COMMONWEALTH OF PENNSYLVANIA

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November 18, 2015

Rosemary Chiavetta, Secretary
PA Public Utility Commission
Commonwealth Keystone Bldg.
400 North Street
Harrisburg, PA 17120

Re: Petition of Pennsylvania Power Company for Approval of its Long-Term Infrastructure Improvement Plan
Docket No. P-2015-2508931

Dear Secretary Chiavetta:

Attached for electronic filing please find the Office of Consumer Advocate's Comments in the above-referenced proceeding.

Respectfully submitted,

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Attachment
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Honorable Robert F. Powelson
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CERTIFICATE OF SERVICE

Petition of Pennsylvania Power Company for Approval of its Long Term Infrastructure Improvement Plan	: : :	Docket No. P-2015-2508931

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

Dated this 18th day of November, 2015.

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of Pennsylvania Power Company for Approval of its Long-Term Infrastructure Improvement Plan	: : :	P-2015-2508931

COMMENTS OF THE
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Dated: November 18, 2015

I. INTRODUCTION

On February 14, 2012, Governor Corbett signed Act 11 of 2012 (Act 11 or Act) into law. Act 11 amends, *inter alia*, Chapter 13 of the Public Utility Code to permit water and wastewater utilities, Electric Distribution Companies (EDCs), Natural Gas Distribution Companies (NGDCs) and city natural gas distribution operations to petition for implementation of a Distribution System Improvement Charge (DSIC). See 66 Pa. C.S. §§ 1350-1360. In order to qualify for DSIC recovery, a utility must submit a Long-Term Infrastructure Improvement Plan (LTIIP) for Commission approval. See 66 Pa. C.S. § 1352. See also: Implementation of Act 11 of 2012, Docket No. M-2012-2293611, Final Implementation Order at 21 (Aug. 2, 2012) (Final Implementation Order). The Final Implementation Order also provided that a separate rulemaking would be commenced to promulgate specific LTIIP regulations. Final Implementation Order at 58.

On May 27, 2014, the Commission entered a Final Order adopting the LTIIP Regulations that are set forth at 52 Pa. Code Sections 121.1-121.8. The LTIIP regulations adopt and expand upon the requirements set forth in the Final Implementation Order by providing that an LTIIP should include the following eight major elements, as stated in Section 121.3(a):

> (1) Identification of types and age of eligible property owned and operated by the utility for which it is seeking DSIC recovery;
>
> (2) An initial schedule for planned repair and replacement of eligible property;
>
> (3) A general description of location of the eligible property;
>
> (4) A reasonable estimate of the quantity of eligible property to be improved or repaired;
>
> (5) Projected annual expenditures and means to finance the expenditures;
>
> (6) A description of the manner in which infrastructure replacement will be accelerated and how repair, improvement or replacement will maintain adequate, efficient, safe, reliable and reasonable service to customers;

(7) A workforce management and training program designed to ensure that the utility will have access to a qualified workforce to perform work in a cost-effective, safe and reliable manner;

(8) A description of a utility's outreach and coordination activities with other utilities, Department of Transportation and local governments regarding their planned maintenance/construction projects and roadways that may be impacted by the LTIIP.

It is the utility's burden to demonstrate that its proposed LTIIP and associated expenditures are reasonable, cost-effective and designed to maintain safe, adequate and reliable service to customers. Final Implementation Order at 20; See also 52 Pa. Code § 121.4(d). The OCA submits that when a utility seeks recovery of costs expended pursuant to its LTIIP in a future proceeding, the utility must demonstrate, *inter alia*, that the costs were reasonably and prudently incurred. Further, the utility will have to demonstrate that there is no overlap of costs already reflected in base rates with costs expended pursuant to an LTIIP. 66 Pa. C.S. § 1357(a)(1)(i).

A utility must file its proposed LTIIP with the Commission and serve copies on statutory advocates and all active parties in the utility's last base rate case. See Final Implementation Order at 20; See also 52 Pa. Code § 121.4. Once filed, a utility's proposed LTIIP will be assigned to the Commission's Bureau of Technical Utility Services (TUS) for analysis. TUS is to make a recommendation to the Commission, and other parties may file comments to a proposed LTIIP within 30 days[1] of the date it was filed. Id. If any party's comments raise issues of material fact, the proposed LTIIP will be referred to the Office of Administrative Law Judge (OALJ) for hearing and decision, which litigation must be completed within 120 days. Id.

The LTIIP Regulations provide for a five-year periodic review of approved LTIIPs. 52 Pa. Code § 121.7. The Regulations also allow for flexibility by a utility's management to make

1 The Final Implementation Order provided for a 20-day comment period, but the LTIIP Regulations revised the time period for filing comments to 30 days. 52 Pa. Code § 121.4(c).

minor modifications to a previously approved LTIIP by including such modifications in the utility's Annual Asset Optimization (AAO) plan. 52 Pa. Code § 121.5(b). The Commission will, however, require public notice and comment and Commission approval for significant modifications to an approved LTIIP. 52 Pa. Code § 121.5(a). Further, consistent with 66 Pa. C.S. Section 1353(b)(2), the Regulations provide for termination of a utility's DSIC if the utility does not comply with its approved LTIIP. 52 Pa. Code § 121.8. Such termination, however, will not occur without the utility being afforded notice and an opportunity to be heard. See 66 Pa. C.S. § 1353(b)(2); See also 52 Pa. Code § 121.8.

On October 19, 2015, Pennsylvania Power Company (Penn Power or Company) filed its proposed LTIIP with the Commission. The OCA submits these Comments on Penn Power's proposed LTIIP for the Commission's consideration. The OCA is not requesting a hearing at this time, but the OCA does submit that the Company should provide additional information in order to demonstrate that its LTIIP is accelerated and cost-effective as required under Section 1352(a).

II. COMMENTS

On October 19, 2015, Penn Power filed a Petition for Approval of its Long-Term Infrastructure Improvement Plan with the Commission. In its Petition Penn Power asserted that its LTIIP meets the eight requirements as originally set out in Section 1352(a), and as amended and expanded by the LTIIP Regulations. See 52 Pa. Code § 121.3(a). Attached to the Petition was Penn Power's LTIIP, wherein the Company provided its plans to continue its investment in evaluating, improving, repairing and replacing its distribution related facilities and equipment.

For the period 2016 through 2020, the subject of the LTIIP filed here, Penn Power plans for its expenditures on DSIC-eligible plant to be increased by $56.35 million. Penn Power LTIIP at 7. The stated goal of Penn Power's LTIIP is to further enhance the Company's reliability improvement efforts. Id. The Company uses its existing performance measures of SAIDI, SAIFI and CAIDI as the Company's baseline for determining projected improvements in reliability resulting from the implementation of its LTIP. Penn Power LTIIP at 5-7.

At the outset, the OCA would note that Penn Power provided a significant level of detail in its LTIIP to assist the Commission in its determination in this proceeding. The OCA commends the Company for its efforts in providing this information. As set forth below, however, the OCA submits that certain additional information may be needed for the Bureau of Technical Utility Services (TUS) and the Commission to properly evaluate whether Penn Power's LTIIP meets all the requirements of Act 11, the Final Implementation Order and the LTIIP Regulations.

In this proceeding, the Commission must determine if Penn Power's LTIIP will accelerate infrastructure repair and replacement in a cost effective manner. See 66 Pa. C.S. § 1352(a)(5), (6). With regard to the required acceleration component, the Company must demonstrate that the acceleration of infrastructure repair and replacement set out in its LTIIP is greater than the normally occurring infrastructure repair and replacement the Company has previously accomplished in order to meet its adequacy of service requirements set forth in Section 1501. See 66 Pa. C.S. § 1501. The OCA submits that additional background information may assist the Commission in this determination because the Company's filing has not fully described how it will accelerate infrastructure repair and replacement.

As to the required acceleration component, Penn Power's LTIIP as filed may not meet the standard. Initially, at the time of the Allegheny/First Energy Merger, FirstEnergy made a number of service-related commitments for its four EDCs as part of the Settlement of that matter, including Penn Power. Specifically in the Merger case, FirstEnergy agreed in relevant part to:

52. Rural Electric Reliability Issues

a. The Joint Planning Process ("JPP") from Docket Nos. R-00974008 and R-00974009, as amended by subsequent proceedings, will be extended for five (5) years so that the JPP will be in place through 2017. For the five (5) year extension period beginning in 2013 (for 2014 projects), the investment level will be $4 million per year. This $4 million annual amount is in place of the current JPP expenditure levels, which will remain in place through 2012 (for 2013 projects), and will cover both the FirstEnergy and Allegheny Energy Inc. ("AE") systems serving PREA member cooperative delivery points. The $4 million required investment per year for the period of 2013 – 2017 (for 2014-2018 projects) shall be reduced to $3 million in any year upon the achievement of Interruption Duration Index ("IDI") and Interruption Frequency Index ("IFI") standards of at least 85% of all PREA delivery points in the prior year. Of these amounts, 50% of the amounts per year shall be spent on tree trimming, breaker and battery maintenance on circuits serving the PREA delivery points.

b. As part of the JPP process, up to 25% of the annual JPP funding may be used on other than the 25% worst-performing delivery points; however, if PREA elects to use funding on projects other than the 25% worst-performing delivery points, then the IDI and IFI standards referenced in Section a above shall be reduced by 5 percentage points and shall remain at that level for the remainder of the JPP.

c. With PREA's involvement and concurrence, and as part of the JPP as modified by and described in Paragraph 52(a), FirstEnergy shall modify or redesign the "auto-dialer" system for specific delivery points as determined solely by PREA to detect loss of potential on any of the three phases serving a PREA delivery point from either of the FirstEnergy or AE delivery systems.

d. FirstEnergy shall repair or replace any failed meter or component within 90 days after being notified of such failed meter or component, unless extenuating circumstances beyond FirstEnergy's control prevent FirstEnergy from being able to repair or replace the meter or component within 90 days.

e. FirstEnergy and PREA agree for any delivery point that has five or less customers that the IDI standard would be adjusted to 360 minutes (presently 180 minutes) with no change in the IFI standard. Also, for any delivery point that can be backfed by a PREA member cooperative, the duration of an outage will be calculated as the amount of time starting with the time of the FirstEnergy outage and ending at the time that 1) electric service is restored to 90% of the consumers served by the delivery point through backfeeding by the PREA member cooperative or 2) by restoration of the FirstEnergy service to the

> delivery point, whichever occurs first. Verification of the restoration of the consumers will be accomplished with the PREA member cooperative reports and the energy consumption records from the meters on the delivery points involved.

In re Allegheny/FirstEnergy Merger, Dock. Nos. A-2010-2176520, A-2010-2176732, Joint Petition for Partial Settlement, pgs. 24-26 (submitted Oct. 25, 2010).

Many of the commitments from the Merger are still in place and represent benefits provided through the merger and current rates. It may be helpful for TUS and the Commission to review the current status of the Merger commitments as they evaluate whether Penn Power's proposed LTIIP represents the necessary level of acceleration beyond Penn Power's existing commitments.

It is also relevant to the current matter that in 2014, FirstEnergy filed base rate cases for each of its four EDCs. Those matters were all resolved through settlements, and in so doing, FirstEnergy made certain service/reliability commitments for Penn Power as follows:

> The Company agrees to take necessary actions to: (i) consistently meet the twelve-month performance standards established by the Commission for SAIFI, SAIDI and CAIDI by the end of the first reporting quarter of 2016 (i.e., March 31, 2016); (ii) consistently meet the three-year performance standards established by the Commission for SAIFI, SAIDI, and CAIDI by the end of the calendar year 2017; and (iii) to strive towards the achievement of reliability performance that is at or better than the performance benchmarks established by the Commission.
>
> In each calendar year until the Company files its next base rate case where the performance standards are not met by the Company, the Company agrees to provide a report to the statutory advocates discussing the reasons for the performance failure and outlining corrective actions the Company will take to achieve the missed performance standard. The Company agrees to convene a collaborative to discuss the corrective actions and receive additional input if such a collaborative is requested by the statutory advocates.

Pa. PUC v. Pennsylvania Penn Power Co., Dock. Nos. R-2014-2428744, M-2013-2341993, Joint Petition for Partial Settlement of Rate Investigation, pg. 12 (Submitted Feb. 3, 2015). Again, these commitments are supported by the Company's current rates. It may be helpful for TUS and the Commission to review the current status of the rate case commitments as they evaluate whether Penn Power's proposed LTIIP represents the necessary level of acceleration beyond Penn Power's existing commitments.

Additionally, pursuant to Commission regulations, Penn Power makes biennial filings regarding inspection, maintenance, repair and replacement and periodic filings regarding the Company's capital investment plans. See 52 Pa. Code § 57.191 *et seq*. and 52 Pa. Code § 73.1 *et seq*., respectively. Penn Power's most recent Biennial Inspection, Maintenance, Repair and Replacement Plan was approved by the Commission on December 30, 2013, for the period effective January 1, 2015 through December 31, 2016. Penn Power LTIIP at 4. The OCA submits that it may be helpful in determining acceleration by reviewing Penn Power's Biennial Plan and prior biennial plans. Comparison of these reports with Penn Power's LTIIP could assist the Commission in determining if the Company's LTIIP meets the acceleration requirement in Act 11.

Further, Penn Power was very recently the subject of a Focused Management and Operations Audit. Penn Power LTIIP at 7. As a result of that proceeding, and the Commission's March 30, 2015 Order in that matter, Penn Power has identified an additional $29.65 million in capital spending that is necessary to respond to the Focused Management and Operations Audit recommendations. Id. The aforementioned $56.35 million contained in the LTIIP is inclusive of this $29.65 million. Id. The Commission may wish to have Penn Power supplement its filing with this information and more detail on the acceleration contained in its LTIIP before it makes a final determination as to whether the Company's LTIIP as filed meets all the requirements of Act 11, the Final Implementation Order and the LTIIP Regulations.

The OCA submits that these past commitments by Penn Power to improve its infrastructure are an important area of review to ascertain whether the Company's proposed LTIIP represents an actual level of acceleration beyond existing, bargained-for commitments in this area. Should a DSIC be implemented at some point for Penn Power, customers should be assured that they are truly paying for accelerated infrastructure improvements and not merely paying for past commitments made by the Company in other matters when the parties to those matters explicitly bargained for those commitments to be met without additional DSIC surcharges.

With regard to the cost effectiveness requirement, the Company indicates that its LTIIP is cost effective, but Penn Power does not provide any calculations or metrics to assist the Commission in making the determination that the Company's LTIIP is, in fact, cost effective. In its Petition, Penn Power provides that increased infrastructure investments should have a beneficial effect on SAIDI and SAIFI statistics for the Company. Petition at 10-11; Penn Power LTIIP at 8-9. TUS and the Commission may consider seeking additional levels of detail in these areas to ascertain how Penn Power determined its LTIIP's cost effectiveness.

III. CONCLUSION

The OCA submits that, while it is not requesting a hearing in this proceeding at this time, the Company should provide additional information with its filing to allow the Commission to determine if Penn Power's LTIIP accelerates infrastructure repair and replacement beyond its existing commitments and in a cost effective manner as required by Act 11.

Respectfully submitted,

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