

July 11, 2014

Via Electronic Filing

Rosemary Chiavetta, Esquire
PA Public Utility Commission
Commonwealth Keystone Building, 2 North
P.O. Box 3265
Harrisburg, PA 17105-3265

**Re: Docket No. C-2014-2412337
Rodney M. Temple v. West Penn Power Company
Motion to Dismiss of West Penn Power**

Dear Secretary Chiavetta:

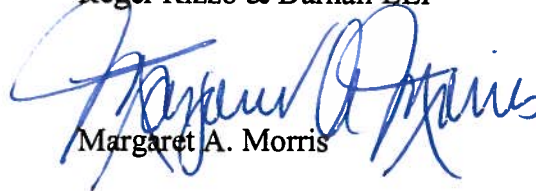
Attached for filing is the Motion to Dismiss of Respondent, West Penn Power Company, to the Complaint of Rodney M. Temple in the above captioned proceeding.

A copy of the attached Motion to Dismiss has been forwarded to the Complainant in the manner indicated on the attached Certificate of Service.

If there are any questions, please do not hesitate to contact me.

Very truly yours,

Reger Rizzo & Darnall LLP



Margaret A. Morris

MAM/jmm
Attachment

cc: The Hon. Mary D. Long, PA PUC, OALJ
John L. Munsch, Esquire, FirstEnergy Service Company
Rodney M. Temple

**Re: Docket No. C-2014-2412337
Rodney M. Temple v. West Penn Power Company
Motion to Dismiss of West Penn Power**

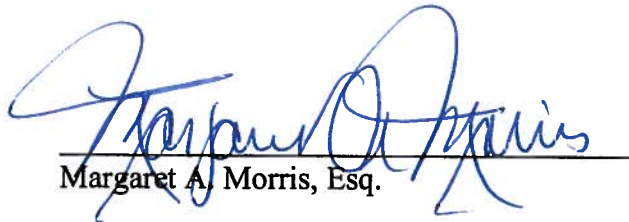
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been served upon the following person(s) on the attached service list, in the manner indicated, in accordance with the requirements of § 1.54 (relating to service by a participant).

Via First and E-Mail

Rodney M. Temple
120 Iola Avenue
Washington, PA 15301
Rmtemple1@gmail.com

Dated: July 11, 2014


Margaret A. Morris, Esq.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

RODNEY M. TEMPLE

v.

WEST PENN POWER COMPANY

:
:
:
:
:

Docket No. C-2014-2412337

NOTICE TO PLEAD

Pursuant to 52 Pa. Code § 5.103 you are hereby notified that if you do not file a written response answering the enclosed Motion to Dismiss of West Penn Power Company within twenty (20) days from the date of service of this notice, the Motion to Dismiss of West Penn Power Company may be granted without further notice. All pleadings, such as an Answer to the Motion to Dismiss, must be filed with the Secretary of the Pennsylvania Public Utility Commission, with a copy served to counsel for West Penn Power, Margaret A. Morris, Esq., and the presiding Administrative Law Judge Mary D. Long.

File with:

Rosemary Chiavetta, Esq.
Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building -2 North
P.O. Box 3265
Harrisburg, PA 17105

With a copy to:

Honorable Mary D. Long
PA PUC – OALJ
Piatt Place
301 Fifth Avenue, Suite 220
Pittsburgh, PA 15222

Margaret A. Morris, Esq.
Reger Rizzo & Darnall LLP
Cira Centre, 13th Floor
2929 Arch Street
Philadelphia PA 19104

Date: July 11, 2014



Margaret A. Morris, Esq.
Reger Rizzo & Darnall LLP
Cira Centre, 13th Floor
2929 Arch Street
Philadelphia PA 19104
(215) 495-6524 tel.
(215) 495-6600 fax
mmorris@regerlaw.com

Counsel for West Penn Power Company

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

RODNEY M. TEMPLE	:	
	:	
v.	:	Docket No. C-2014-2412337
	:	
WEST PENN POWER COMPANY	:	

**MOTION OF WEST PENN POWER COMPANY TO DISMISS
THE FORMAL COMPLAINT OF RODNEY M. TEMPLE**

West Penn Power Company (Respondent or West Penn), by and through its attorneys, Reger Rizzo & Darnall LLP, pursuant to 52 Pa. Code § 5.103, moves for the dismissal of the Formal Complaint filed by Rodney M. Temple (Complainant) with the Pennsylvania Public Utility Commission (Commission). In support thereof, West Penn avers as follows:

Background

1. On March 7, 2014, the Complainant filed a Formal Complaint alleging, *inter alia*, that West Penn’s “customer service is rude nasty & unresponsive.” Complaint at ¶ 7.c.
2. At the hearing held on May 28, 2014, before the Honorable Mary D. Long (Judge Long), the Respondent presented the testimony of its witness to refute the unreasonable customer service allegation and was permitted to late-file an exhibit that reflected a transcript of its Call Center calls at issue. West Penn was directed to file on or before June 9, 2014.

3. West Penn timely e-filed Respondent Exhibit 4 and provided an electronic copy of the filing to Judge Long and the Complainant.

4. The record in this proceeding is not closed.

5. On July 6, 2014 at 12:58 AM, the Complainant responded to the June 9, 2014 e-mail with the following message¹:

Well this is all well and good. We just got back from the coast so I have not kept up on what you corporate d*** sucking, slimebag a**holes have been up to....nor do I even really care. Anyhow I have my own and 3 other Militias committed to the cause, And I have 2 inside people who will tell me when you are coming to unhook me. We have quite a welcoming party ready for ya...This is going to be an internet PR DREAM...LMAO..We have live feeds and FIRST ENERGY banners all made up...:)

Like I told you f***-tards before...the only way to win an unwinnable game is not to play....see ya slimebags in the front pages....:)

Argument

6. It is axiomatic that parties appearing before the Commission must at least make a good faith effort to comply with its procedures. *Dushawn King v. Verizon Pennsylvania Inc.*, Docket No. C-20054799, (Order entered March 21, 2006). This participation must be in a respectful and orderly fashion.

7. The Complainant's July 6, 2014 e-mail falls far short of this standard.

8. The Commission's regulations provide a remedy for such outrageous behavior and disrespect for the process. Specifically, Section 5.245(c) states:

¹ Only the impertinent language stated in the e-mail is redacted.

If the Commission or the presiding officer finds, after notice and opportunity for hearing, that the actions of a party, including an intervenor, in a proceeding obstruct the orderly conduct of the proceeding and are inimical to the public interest, the Commission or the presiding officer may take appropriate action, including dismissal of the complaint, application, or petition, if the action is that of the complainant, applicant, or petitioner.

52 Pa. Code § 5.245(c).

9. The Complainant's actions should not be condoned and are inimical to the public interest and therefore, justify the dismissal of the Complaint under Section 5.245(c).

10. The Commission has previously dismissed complaints consistent with Section 5.245(c). See, *David Nippes v PECO Energy Company*, Docket No. C-2013-23633324, (Final Order entered September 30, 2013).

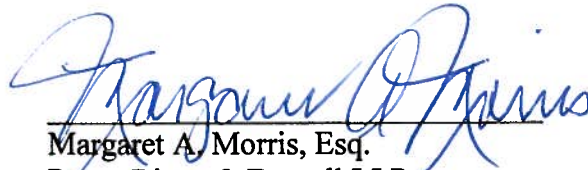
11. The July 6, 2014 e-mail is not part of the evidentiary record in this proceeding. The Respondent respectfully requests that the July 6, 2014 e-mail, be admitted into the record as a late-filed Respondent Exhibit 5.

WHEREFORE, Respondent, West Penn Power Company, requests that the Presiding Judge and Commission admit Respondent Exhibit 5 into evidence and grant

this Motion to Dismiss and dismiss with prejudice the Formal Complaint of Rodney M. Temple.

Respectfully submitted,

Dated: July 11, 2014



Margaret A. Morris, Esq.
Reger Rizzo & Darnall LLP
Cira Centre, 13th Floor
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Philadelphia PA 19104
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mmorris@regerlaw.com

Counsel for West Penn Power Company

Margaret A. Morris, Esquire

From: Rodney Temple <rmtemple1@gmail.com>
Sent: Sunday, July 06, 2014 12:58 AM
To: Margaret A. Morris, Esquire
Cc: malong@pa.gov; Joan Motz
Subject: Re: Rodney Temple v West Penn Power Company: C-2014-2412337: Late-filed Exhibits of West Penn

Well this is all well and good. We just got back from the coast so I have not kept up on what you corporate dick sucking, slimebag assholes have been up to....nor do I even really care. Anyhow I have my own and 3 other Militias committed to the cause, And I have 2 inside people who will tell me when you are coming to unhook me. We have quite a welcoming party ready for ya...This is going to be an internet PR DREAM...LMAO..We have live feeds and FIRST ENERGY banners all made up....)

Like I told you fuck-tards before...the only way to win an unwinnable game is not to play....see ya slimebags in the front pages...:)


On Mon, Jun 9, 2014 at 4:24 PM, Margaret A. Morris, Esquire <mmorris@regerlaw.com> wrote:

Your Honor:

Pursuant to the Interim Order dated May 28, 2014, attached please find the Late-filed Exhibits of West Penn Power Company. Three copies of the Late-filed Exhibits have also been sent to you *via* 1st Class mail and a hard copy has also been mailed to Mr. Temple.

If there are any questions, please do not hesitate to contact me.

Margie

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2929 Arch Street
Philadelphia, Pa 19104
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Margaret A. Morris, Esquire
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