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June 11, 2013

**VIA ELECTRONIC FILING**

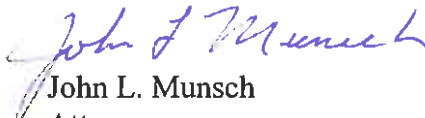
Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120

**Re: Marlene Broman v. West Penn Power Company**  
**Complaint Docket No. C-2013-2356237**

Dear Secretary Chiavetta:

Enclosed please find West Penn Power Company's **Response to the Objection of Complainant** and the **Motion to Admit Exhibits** in the above-captioned Formal Complaint, with certificate of service attached. This response and motion are filed electronically and are deemed filed today.

Very truly yours,

  
John L. Munsch  
Attorney

JLM:jss

Enclosures

cc: ALJ Katrina L. Dunderdale  
Certificate of Service

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

<b>BROMAN, MARLENE,</b>	:	
<b>Complainant,</b>	:	
	:	
<b>v.</b>	:	<b>Complaint Docket No. C-2013-2356237</b>
	:	
<b>WEST PENN POWER COMPANY,</b>	:	
<b>Respondent.</b>	:	

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**RESPONSE OF WEST PENN POWER COMPANY  
TO OBJECTION OF COMPLAINANT  
AND  
MOTION OF WEST PENN POWER COMPANY TO ADMIT EXHIBITS**

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West Penn Power Company (“West Penn”) submits its response to a written evidentiary objection submitted by Complainant in the above-captioned formal Complaint. In response to the Administrative Law Judge’s Second Interim Order, dated May 23, 2013, which offered Complainant the opportunity to object to exhibits identified by West Penn at the hearing of May 22, 2013, the Complainant objected to the admission of West Penn’s Exhibit No. 3, in part, and Complainant objected to the admission of West Penn’s Exhibit No. 8, in full.

Exhibit No. 3 is a letter dated August 21, 2012, to the Complainant from FirstEnergy<sup>1</sup> with attachments outlining proposed vegetation maintenance. Exhibit No. 8 is a portion of FirstEnergy’s vegetation maintenance contractor specifications.

In general West Penn responds that Complainant’s objections are not objections to the admissibility of the exhibits, but rather constitute argument questioning the reasonableness of West Penn’s vegetation practices. The Complainant challenged the reasonableness of the

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<sup>1</sup> West Penn is a corporate subsidiary of FirstEnergy Corp.

vegetation practices at length during the May 22 hearing and Complainant's "objections" merely continue that challenge.

Specifically, West Penn responds to each of the Complainant's five objections, as follows.

1. *Who if anyone approved these procedures of sky to ground cut?*

West Penn responds that the Complainant's objection is actually a question that may or should have been asked at the hearing. Moreover, West Penn's Exhibit Nos. 3 and 8 are consistent and do not require ground to sky removal of all woody vegetation. Exhibit No 3, page 4 of 6, states that "proper vegetation management does not always involve removal of all vegetation. Compatible vegetation that does not interfere with transmission facilities generally is not removed." Exhibit No. 8 states that "incompatible vegetation" is "[a]ll vegetation that will grow tall enough to interfere with overhead electrical facilities."

2. *How can 2012 procedures be applied to the 1968 intent of the lease and 1968 practices?*

West Penn responds that the interpretations of the 1967 and 1968 right of way agreements (Complainant's Exhibit No. 1 and West Penn's Exhibit No. 2) are beyond the authority of the Commission. West Penn's Exhibits 3 and 8 state the reasonable parameter of removing incompatible vegetation from the easements sold to West Penn through the 1967 and 1968 Right of Way agreements. The 1967 and 1968 agreements provide that West Penn is granted the right to remove all trees within the limits of its easements.

3. *The two documents contradict themselves on what gets cut or trimmed so which one might be correct?*

West Penn repeats that the documents are consistent and do not require ground to sky removal of all woody vegetation. Exhibit No 3, page 4 of 6, states that “proper vegetation management does not always involve removal of all vegetation. Compatible vegetation that does not interfere with transmission facilities generally is not removed.” Exhibit No. 8 states that “incompatible vegetation” is “[a]ll vegetation that will grow tall enough to interfere with overhead electrical facilities.”

4. *Planting lists in this material do not allow for dwarf fruit trees that do not grow taller than 10 feet but violate the vegetation management rules even if they do not impede the ability for WPP to maintain its transmission lines.*

West Penn’s list of recommended tree species in Exhibit 3, page 6 of 6, is a list of small growing species that, at maturity, should not interfere with a transmission line. West Penn’s suggested planting list is consistent with West Penn’s policy of removing incompatible vegetation from its transmission easements.

5. *If these documents were factual how did the two 20 trees under the tower and back field lines get to 20 feet if WPP really does what it says it does. Why were these trees not taken down as they are even closer and present a greater risk than the trees WPP wants to cut down?*

Again the Complainant’s objection is a continuation of Complainant’s argument as opposed to an objection. It is West Penn’s intention to remove all trees that at maturity would threaten the transmission line.

Finally, West Penn emphasizes that the goal of its vegetation maintenance practice is to maintain the reliability of its electric transmission system. Transmission outages, as can be caused by vegetation interference and “arching” of transmission current from conductor to


vegetation, may have far-reaching and the catastrophic consequences. West Penn Exhibit Nos. 3 and 8 are compatible and adequately explain West Penn's vegetation maintenance policy.

**WHEREFORE**, West Penn Power Company respectfully requests that the Presiding Officer grant the admission of West Penn's Exhibit Nos. 2 through 18, including Exhibit Nos. 3 and 8 over the objection of Complainant.<sup>2</sup>

Respectfully submitted,

Date: June 11, 2013

By:

  
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<sup>2</sup> West Penn's Exhibit No. 1 was not offered as it was duplicative of Complainant's exhibit of the Right of Way Agreement executed October 16, 1967, recorded at Butler County, Pennsylvania, Deed Book 883, page 485.

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

<b>BROMAN, MARLENE,</b>	:	
<b>Complainant,</b>	:	
	:	
<b>v.</b>	:	<b>Complaint Docket No. C-2013-2356237</b>
<b>WEST PENN POWER COMPANY,</b>	:	
<b>Respondent.</b>	:	

**CERTIFICATE OF SERVICE**

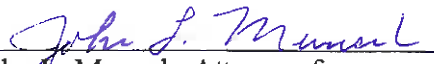
I hereby certify that I have this day served by FEDEX overnight and/or U.S. mail the foregoing *Response and Motion* addressed as follows:

Katrina L. Dunderdale  
Administrative Law Judge  
Pennsylvania Public Utility Commission  
Office of Administrative Law Judge  
Piatt Place, Suite 2220  
301 Fifth Avenue  
Pittsburgh, PA 15222

Marlene Broman  
4136 Patterson Road  
Butler, PA 16002

William Broman, Jr.  
333 Bullcreek Road  
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Date: June 11, 2013

  
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