of the substations where CVR will be deployed will have metering that is read monthly and can be reviewed more frequently if problems occur. West Penn St. No. 1 at 12. Although Company witness Miller avers that some of the customers have sophisticated metering that would be polled by the Company during the normal meter reads, to spot potential problems, for the rest of the impacted customers, it would be up to the customers to notice that there was a problem, call the Company and complain about the problem. This would be the situation for most, if not all, residential customers. Half of the program budget has been allocated to residential customers, so presumably at least half of the impacted customers would be residential customers without such sophisticated metering equipment.

The Company's only mitigation plan for those customers without sophisticated metering is for the customer to contact the Company with any service issues. The Company states that these issues would be addressed "consistent with program training and the Company's standard practices for dealing with such inquiries." West Penn St. No. 1 at 12. This assumes that customers will understand that the problems that they are experiencing are related to their electricity and voltage levels. Further, it requires the customer, without knowledge of the voltage decrease, to explain the problem to a customer service representative in such a manner that the customer service representative would understand and diagnose this as a service quality problem triggered by the voltage decrease. For example, if a customer has a highly sensitive, highly energy efficient appliance or equipment in their home, these voltage changes may erode the performance of the appliance over time, and the customer may never know what caused the problem. The Company does not propose to provide customer education, customer surveys, or customer evaluations to understand if customers are experiencing problems or to inform customers of the potential for problems.

e. Conclusion

If the Commission elects to approve the Conservation Voltage Reduction Program, the OCA recommends that conditions be imposed on the CVR program. The OCA submits that West Penn's program should be constructed with similar conditions as the PECO program. The OCA recommends the following conditions:

- As in the PECO case, West Penn's CVR Program should be limited to a 1% reduction in voltage.
- As was ordered in the PECO case, West Penn also should have an annual evaluation process, including an assessment of the impact of the program on customer voltage levels and any mitigation strategies that were implemented.
- West Penn should develop and implement a plan with PJM about how a PJM 5% emergency voltage reduction will be integrated with the Conservation Voltage Reduction Program.
- The Company should provide customer education, customer surveys and follow-up customer evaluations, so that potentially impacted customers are informed of the potential voltage reduction and have a mechanism to notify the Company of any problems or issues.

2. Administrative Changes to Range of Incentives and New Program Measures.

a. Introduction

West Penn proposes two administrative changes to the Plan. The first, to change from a fixed incentive level to an incentive range, is consistent with what the other FirstEnergy Companies proposed in their EE&C filing at Docket Nos. M-2009-2092222, M-2009-2112952, M-2009-2112956.[3] West Penn St. No. 1 at 15. The Company requests the ability to change incentive levels within the ranges "as market conditions warrant without further Commission approval, provided that spending does not exceed the program budgets approved by the Commission." West Penn Power St. No. 1 at 15. The OCA understands the need for flexibility

[3] As of the date of these Comments, the OCA notes that the Administrative Law Judge has not yet issued a Recommended Decision in those filings.

with respect to incentive levels and would not oppose this change if implemented, consistent with the conditions expressed below.

In the second administrative change, West Penn proposes to "offer new measures within the existing programs and approved budgets as new measures are approved for inclusion in the TRM." Id. The Company states that the minor changes process approved in the June 10, 2011 Implementation Order at Docket No. M-2008-2069887 could take up to 75 days for approval, and seeks a more expedited process to include new measures into the Plan. Id. at 17. The OCA submits that this proposed administrative change is expressly contrary to the June 10, 2011 Implementation Order and should be denied.

b. Changes to Incentive Levels

The Company has requested the opportunity to change incentive levels within a Commission-approved range without the need to file a Petition or to go through the expedited review process.[4] With respect to the incentive level ranges, the OCA is concerned that under the proposed change, the Company could have too much discretion in how it sets or changes its incentive levels. The OCA submits that this could have several potential adverse impacts. If not properly implemented, such a process could provide incentives higher than necessary; weaken the program impact; and cause confusion with trade allies and customers. The OCA understands the need for flexibility with respect to these types of minor changes, but such changes have the potential to have an adverse impact on the program cost effectiveness and savings levels.

The OCA submits that if the ranges for incentive levels are found to be a reasonable approach, the Company should be required to apply those ranges in an even-handed manner and

[4] The OCA notes that the Commission's June 11, 2011 specifically considered the rebate structure or amount to be subject to the expedited review process. June 11, 2011 Implementation Order, Docket No. M-2008-2069887. The Commission's Implementation Order did not specifically address the issue of a Commission-approved range of incentives.

through a defined process so that no discrimination or confusion results. The OCA submits that any modifications in incentive levels should be presented in the Commission-approved stakeholder process so that all stakeholders are informed and then the changes should be implemented through a defined and fair process.

The OCA submits that the stakeholder process provides a reasonable venue for presenting changes in program incentive levels and for participants to discuss the effectiveness and appropriateness of such changes. A defined process, such as specifying dates for implementation of the new incentive, conducting outreach to trade allies and determining application processing procedures will avoid any discrimination. As such, the OCA would not object to the Company's use of the Commission-approved ranges for incentives subject to the conditions set forth herein.

c. <u>Program Measure Changes</u>

West Penn requests permission to forego Commission approval with respect to the proposed new program measures that have been added to the Technical Resource Manual (TRM). West Penn St. No. 1 at 15. The OCA submits that, unlike the incentive ranges, these new measures would not have previously been approved for the Company to use. The OCA submits that adding a new measure from the TRM was specifically denied for the Commission's *expedited* process in its June 10, 2011 Implementation Order. The Commission stated:

> In addition, we decline to adopt PECO's proposal to include the addition of a new measure that is included in the TRM. We believe that this language makes the definition of minor EE&C plan change too broad as the inclusion of the measure in the TRM is just one factor to be considered in approving a measure.

June 10, 2011 Implementation Order at 18.

The OCA submits that if the measure could not be included as a minor change for the expedited process, then West Penn should not be permitted to forego Commission approval either. For the reasons stated above and in the Commission's June 10, 2011 Implementation Order, the Company's request to add new measures included in the TRM without Commission approval should be denied.

C. Residential Program Design Changes

a. Low Income Program Budget Reduction

The Company proposes to decrease the budget level for the low-income sector programs by $143,000. West Penn St. No. 1 at Exh. ECM-3. West Penn witness Miller testified that the Residential Low Income Performance Program (proposed to be renamed the Limited Income Energy Efficiency program in this proceeding) budget was increased by $1.8 million from $5.5 million to $7.3 million to pay for additional measures, including providing CFLs and Smart Strips and energy efficiency kits (for multi-family and low-usage customers). The budget increase was paid for by a $2.2 million reduction in the Joint Utility Management Program (JUMP) which did not perform according to expectations and the remainder was used for the Low Income portion of the CVR program. West Penn St. No. 1 at 21, Exh. ECM-3. Even with this reduction in JUMP, the low-income budget would still come up $143,000 lower because the dollars have been shifted to other residential customer programs, primarily the residential non-low-income CVR program. The total low-income program budget will be reduced from $12,224,921 to $12,081,545. Id. The Company avers that even though the budget decreases by $143,000, low-income customers will have more access to measures to reduce their bills.

The OCA does not agree with reducing funding for low-income customers. Low-income customers could most benefit from these types of energy efficiency programs, and dollars should not be removed from these programs. While the OCA understands that the JUMP program may not have performed as expected, and the budget was reduced for that reason, the OCA submits that the entire amount previously budgeted should be spent to benefit low-income programs. As these customers have the most challenges paying their bills, these customers will most benefit from increased energy efficiencies and lower overall bills. The OCA notes that it is not advocating an increase in the total costs for the residential customer class as a whole (the combined residential non-low-income customers and low-income customers). The OCA submits that such changes should be revenue neutral for the residential customer class as a whole. The OCA would support returning the $143,000 from other residential customer programs to the low-income customer programs.

The OCA submits that the low-income portion of the residential program budget should not be reduced.

b. Elimination of Dishwasher Incentive

West Penn witness Miller stated that the Company was eliminating the dishwasher measure to streamline sales channels and to create synergies and benefits by making the program offerings of the FE Companies more uniform. West Penn St. No. 1 at 9. The Company proposes to eliminate the dishwasher measure because no other EDC in proximity to West Penn offered such a measure. The OCA does not agree that the dishwasher incentive should be eliminated simply because the other FE Companies or other EDCs in the area do not have a similar measure. This is an ENERGY STAR rated measure and could provide valid energy efficiency measure savings. The OCA understands the value of consistency across the FE Companies, but to the extent that the dishwasher measure provides a benefit, the OCA submits that the continuation of the program should be considered.

III. COMMENTS ON COST RECOVERY/COST ALLOCATION

Under the proposed Plan, the residential customer class will experience a total budget increase of approximately \$608,000, and the non-residential sector will experience an off-setting total budget decrease of the same amount. West Penn Power St. No. 1 at 19. This \$608,000 is in addition to the \$930,000 increase in the residential customer class budget as part of the Settlement in the Smart Meter proceeding at Docket No. M-2009-2123951. Id. at 20. The \$930,000 Settlement dollars were to be shifted from the Large C & I customer programs to the residential customers. As discussed in Mr. Miller's testimony, the majority of these Settlement dollars will go towards funding the CVR program. West Penn St. No. 1 at 20.

Above and beyond the Settlement, the Company now proposes in this proceeding to shift an additional \$608,000 from the Small C & I customers to the residential customers. The OCA submits that the Company has provided no justification for this shift and has not shown that sufficient additional benefits to the residential class justify this cost shift. Under the heading of "Impacts on the Total Program Budgets for the Small C&I Sector," West Penn witness Miller states that:

> The budget for the Former SC&I Programs was approximately \$24.9 million. \$21.3 million of this budget was allocated to the SC&I Equipment Program, \$2.2 million was reclassified to the Government sector, \$600,000 was allocated to the Small C&I portion of the new CVR program, \$100,000 was allocated to the Government portion of the new CVR program, with the remainder going towards the overall increase to the Residential Sector Program budget.

West Penn Power St. No. 1 at 22 (emphasis added). There is no clear indication in the testimony regarding what programs these additional dollars will fund or what benefits will result. Further, the TRC for the Small C&I customer programs is 2.3, which is greater than the residential program TRC of 2.05, so this shift in dollars does not seem to provide any substantial benefits for the overall Plan that could not be achieved cost-effectively from the existing Plan design. Plan at App. G, Table 7A-7C.

The Company has not provided sufficient justification to demonstrate a need to shift additional costs onto the residential customer class. Therefore, the OCA submits that this proposed additional increase of $608,000 for the residential customer class should not be approved at this time.

IV. CONCLUSION

WHEREFORE, the Office of Consumer Advocate submits that the Company's EE&C Plan should be modified in accordance with these Comments.

Respectfully Submitted,

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Dated: September 12, 2011

CERTIFICATE OF SERVICE

Petition of West Penn Power Company for Amendment of the Orders Approving Energy Efficiency and Conservation Plan and Petition for Approval of Amended Energy Efficiency and Conservation Plan	: : : : :	Docket No. M-2009-2093218

I hereby certify that I have this day served a true copy of the foregoing document, Comments of the Office of Consumer Advocate, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code Section 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 12th day of September 2011.

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