

February 22, 2005

Magalie R. Salas  
Secretary  
Federal Energy Regulatory Commission  
888 First Street, N.E.  
Washington, D.C. 20426

RE: Allegheny Power System Operating  
Companies, et al.  
Docket No. ER04-156-006

Dear Secretary Salas:

Enclosed for e-filing is the Motion to Intervene and Comments of The Joint Consumer Advocates, in the above-referenced proceeding.

Sincerely,

*/s/ filed electronically*

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Aron Beatty  
Assistant Consumer Advocate

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District of Columbia

Enclosure

UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL REGULATORY COMMISSION

Allegheny Power System Operating	:	Docket No. ER04-156-006
Companies	:	
Monongahela Power Company,	:	
Potomac Edison Company, and	:	
West Penn Power Company, all	:	
d/b/a Allegheny Power	:	
PHI Operating Companies	:	
Potomac Electric Power Company,	:	
Delmarva Power & Light Company,	:	
And Atlantic City Electric Company	:	
Baltimore Gas & Electric Company	:	
Jersey Central Power & Light Company	:	
Metropolitan Edison Company	:	
PECO Energy Company	:	
Pennsylvania Electric Company	:	
PPL Electric Utilities Corporation	:	
Public Service Electric & Gas Company	:	
Rockland Electric Company	:	
UGI Utilities, Inc.	:	

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MOTION TO INTERVENE AND COMMENTS  
OF THE JOINT CONSUMER ADVOCATES

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Pursuant to Rules 211, 212 and 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. §§ 385.211, 212 and 214, the Pennsylvania Office of Consumer Advocate ("Pa. OCA"), the Maryland Office of People's Counsel ("MPC"), and the Office of the People's Counsel for the District of Columbia ("DC OPC") (herein designated as "Joint Consumer Advocates"), move to intervene in the above-captioned proceedings. Joint Consumer Advocates also file Comments on the filing in this docket. In support of this Motion and Comments, Joint Consumer Advocates submit as follows:

1. The Pa. OCA is a state office empowered by state statute to represent the interests of consumers of utility services in the Commonwealth of Pennsylvania in proceedings before the Pennsylvania Public Utility Commission, similar federal agencies and state and federal courts. The name, address, telephone, facsimile and e-mail address of the Pa. OCA's representative authorized to receive service are:

Tanya J. McCloskey, Esq.  
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2. The Maryland Office of People's Counsel is an independent state agency established to represent the interests of residential consumers in utility cases. Pursuant to Maryland Public Utility Companies Article Section 2-205(b) (2003), the People's Counsel "may appear before any federal or state unit to protect the interests of residential...users [of gas, electricity, telephones, or water and sewage]." The name, address, telephone, facsimile and e-mail address of the MD OPC's designated representative for receipt of service are:

William F. Fields  
Assistant People's Counsel  
Maryland Office of People's Counsel  
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E-mail: [BillF@opc.state.md.us](mailto:BillF@opc.state.md.us)

3. DC OPC is an independent agency of the District of Columbia government and is the statutory representative of District of Columbia consumers in public utility issues in proceedings before the District of Columbia Public Service Commission, federal regulatory agencies and state and federal courts. The name, address, phone number, facsimile number and e-mail address of the D.C. OPC's designated recipient for service are as follows:

Sandra Mattavous-Frye, Deputy People's Counsel  
Lopa Parikh, Esq.  
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4. On January 31, 2005, several Transmission Owners ("TOs") in the PJM Interconnection, L.L.C., a Regional Transmission Organization ("RTO") managing the electric transmission systems of electric utilities throughout the Mid-Atlantic and Mid-Western regions of the nation, submitted a filing setting forth an intra-PJM rate design pursuant to the settlement agreement filed on May 26, 2004 in Docket No. ER04-156-000, et al. Those TOs include the electric utilities often classified as the PJM Classic TOs, consisting of Allegheny Power System Operating Companies, *i.e.* Monongahela Power Company, Potomac Edison Company, and West Penn Power Company, all d/b/a Allegheny Power; PHI Operating Companies, *i.e.* Potomac Electric Power Company, Delmarva Power & Light Company, and Atlantic City Electric Company; Baltimore Gas & Electric Company; Jersey Central Power & Light Company; Metropolitan Edison Company; PECO Energy Company; Pennsylvania Electric Company; PPL Electric Utilities Corporation; Public Service Electric & Gas Company; Rockland Electric Company; and UGI Utilities, Inc.

5. The PJM Classic TOs submitted this filing pursuant to a commitment undertaken as part of the May 26, 2004 Settlement in Docket No. ER04-156-000 *et al.* requiring them to address by January 31, 2005 whether the existing license plate rate design in the PJM footprint should be changed after May 31, 2005, and if so, to suggest an alternative rate design. *Allegheny Power System Operating Companies, et al.*, 108 FERC ¶ 61,167 (2004). They recommend in the filing that the existing license plate rate design be retained until February 1, 2008 at which time the question of the appropriate intra-RTO rate design for PJM could be considered in tandem with the appropriate intra-RTO rate design for the Midwest Independent Transmission System Operator, Inc., an RTO managing the transmission systems of numerous electric utilities in the Mid-Western region of the nation. On November 18, 2004, the Commission issued an order resolving certain rate seams issues for transactions between PJM and MISO, and approving the continued use of license plate rates in PJM and MISO through January 31, 2008. *Midwest Independent Transmission System Operator, Inc., et al.*, 109 FERC ¶ 61,168 (2004). Because the issue of intra-RTO rate design for these two RTOs is intertwined with the issue of a regionalized rate design for these two entities, the PJM Classic TOs request that the intra-RTO rate issue is best revisited in tandem with the inter-RTO rate design issue in 2008.

#### **INTERVENTION**

6. The Pennsylvania General Assembly passed a statute in December, 1996 opening up the Pennsylvania retail electric supply market to competition beginning January 1, 1999. 66 Pa. C.S. §§ 2801, *et seq.* (1999). By January 1, 2001, all Pennsylvania retail electric consumers, including all of the retail electric consumers served by the Pennsylvania electric utilities operating in PJM, obtained the right to choose their electric generation supplier. As a result of the introduction of retail electric competition in Pennsylvania, retail electric consumers have the

opportunity to be served by suppliers who operate within PJM and the Midwest ISO. Electric utilities subject to the Pa. PUC's jurisdiction, as well as alternative suppliers, are load-serving entities in PJM and the Midwest ISO.

7. In January 1999, the Maryland General Assembly passed the Electric Choice and Competition Act of 1999. Maryland Public Utility Companies Code Annotated, Section 7-501, et seq. (1999). This act constitutes competition for retail electric service beginning July 1, 2000. The majority of retail customers in Maryland purchase electricity from suppliers that operate in the PJM market.

8. In December 1999, the City Council of the District of Columbia passed the Retail Electric Competition and Consumer Protection Act of 1999. D.C. Code § 34-1501, et. seq. (2001). The Act provides for implementation of competition for retail electric service in the District of Columbia no later than January 1, 2004, leaving the precise date for implementation to be set by the Public Service Commission of the District of Columbia. By Order No.11796 the Public Service Commission set January 1, 2001 as the implementation date for retail competition in the District of Columbia. Suppliers operating in the PJM market serve retail customers in the District of Columbia. These suppliers and the electric utilities serving D.C. retail consumers buy and/or sell capacity in PJM's market.

9. The PJM Classic TOs are electric utilities that provide service to retail consumers throughout the states of Pennsylvania, Maryland, New Jersey, Delaware, West Virginia, Ohio and the District of Columbia.

10. PJM is a Regional Transmission Organization ("RTO") managing the transmission systems of electric utilities, *i.e.* the PJM TOs, in Pennsylvania, New Jersey,

Maryland, Delaware, and the District of Columbia, and through PJM West, portions of Virginia, West Virginia, Illinois, Michigan, Indiana, Kentucky and Ohio.

11. The Midwest ISO is an RTO managing the transmission systems of many electric utility members across the Midwest, *i.e.* the Midwest TOs.

12. The Joint Consumer Advocates represent the interests of retail consumers in the District of Columbia, Maryland and Pennsylvania who receive their energy from load serving entities within PJM. These load serving entities purchase power from market participants in PJM and transport that power to retail consumers over the transmission systems owned by the PJM Classic TOs and managed by PJM. Thus, this filing has the potential to affect the interests of the retail consumers the Joint Consumer Advocates represent.

13. No other party can adequately represent the interests of the Joint Consumer Advocates in this proceeding. The load serving entities such as utilities and alternative suppliers who supply retail service to retail consumers in Pennsylvania and Maryland have a number of interests to protect, including the interests of the private investors who are shareholders in their corporations. The state utility commissions likewise have a number of interests to represent in this proceeding, including the broader public interest. The wide array of interests represented by these other parties can, and sometimes does, conflict with the narrower array of consumer interests represented by the Joint Consumer Advocates.

14. The Commission noticed the PJM Classic TOs January 31, 2005 filings in this docket on February 3, 2005, requiring that all protests and motions to intervene be filed by February 22, 2005. This Motion and Protest is timely filed.

## COMMENTS

The Joint Consumer Advocates support the PJM Classic TOs' filing seeking to continue in place the current license plate rate design in PJM. Moving to another form of rate design for these companies would subject the retail consumers the Joint Consumer Advocates represent to potential significant cost shifts. By order dated November 18, 2004 in Docket No. EL02-111-000 et al., the Commission eliminated Regional Through and Out Rates ("RTOR") between PJM and MISO and adopted a Seams Elimination Cost Adjustment ("SECA") charge to allow TOs a transition period over which to recover revenues lost as a result of elimination of RTOR charges. *Midwest Independent Transmission System Operator, Inc., et al.*, 109 FERC ¶ 61,168 (2004). Considering the significant cost shifts attendant to the SECA rate design, the proposal here to maintain existing license plate rates provides stability with respect to zonal transmission rates for retail consumers and for the wholesale transmission customers of these electric utilities during this transition period. This stability is an essential element of the underlying rate structure approved by the Commission in Docket Nos. EL02-111-000 et al., and a necessary component of an overall rate design structure that ensures that the cost of electricity in these competitive wholesale markets remains just and reasonable for retail consumers.

WHEREFORE, Joint Consumer Advocates respectfully request that the Commission grant them intervenor status in this docket and approve the PJM Classic TOs' filing to continue in place the existing license plate rates design for intra-RTO transmission rates in PJM.

Respectfully submitted,

*/s/ filed electronically*

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DATE: February 22, 2005  
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CERTIFICATE OF SERVICE

RE: Allegheny Power System Operating : Docket No. ER04-156-006  
Companies, et al :

I hereby certify that I have this date served the foregoing document upon each person designated on the official service list compiled by the Secretary in the above-referenced proceeding, in accordance with Rule 2010 of the Commission's Rules of Practice and Procedure.

Dated at Harrisburg, PA this 22nd day of February, 2005.

Respectfully submitted,  
*/s/ filed electronically*

*/s/ filed electronically*

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