

## **Barnes, Elizabeth**

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**From:** Greg Kupniewski <GKupniewski@starfieldsmith.com>  
**Sent:** Tuesday, May 26, 2015 4:35 PM  
**To:** Barnes, Elizabeth; 'Wright, Christopher'; 'Povilaitis, John F.'  
**Cc:** 'MacGregor, David'; Brown, Kriss; 'Munsch, John L (jmunsch@firstenergycorp.com)'; 'Kent Murphy'; Reitenbach, Dawn  
**Subject:** RE: J3 v West Penn & UGI Development C-2011-2219920

Dear Judge Barnes and Counsel:

J3 does not intend to appear tomorrow.

Respectfully submitted,

—  
**Greg T. Kupniewski, Esquire**

### **Starfield & Smith, PC**

PHONE 215.390.1023 | FAX 215.542.0723

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**From:** Greg Kupniewski  
**Sent:** Tuesday, May 26, 2015 11:24 AM  
**To:** 'Barnes, Elizabeth'; Wright, Christopher; Povilaitis, John F.  
**Cc:** MacGregor, David; Brown, Kriss; Munsch, John L (jmunsch@firstenergycorp.com); 'Kent Murphy'; Reitenbach, Dawn  
**Subject:** RE: J3 v West Penn & UGI Development C-2011-2219920

I will discuss the two options with Mr. Gutteridge and inform all parties of our intent ASAP. I am trying to give Your Honor, opposing counsel and their clients as much of a heads up as possible, so that you can all avoid needless efforts and costs.

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**From:** Barnes, Elizabeth [<mailto:EBARNES@pa.gov>]  
**Sent:** Tuesday, May 26, 2015 11:16 AM  
**To:** Greg Kupniewski; Wright, Christopher; Povilaitis, John F.  
**Cc:** MacGregor, David; Brown, Kriss; Munsch, John L ([jmunsch@firstenergycorp.com](mailto:jmunsch@firstenergycorp.com)); 'Kent Murphy'; Reitenbach, Dawn  
**Subject:** J3 v West Penn & UGI Development C-2011-2219920

Mr. Kupniewski:

**RECEIVED**  
MAY 29 2015  
PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

Thank you for your e-mail. Generally 52 Pa.Code § 5.94(a) applies in contested proceedings. A party desiring to withdraw a complaint in a contested proceeding may file a petition for leave to withdraw complaint and serve it upon the other parties. The petition must set forth the reasons for the withdrawal. A party may object to the petition within 10 days of service. I am supposed to consider any objections and the public interest before determining whether the withdrawal will be permitted.

I understand you are counsel to Mr. Christopher Gutteridge and Applied Energy Services (AES); however, you are not authorized by the Bankruptcy Court to represent J3 in the instant proceeding at this time. I'm willing to phone you and the owner/President of J3, Mr. Gutteridge, tomorrow morning, at which time a request for leave to withdraw the complaint may be made on the record. As this is a contested proceeding, opposing counsel has an opportunity to object. I would need phone numbers to call tomorrow at 10 a.m.

Alternatively, Complainant can choose not to appear tomorrow at the hearing, wherein I will entertain a motion to *dismiss the complaint with prejudice*.

Either way, an Initial Decision will have to be written by me, which the Commission will have an opportunity to review before a final order is issued.

Regards,

Elizabeth H. Barnes  
Administrative Law Judge  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17015  
phone: (717)772-5408  
e-mail: [ebarnes@pa.gov](mailto:ebarnes@pa.gov).

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**From:** Greg Kupniewski [<mailto:GKupniewski@starfieldsmith.com>]  
**Sent:** Tuesday, May 26, 2015 9:55 AM  
**To:** Barnes, Elizabeth; Wright, Christopher; Povilaitis, John F.  
**Cc:** MacGregor, David; Brown, Kriss; Munsch, John L ([jmunsch@firstenergycorp.com](mailto:jmunsch@firstenergycorp.com)); 'Kent Murphy'; Reitenbach, Dawn  
**Subject:** RE: J3 v West Penn & UGI Development C-2011-2219920

Dear Judge Barnes and Counsel:

Upon consideration of Your Honor's ruling and the other facts and circumstances of the appeal, J3 will not proceed with the hearing. Upon the direction of J3's president, Christopher Gutteridge, I hereby move to withdraw the pending appeal. Please advise if a more formal pleading is required.

Thank you.

Respectfully submitted,

--  
**Greg T. Kupniewski, Esquire**

**Starfield & Smith, PC**

PHONE 215.390.1023 | FAX 215.542.0723

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