

**KLINE & SPECTER**  
A PROFESSIONAL CORPORATION  
ATTORNEYS AT LAW  
THE NINETEENTH FLOOR  
1525 LOCUST STREET  
PHILADELPHIA, PENNSYLVANIA 19102  
WWW.KLINESPECTER.COM

DOMINIC C. GUERRINI

215-772-1000  
FAX: 215-772-1359

DOMINIC.GUERRINI@KLINESPECTER.COM

February 26, 2013

**RECEIVED**

**Via Federal Express**

Secretary's Bureau  
The Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120

FEB 26 2013

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

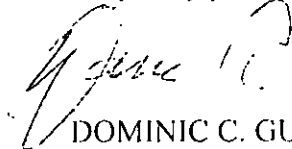
**Re: Pennsylvania Public Utility Commission Bureau of Investigation and  
Enforcement v. West Penn Power Company  
Docket No. C-2012-2307244**

Dear Sir/Madam:

Enclosed please find an original and three copies of the Petition to Intervene with regard to the above matter. Kindly file the original and return a time-stamped copy to me in the enclosed envelope.

Thank you for your assistance in this regard.

Very truly yours,

  
DOMINIC C. GUERRINI

DCG/acp  
Enclosures

cc: John F. Povilaitis, Esquire (w/enclosure)  
Tori Giesler, Esquire (w/enclosure)  
Heidi L. Wushinske, Esquire (w/enclosure)

RECEIVED

FEB 26 2013

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

**KLINE & SPECTER**

**A Professional Corporation**

BY: SHANIN SPECTER, ESQUIRE (ID #40928)  
DOMINIC C. GUERRINI, ESQUIRE (ID #91311)  
KILA B. BALDWIN, ESQUIRE (ID #94430)

The Nineteenth Floor  
1525 Locust Street  
Philadelphia, PA 19102  
(215) 772-1000 phone  
(215) 772-1359 facsimile

Attorneys for Petitioners,  
Michael Goretzka & JoAnn Goretzka

\_\_\_\_\_  
Pennsylvania Public Utility Commission, :  
Bureau of Investigation and Enforcement, :  
Complainant :

BEFORE THE PENNSYLVANIA  
PUBLIC UTILITY COMMISSION

v. :

Docket No. C-2012-2307244

West Penn Power Company, :  
Respondent :

**PETITION TO INTERVENE**

By and through their undersigned counsel, Michael Goretzka and JoAnn Goretzka hereby Petition to Intervene to file a formal response to the Joint Petition for Full Settlement of Proceeding filed on February 13, 2013 by the Public Utility Commission's Bureau for Investigation and Enforcement and West Penn Power Company ("West Penn"). Petitioners request that the Pennsylvania Public Utility Commission ("Commission") grant Petitioners status as Intervenors, pursuant to 52 Pa. Code §§ 5.73-75 in the proceedings of the Commission concerning the proposed Joint Settlement Agreement for the above-docketed action.

Petitioners provide the following in support of their Petition to Intervene:

1. Petitioners are Michael Goretzka, the Administrator of the Estate of Carrie Goretzka, the father and natural guardian of Carlie and Chloe Goretzka, and the widower of

Carrie Goretzka; and JoAnn Goretzka, mother-in-law of Carrie Goretzka and grandmother of Chloe and Carlie Goretzka.

2. Mr. Goretzka's wife was electrocuted on June 2, 2009 when a powerline abutting his property fell for the third time and toppled onto his unsuspecting wife. JoAnn Goretzka and Michael Goretzka's two young girls, Chloe and Carlie, watched in horror as their mother was electrocuted by the fallen 7200 volt line.

3. After West Penn refused to provide information on this accident to the Commission, a formal Complaint was filed by this Commission on May 30, 2012.

4. On December 6, 2012, an Allegheny County jury determined that the installation and maintenance was not only substandard, but also reckless and assessed both compensatory and punitive damages against West Penn in the total amount of \$109 million.

5. On February 13, 2003, the Commission's Bureau for Investigation and Enforcement and West Penn filed the instant Petition seeking to settle and resolve the formal proceedings initiated against West Penn as a result of the Goretzka incident. The highlights of this proposed agreement include:

- a. A modification of West Penn's training program relative to the installation of automatic splices, including mandatory training of all linemen and line supervisors within the next year and mandatory retraining at "regular intervals";
- b. An inspection, to be completed in three years, of all automatic splices in use on distribution lines on the West Penn primary distribution system;
- c. Spot checks of automatic splices installed on distribution lines;
- d. Mandatory tracking of all automatic splice failures over the next 3 years;
- e. The payment of \$86,000 by West Penn as a civil penalty.

6. The names and address of counsel for the Petitioners are:

Shanin Specter, Esquire  
Dominic C. Guerrini, Esquire

**KLINE & SPECTER**  
A PROFESSIONAL CORPORATION

Kila B. Baldwin, Esquire.  
Kline & Specter, A Professional Corporation  
1525 Locust Street  
The Nineteenth Floor  
Philadelphia, PA 19106

7. As the surviving spouse of Carrie Goretzka, and as a West Penn customer, Michael Goretzka is directly and personally affected by the instant Proceedings and the proposed settlement will affect the safety of Mr. Goretzka's public utility service.

8. As a customer of West Penn Power and a witness to this incident, JoAnn Goretzka is directly and personally affected by the instant Proceedings and the proposed settlement will affect the safety of JoAnn Goretzka's public utility service.

9. Petitioners have a right and interest in assuring that West Penn engages in safe and reliable public utility service and participation in these Proceedings is an appropriate way to protect these rights and interests. Petitioners may intervene in this proceeding pursuant to 52 Pa. Code §§ 5.73-5.75.

10. Petitioners have interests in and perspectives on issues in this proceeding that are not and cannot be adequately represented by other parties of record.

11. Petitioners intend to file public objections in an effort to strengthen the remedial measures that West Penn must follow as a result of Carrie Goretzka's death and this proposed settlement before the Commission.

12. Specifically, Petitioners intend to submit evidence regarding the following points:

- a. The PUC and WPP's remediation agreement is good and constructive. The proposed remedial measures, including both training and inspections, will make the citizens of southwestern Pennsylvania safer;
- b. the proposed remedial measures are not sufficient. They do not require re-inspections of splices, as West Penn is only required to check each

splice a single time. This is not enough. If it is important enough to require West Penn to check all splices once, it is important enough to require such inspections at regular, specified intervals going forward;

- c. Annual inspections are sensible. While retraining is an important part of the proposed agreement, it is only required at "regular intervals". Both the PUC and WPP should quantify what is meant by "regular intervals". Such retraining should occur on an annual basis;
- d. This settlement highlights the need for regular and specified inspections of all splice connections across the Commonwealth. The PUC should require all power companies in Pennsylvania to yearly inspect all splice connections. If it is important enough for WPP to perform these inspections, it is important for all other power companies to follow suit. The PUC should enact regulations requiring such inspections;
- e. An investigation should be performed into the PUC's response to the contact incident involving Carrie Goretzka. By way of background, the PUC first requested that WPP provide a final internal investigation report of this incident to the PUC two days after the incident, on June 4, 2009. This request was summarily ignored. Five months later, in November of 2009 the PUC contacted WPP and renewed the request for WPP to provide its final internal investigation report. No response was provided. The PUC again reached out to WPP in April of 2010, again seeking information regarding the Goretzka incident. WPP responded that any of its analysis regarding the incident would not be provided because it was subject to the work produce privilege. Following this rebuke by WPP, for nearly two additional years, the PUC never once contacted WPP or sought any information regarding the Goretzka incident. Finally, in February and March of 2012, after undersigned counsel filed a widely publicized Complaint with the PUC, the PUC again requested information. The PUC then filed a formal Complaint against WPP on May 30, 2012.

13. This chronology suggests that the PUC investigation into this power line death was not vigilant. Indeed, were it not for our investigation of this incident and the making public of the results of that investigation along with our complaint to the PUC, there is no indication that the PUC would have taken any action at all.

14. Given the conflict of interest if the PUC is to examine its own conduct and investigation, someone from outside the PUC should be appointed to conduct a thorough investigation into the PUC's activities and response to Carrie Goretzka's death.

15. The Petitioners reserve the right to raise other issues as necessary and appropriate during the course of the proceeding and to respond to issues raised by other parties.

16. The proposed Joint Settlement Agreement was not filed until February 13, 2003, making this Petition timely.

For all of the foregoing reasons, Petitioners respectfully request that the Commission grant this Petition and allow Michael and JoAnn Goretzka to participate as Intervenors in this Proceeding.

Respectfully submitted,

**KLINE & SPECTER,**  
*A Professional Corporation*

BY:



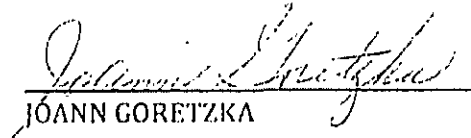
---

SHANIN SPECTER, ESQUIRE  
DOMINIC C. GUERRINI, ESQUIRE  
KILA B. BALDWIN, ESQUIRE  
The Nineteenth Floor  
1525 Locust Street  
Philadelphia, PA 19102  
(215) 772-1000 phone  
(215) 772-1359 facsimile

**VERIFICATION**

We, Michael Goretzka and JoAnn Goretzka, hereby state that the facts set forth in the foregoing Petition to Intervene are based on first-hand information and on information furnished to counsel and obtained by them in the course of this lawsuit. The language of the document is that of counsel and not of the affiants. To the extent that the contents of the document are based on information furnished to counsel and obtained by them during the course of this lawsuit, the affiants have relied upon counsel in making this verification. All statements are founded upon reasonable belief. This verification is made subject to the penalties of 18 Pa. C.S. §4904 relating to unsworn falsification to authorities.

  
MICHAEL GORETZKA

  
JOANN GORETZKA

Dated: 2/25/13

**RECEIVED**

**FEB 26 2013**

**PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU**

**CERTIFICATE OF SERVICE**

I hereby certify that I have served a true and correct copy of the foregoing Petition to Intervene upon the parties listed below via U.S. First Class Mail, in accordance with the requirements of 52 Pa. Code §1.54, relating to service by a party:

John F. Povilaitis, Esquire  
Alan Michael Seltzer, Esquire  
Buchanan Ingersoll & Rooney, P.C.  
409 North Second Street, Suite 500  
Harrisburg, PA 17101

Tori Giesler, Esquire  
FirstEnergy Services Company  
2800 Pottsville Pike  
Reading, PA 19610

Heidi L. Wushinske, Esquire  
Pennsylvania Public Utility Commission  
Bureau of Investigation and Enforcement  
P.O. Box 3265  
Harrisburg, PA 17105-3265

  
\_\_\_\_\_  
Angela M. Preston, Legal Assistant

Dated: 2/26/13

**RECEIVED**

**FEB 26 2013**

**PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU**

From: (215) 772-2461  
 Angela Preston  
 Kline and Specter PC  
 1525 Locust Street  
 19th Floor  
 Philadelphia, PA 19102

Origin ID: MUVA



J13101212190326

Ship Date: 26FEB13  
 ActWgt: 1.0 LB  
 CAD: 103509682/NET3370

Delivery Address Bar Code



SHIP TO: (800) 692-7380

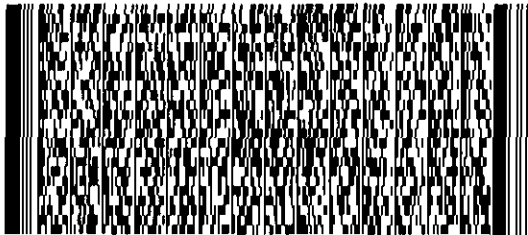
BILL SENDER

**Secretary's Bureau**  
**The Pennsylvania Public Utility Com**  
**Commonwealth Keystone Building**  
**400 North Street**  
**HARRISBURG, PA 17120**

Ref # 093076  
 Invoice #  
 PO #  
 Dept #

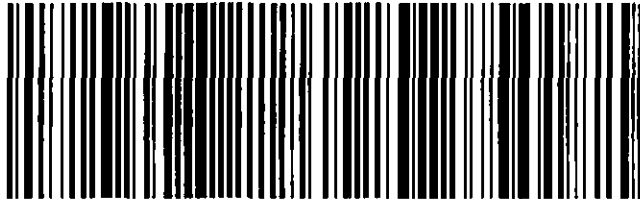
WED - 27 FEB 3:00P  
 STANDARD OVERNIGHT

TRK# 7948 4082 9628  
 0201



**ZN MDTA**

17120  
 PA-US  
 MDT



518G2JDCF8A93AB

**After printing this label:**

1. Use the 'Print' button on this page to print your label to your laser or inkjet printer.
2. Fold the printed page along the horizontal line.
3. Place label in shipping pouch and affix it to your shipment so that the barcode portion of the label can be read and scanned.

**Warning:** Use only the printed original label for shipping. Using a photocopy of this label for shipping purposes is fraudulent and could result in additional billing charges, along with the cancellation of your FedEx account number.  
 Use of this system constitutes your agreement to the service conditions in the current FedEx Service Guide, available on fedex.com. FedEx will not be responsible for any claim in excess of \$100 per package, whether the result of loss, damage, delay, non-delivery, misdelivery, or misinformation, unless you declare a higher value, pay an additional charge, document your actual loss and file a timely claim. Limitations found in the current FedEx Service Guide apply. Your right to recover from FedEx for any loss, including intrinsic value of the package, loss of sales, income interest, profit, attorney's fees, costs, and other forms of damage whether direct, incidental, consequential, or special is limited to the greater of \$100 or the authorized declared value. Recovery cannot exceed actual documented loss. Maximum for items of extraordinary value is \$1,000, e.g. jewelry, precious metals, negotiable instruments and other items listed in our ServiceGuide. Written claims must be filed within strict time limits, see current FedEx Service Guide.