

PUBLIC SERVICE COMMISSION

OF WEST VIRGINIA

CHARLESTON

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In the Matter of the Petition of) Case No. 11-0452-E-PT
Monongahela Power Company and the)
Potomac Edison Company, both dba)
Allegheny Power for approval of Phase)
I Plan for Energy and Demand)
Reduction Efforts and Related Cost)
Recovery Mechanisms.)

POST-HEARING REPLY BRIEF

ON BEHALF OF
THE WEST VIRGINIA CITIZEN ACTION GROUP

December 22, 2011

I. Introduction

The West Virginia Citizen Action Group (“CAG”) hereby submits its reply brief in this case where Monongahela Power and Potomac Edison (“Companies”) seek Commission approval of their proposed Phase I Plan for Energy Efficiency and Demand Response programs (“Phase I Plan”). Initial briefs were filed by the Companies, the Commission Staff (“Staff”), the Consumer Advocate Division (“CAD”), the West Virginia Energy Users Group (“WVEUG”), and CAG.

Specifically, CAG addresses two issues focusing the controversy over the Phase I Plan: 1) whether or not the scope of proposed Plan achieves the requirements of the Stipulations in Case Nos. 09-1352-E-42T (“Rate Case Stipulation”) and 10-0713-E-PC (“Merger Case Stipulation”); and 2) whether or not the timeline proposed by the Companies for achieving energy and demand savings targets is reasonable. CAG will also reply to the Companies' proposal for semi-annual progress reporting and reply to the Staff and CAD proposal regarding industrial opt-out.

II. Reply Argument

A. The scope of the Phase I Plan fails to meet the requirements of the Stipulations.

In their Initial Brief, the Companies claim that during the hearing they demonstrated that the Phase I Plan “[f]ulfills the commitments in the 2009 Rate Case and the Merger Stipulations.”¹ In fact, arguments that the Companies had failed to propose a “comprehensive” low-income program as required by the Rate Case Stipulation and had failed to include demand response programs to achieve the peak demand reduction target required by the Merger Stipulation consumed much of the hearing.

The only point made by the Companies during the hearing to explain why they insist the low-income program is comprehensive was Witness Miller's comment that it “targets lighting, targets water

¹ Companies' Initial Brief, p. 1.

heat and also targets appliance replacement,” all of which are “major end uses.”² However, the Companies have not proposed any substantial savings within those categories. By choosing to focus on only the most basic measures in each of those categories, and neglecting to address building shell measures, the Companies' proposal would result in savings of only 375 kWh/year for the majority of participating households. Thus, the proposal cannot be considered “comprehensive,” as required by the Rate Case Stipulation.³ Nor would it be likely to contribute substantially to demand reduction.

In addition, CAG agrees with CAD that the intent of the parties executing the Joint Stipulation in the Merger case was that the peak demand reduction target be met specifically through demand response programs.⁴ Given that the Plan's low-income program is not comprehensive, it would not be likely to contribute substantially to demand reduction. Therefore, CAG requests the Commission to require the Companies to implement cost-effective demand reduction to achieve the target in the Merger Stipulation.

B. The timeline proposed by the Companies for meeting the savings targets is unreasonable.

i. The savings goals should be met in 2 years.

CAG maintains that the timeline proposed by the Companies for meeting the savings targets should be shortened to 2 years. CAD also supports an acceleration of the timeline, arguing in its Initial Brief for changing the timeline to three years; justified by examples from other states, including Ohio, Minnesota, Wisconsin, and Iowa, that met “much higher targets within *two years*,”⁵ CAD's position confirms the reasonableness of CAG's proposed 2-year timeline. Indeed, the Companies' affiliates in Pennsylvania achieved nearly 0.5% savings within eighteen months.⁶ Precisely such evidence from other jurisdictions lead CAG to conclude that a two year timeline is reasonable here.

² Transcript, p. 84 (Miller).

³ WVCAG Exhibit CMK-D Q&A 11.

⁴ CAD Initial Brief, p. 1.

⁵ CAD Initial Brief, p. 9 (emphasis added).

⁶ WVCAG Exhibit DJS-D, p. 6

The Companies' argument for achieving the goals in five years rests on the fact that they have “received no statutory, regulatory, or Commission direction on this point.”⁷ Indeed, CAG interprets the Stipulations as leaving the timeline for achieving the savings targets as “subject to Commission consideration.”⁸ Ideally, the Commission would be able to rely on the results of an integrated resource planning process or market potential study to determine the appropriate time period for achieving targets. Absent such analysis, best practices from nearby states and the experience of the Companies' affiliates in other jurisdictions, which CAD and CAG have extensively relied on and cited in making their recommendations, should provide clear guidance to the Commission regarding the unreasonableness of the Companies' proposed timeline.

The Companies have argued that the success of their affiliates in achieving more ambitious savings goals is because those programs were implemented “at a substantial cost and pursuant to statutory mandates in those jurisdictions”⁹ and, therefore, should not for some reason be related to, or consulted by, the Commission. It is important to acknowledge, however, that these legal requirements from other jurisdictions emerged from hearings, including testimony from all interested stakeholders, before and analyses by their respective legislatures or utility regulators operating under statutes similar to West Virginia's. Based on those extensive processes followed by other states, the majority of states have instituted legal requirements, by legislation, regulatory rule-making or contested cases, recognizing the benefits achievable by offering energy efficiency to their consumers as sound public policy. Those legal mandates to pursue energy efficiency should provide the Commission with additional confirmation that the cost and benefits of energy efficiency have been thoroughly analyzed and approved as an achievable goal at a much higher level than what the Companies propose.

In fact, the Companies designed their energy efficiency portfolios in those other jurisdictions to

⁷ Companies' Initial Brief, Att. A., p. 20.

⁸ Joint Stipulation in Case No. 10-0713-E-PC, subpara. 15(z).

⁹ Companies' Initial Brief, Att. A., p. 20.

be cost-effective.¹⁰ The facts that most states have recognized the potential for cost-effective energy efficiency, which by definition will result in greater benefits than costs accruing to ratepayers over the long term, and that most states have mandated that more significant efficiency goals be met through cost-effective programs, should provide further reassurances to the Commission that shortening the timeline proposed by the Companies in the present case is both reasonable and beneficial to ratepayers.

ii. Additional cost-effective programs should be added.

In presumptuously attempting to decide for the Commission, the Companies take liberties in characterizing the positions of other parties. For example, the Companies claim throughout their Initial Brief, incorrectly, that both CAD and CAG want to add programs without consideration of the incremental cost or cost-effectiveness.¹¹ Although many of the measures recommended for the low-income program could easily be added without substantial incremental costs, as discussed by CAD witness Gonzalez,¹² CAG's position is that many other additions should first be evaluated for cost-effectiveness.¹³ The Companies do accurately state CAG's position, however, that the Commission should require the Companies to "evaluate increasing funding to existing low-income weatherization programs...and to evaluate the cost-effectiveness of subsidized financing and incentives for energy efficient appliance and building shell measures for all residential customers, including low-income customers."¹⁴

In its Initial Brief, CAG recommended that the Commission require the Companies to include a "comprehensive" low income program as part of the program offering.¹⁵ However, CAG's intent was never to ask the Commission to blindly add programs not found cost-effective nor to produce any

¹⁰ Transcript, p. 74 (Miller).

¹¹ Companies' Initial Brief, Att. A., p. 17, 24; Companies' Initial Brief, p. 1.

¹² Transcript, p. 195-197.

¹³ WVCAG Exhibit CMK-D Q&A 14&15.

¹⁴ Companies' Initial Brief, Att. A., p. 11.

¹⁵ WVCAG Initial Brief, p. 8

portfolio not found cost-effective as a whole. CAG's intent is realized by CAG's recommendation to form a stakeholder collaborative to assist in the above-mentioned evaluation of additional programs to meet the required level of savings in a more reasonable timeframe of two years, instead of the Companies' proposed five.

C. The Companies' proposed semi-annual reporting requirement is insufficient.

The Companies have proposed to file semi-annual "status reports on the operation of the Plan, the results of their evaluation, measurement and verification efforts, the progress toward the achievement of energy and peak demand reduction targets, and any modifications to the Programs approved in this order" and to host an annual stakeholder collaborative meeting.¹⁶ Semi-annual reporting to the Commission on the progress of their programs, although needed, would not assist in making timely changes to the programs as needed. In fact, the parties still have no clear understanding of how changes to the programs will be implemented, what opportunity interested stakeholders will have to provide comment, and other similar procedural issues.

The proposed portfolio of programs, including any additional programs required by Commission Order, should be discussed within the proposed collaborative group at meetings no less frequently than quarterly. Required transparent reporting of all program metrics to help guide successful implementation, including continuing cost-effectiveness, would facilitate these meetings. In fact, to the extent the Commission decides to shorten the timeline, convening these meetings more often may be appropriate. Much information can be gained and shared through working collaboratively, helping to ensure program success, and the collaborative would further align the Companies with their customers and the public interest. Unfortunately, a Commission Order appears necessary to ensure the Companies to work cooperatively with their customers on energy efficiency.

¹⁶ Companies Initial Brief, Att. A., pp. 22-23.

CAG respectfully requests that the Commission direct the formation of a Collaborative working group as a part of the Commission Order in this proceeding.

D. Industrial opt-out customers should be held to stricter standards than the Staff and CAD have proposed.

CAD and Staff have both recommended in their initial briefs that the same process for allowing industrial users to opt-out of paying the energy efficiency surcharge should be used in this case as in the Appalachian Power Case No. 10-0261-E-GI.¹⁷ During the evidentiary hearing, WVEUG witness Baron admitted that there may be additional energy efficiency measures that a utility may find cost-effective to capture in the industrial sector even though an individual customer would not.¹⁸ This principle is borne out by the success of best-practice industrial energy efficiency programs in other jurisdictions.¹⁹ CAG is concerned that the opt-out process proposed by CAD and Staff, by not rigorously defining the level of savings to be achieved by customers opting-out and by not requiring third-party verification of savings,²⁰ may result in lost opportunities for savings to all ratepayers. Accordingly, CAG recommends that the opt-out procedure advocated by the Staff and CAD be modified to require: (1) opting-out customers to achieve the same level of savings within the same time frame as the Companies; and (2) third-party verification of those savings.

III. CONCLUSION

CAG strongly supports energy efficiency as a means to provide value to customers by offering opportunities to lower their energy costs and as a means for them to avoid the costs of the Companies'

¹⁷ CAD Initial Brief, p. 14; Staff Initial Brief, p. 4.

¹⁸ Transcript, pp. 115-116 (Baron).

¹⁹ WVCAG Exhibit CMK-R, Q&A 11.

²⁰ Initial filing in Case No. 11-0409-E-P, March 24, 2011.

needless purchase of expensive new generating equipment. CAG requests the Commission to shorten the timeline to recover the required amount of savings to two years. Additionally, CAG asks the Commission to require the Companies to modify the low-income program to be "comprehensive," as envisioned by the Stipulations, and to implement cost-effective demand reduction to achieve the target in the Merger Stipulation. CAG further requests the Commission to form a stakeholder collaborative working group to help ensure successful implementation of energy efficiency programs. Finally, CAG asks the Commission to allow industrial opt-out only under the conditions outlined above.

CAG strongly urges the Commission to exercise its broad discretion to independently analyze the issues in this case, to develop its own decision and to establish sound public policy favoring meaningful energy efficiency in the public interest.

By Counsel:


Mary Anne Maul, WVSB#6255
1428 Lee St. E., Ste. 2
Charleston, WV 24301-1950
304-343-2616; 304-343-8612

CERTIFICATE OF SERVICE

The undersigned hereby affirms that she served counsel of record by email this 22nd day of December, 2011.



Mary Anne Maul