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March 14, 2014


Rosemary Chiavetta, Secretary
Pa. Public Utility Commission
P.O. Box 3265
Harrisburg PA 17105-3265

Re: Robert T. Whalen (represented by Utility Workers
Union of America System Local 102) v. West Penn
Power Company
Docket No. C-2014-2404308

Dear Secretary Chiavetta:

Enclosed for filing please find the Answer of Complainant to New Matter in the above-referenced proceeding. The document was served on all parties of record as shown on the attached Certificate of Service.

The document was filed electronically with the Commission on this date.

Sincerely,


Enclosure

cc: All parties of record
Katrina L. Dunderdale, Administrative Law Judge

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

| | | |
|--|---|---------------------------|
| Robert T. Whalen (represented by Utility | : | |
| Workers Union of America System Local | : | |
| 102), Complainant | : | |
| | : | Docket No. C-2014-2404308 |
| v. | : | |
| | : | |
| West Penn Power Company, Respondent | : | |

ANSWER OF COMPLAINANT TO NEW MATTER

Pursuant to 52 Pa. Code § 5.63, Robert T. Whalen (represented by Utility Workers Union of America System Local 102) (“Complainant”) hereby provides the following Answer to New Matter filed by West Penn Power Company ("Company") on February 26, 2014.

25-37. These paragraphs improperly plead lack of standing as new matter. Lack of standing is properly raised in preliminary objections. 52 Pa. Code § 5.101(a)(7). Company has raised this issue in its Preliminary Objections to which Complainant responded on March 10, 2014.

38-44. These paragraphs allege that Complainant is attempting to represent other customers in a class action. This is improperly pleading the legal insufficiency of the complaint and the lack of Complainant's capacity to sue as new matter. Legal insufficiency and lack of capacity to sue are properly raised in preliminary objections. 52 Pa. Code §§ 5.101(a)(4) and 5.101(a)(5). Company has raised this issue in its Preliminary Objections to which Complainant responded on March 10, 2014.

45-56. These paragraphs improperly plead lack of standing as new matter. Lack of standing is properly raised in preliminary objections. 52 Pa. Code § 5.101(a)(7). Company has

raised this issue in its Preliminary Objections to which Complainant responded on March 10, 2014.

57-63. These paragraphs improperly plead lack of Commission jurisdiction as to the requested relief as new matter. Lack of jurisdiction is properly raised in preliminary objections. 52 Pa. Code § 5.101(a)(1). Company has raised this issue in its Preliminary Objections to which Complainant responded on March 10, 2014.

WHEREFORE, for the reasons set forth above and in Complainant's Answer to Preliminary Objections, Complaint respectfully requests the Commission to dismiss Company's objections and permit this proceeding to move forward to discovery and hearings.

Respectfully submitted,



Scott J. Rubin
Counsel for Complainant

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Dated: March 14, 2014

CERTIFICATE OF SERVICE

I hereby certify that I have caused to be served this day a true copy of Answer of Complainant to New Matter upon the parties listed below by electronic mail and U.S. mail, first-class, postage prepaid, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

John F. Povilaitis / Alan Michael Seltzer
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Dated: March 14, 2014



Scott J. Rubin
Counsel for Complainant