

June 9, 2016

Via Electronic filing

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

**Re: Docket No. C-2016-2536310
Alberta Stratton c/o Lora Moss v. West Penn Power Company
Preliminary Objections of West Penn**

Dear Secretary Chiavetta:

Attached for filing is the Preliminary Objection of West Penn Power Company (West Penn) to the Complaint of Alberta Stratton c/o Lora Moss (Complainant).

A copy of the enclosed Preliminary Objection 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: John L. Munsch, Esquire, FirstEnergy Service Company [w/enc.]
Lora Moss [w/enc.]

**Re: Docket No. C-2016-2536310
Alberta Stratton c/o Lora Moss v. West Penn Power Company
Preliminary Objections of West Penn**

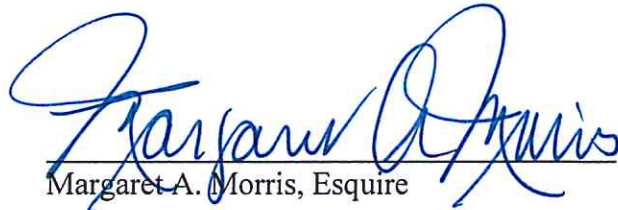
CERTIFICATE OF SERVICE

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

Via First Class Mail

Lora Moss
11380 Guffy Rilton Road
North Huntingdon, PA 15642

Dated: June 9, 2016


Margaret A. Morris, Esquire

BEFORE THE

PENNSYLVANIA PUBLIC UTILITY COMMISSION

ALBERTA STRATTON c/o
LORA MOSS

v.

WEST PENN POWER COMPANY

:
:
:
:
:
:

Docket No. C-2016-2536310

NOTICE TO PLEAD

Pursuant to 52 Pa. Code § 5.101, you are hereby notified that if you do not file a written response answering the enclosed Preliminary Objections of West Penn Power Company within ten (10) days from service of this Notice, the facts set forth by West Penn Power Company in the Preliminary Objections may be deemed to be true, whereby requiring no other proof. All pleadings, such as a Reply to Preliminary Objections, must be filed with the Secretary of the Pennsylvania Public Utility Commission, with a copy served to counsel for West Penn Power Company, Margaret A. Morris, Esq., and where applicable, the Administrative Law Judge presiding over the issue.

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:

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

Date: June 9, 2016



Margaret A. Morris, Esq.
Attorney ID No. 75048
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

ALBERTA STRATTON (LORA MOSS)	:	
	:	
v.	:	Docket No. C-2016-2536310
	:	
WEST PENN POWER COMPANY	:	

**PRELIMINARY OBJECTIONS TO THE FORMAL COMPLAINT
OF ALBERTA STRATTON (LORA MOSS)**

West Penn Power Company (West Penn or Company), by and through its attorneys, Reger Rizzo & Darnall LLP, pursuant to 52 Pa. Code § 5.101, hereby files its Preliminary Objection to the Formal Complaint of Alberta Stratton (Lora Moss) (Complainant) filed in the above-captioned proceeding. West Penn avers the subject of the Formal Complaint is beyond the jurisdiction of the Pennsylvania Public Utility Commission (Commission) who is without authorization to grant the Complainant’s request for damages. The Formal Complaint includes impertinent matter in its requested relief. Therefore, West Penn moves to have the Formal Complaint dismissed in its entirety or in the alternative to strike the Complainant’s request for compensation.

In support of its preliminary objections, West Penn states as follows:

1. The Complainant filed a Formal Complaint asserting that money spent to upgrade her service when the power surges and outages were the result of West Penn’s equipment. The Complainant seeks compensatory damages for the upgraded service, electrician bill and new

furnace serving the residence located at 11380 Guffey Rillton Road, North Huntingdon, Pennsylvania (Service Location).

2. In its Answer and New Matter being served contemporaneously with this Preliminary Objection, West Penn has denied the material allegations in the Formal Complaint.

3. It is well settled that the Commission has only the powers, and can only consider such matters, as are expressly, or by necessary implication given to it by the legislature. *Behrend v. Bell Telephone Co.*, 363 A.2d 1152 (Pa, Super 1976); *Brockway Glass Company, Inc. v. West Penn Power Co.*, 54 Pa P.U.C. 509 (1980); *Bones v. Bates Taxi, Inc.*, 51 Pa, P.U.C. 346 (1977). The Pennsylvania Public Utility Code, 66 Pa C.S. § 101, *et seq.* (the Code), gives the Commission supervisory and regulatory power over the rates, service and facilities of public utilities. *Brockway Glass* at 514.

4. Additionally, pursuant to 52. Pa. Code § 5.101, West Penn objects to the Formal Complaint on the grounds that the Commission lacks jurisdiction to award monetary damages. The Complainant seeks to have West Penn pay for the alleged damages to the furnace and reimbursement of the upgraded customer equipment at the Service Location.

5. Pennsylvania courts have long held that the enforcement powers of the Commission do not include the power to award monetary damages. *Elkin v. Bell*, 491 Pa. 123, 420 A.2d 371 (1980); *Feingold v. Bell of Pennsylvania*, 477 Pa. 1, 383 A.2d 791 (1978); see *Nagy v. Bell Tel. Co.*, 436 A.2d 701 (Pa, Super. 1981). Thus, the Code does not give the

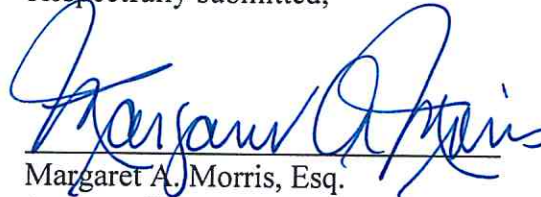
Commission jurisdiction over a claim for monetary damages. *Behrend, supra; Brockway Glass, supra; Bones v. Bates Taxi, Inc.*, 51 Pa. P.U.C. 346 (1977).

6. The Court of Common Pleas retains original jurisdiction over suits for monetary damages. *Behrend, supra.*

7. The requested relief by the Complainant, in the form of monetary compensation, is not recoverable in the cause of action before this Commission as the Commission is without authorization to award damages. The request for relief is irrelevant to the instant cause of action and therefore an “impertinent matter” within the use and meaning of 52 Pa. Code §5.101 (a)(2).

WHEREFORE, Respondent, West Penn Power Company, requests that the relief for damages in the Formal Complaint filed by Lora Moss on behalf of Alberta Stratton be dismissed with prejudice or denied in its entirety for lack of subject matter jurisdiction.

Respectfully submitted,



Margaret A. Morris, Esq.
Attorney ID No. 75048
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

Date: June 9, 2016

Counsel for West Penn Power Company

Docket No. C-2016-2536310
Alberta Stratton c/o Lora Moss v. West Penn Power Company

Attachment 1

Formal Complaint

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Formal Complaint

Filing this form begins a legal proceeding and you will be a party to the case. If you do not wish to be a party to the case, consider filing an informal complaint.

RECEIVED
2016 MAR 23 AM 9:56
PA P.U.C. SECRETARY'S BUREAU

To complete this form, please type or print legibly in ink.

1. Customer (Complainant) Information

Provide your name, mailing address, county, telephone number(s), e-mail address and utility account number. It is your responsibility to update the Commission with any changes to your address and to where you want documents mailed to you.

Name Alberta Stratton (Lora Moss)

Street/P.O. Box 11380 Guffey Rilton Rd Apt # _____

City N. Huntingdon State PA Zip 15642

County Westmoreland

Telephone Number(s) Where We Can Contact You During the Day:

(724) 864-0538 (home) () (mobile)

E-mail Address (optional): _____

Utility Account Number (from your bill) 100090718212

If your complaint involves utility service provided to a different address or in a different name than your mailing address, please list this information below.

Name _____

Street/P.O. Box _____

City _____ State _____ Zip _____

RECEIVED
2016 MAR 14 AM 10:58
PA P.U.C. SECRETARY'S BUREAU

2. Name of Utility or Company (Respondent)

Provide the full name of the utility or company about which you are complaining. The name of your utility or company is on your bill.

West Penn Power

3. Type of Utility Service

Check the box listing the type of utility service that is the subject of your complaint (check only one):

- ELECTRIC WASTEWATER/SEWER
 GAS TELEPHONE/TELECOMMUNICATIONS (local, long distance)
 WATER MOTOR CARRIER (e.g. taxi, moving company, limousine)
 STEAM HEAT

4. Reason for Complaint

What kind of problem are you having with the utility or company? Check all boxes below that apply and state the reason for your complaint. Explain specifically what you believe the utility or company has done wrong. Provide relevant details including dates, times and places and any other information that may be important. If the complaint is about billing, tell us the amount you believe is not correct. Use additional paper if you need more space. Your complaint may be dismissed without a hearing if you do not provide specific information.

- The utility is threatening to shut off my service or has already shut off my service.
- I would like a payment agreement.
- Incorrect charges are on my bill. Provide dates that are important and an explanation about any amounts or charges that you believe are not correct. Attach a copy of the bill(s) in question if you have it/them.
- I am having a reliability, safety or quality problem with my utility service. Explain the problem, including dates, times or places and any other relevant details that may be important.

Other (explain). Unnecessary out of pocket cost at this time. To begin on Dec 4 at night we noticed alot of surges lights would get bright then dim then all of a sudden we had only power to half the house then it would come back on then go off. In the meantime my mother in law who has

→

has medical conditions which require her to have a lot of breathing machines it is very important to have power so I called West Penn to come and check out the problem they came the next morning and he ~~was~~ asked what was going on so I told him, he went and checked our meter and said we needed a new meter it was old. I asked him to check wire from pole he looked up and said it was fine it was the meter that was the problem. So we had to call an electrician on the weekend to have a new service put in.

(That was ~~that~~ Sunday Dec. 6). So in the meantime our furnace started having problems it stopped running so we tried to figure that out trying everything then we found out that the brain got fried by the power surges we had. So we got that fixed thought everything was fine. Then on the 18th at night we had the exact same problem again power surges and lost power to the same part of the house so I called West Penn told me not their problem to call electrician. So I called an electrician about 10:00pm he came out and checked everything said the ~~the~~ problem was we were not getting power to left leg of meter (something he told me the first time when he said it was the meter) So the electrician called West Penn told them what he found and they said they would send someone right out this was around 11:00pm. So because Alberta is on breathing machines she has a medical paper that gets service quicker from West Penn. But this time it wasn't I called six times and they kept giving me different times. Finally he came it was around 9:30am looked at meter said no power. Said meter was new so went to transformer (which is what I asked first guy to do and he didn't) and found a broken connector fixed it and we had all power back took about 10 minutes. So I asked him why the first guy just didn't do that he said he probably seen the old meter and that was all the further he wanted to go. So I feel that we probably would not have had to put all the money out for a new service and would have a broken furnace and charges for an electrician if the first guy would have done his job. Everything should be checked before just saying its old you need a new one. We did not have any problems with our service before then. So I feel we should get reimbursed for everything we probably did not need at that time. I have enclosed copies of the bills for this matter.

~~By~~ West Penn offered to pay for furnace and electrician bills but not for any of the service. So they feel it was their fault or they would not have made an offer. Any questions please call me at 724-864-0538 Thank you
Linn. Moss.

Note: If your complaint is only about removing or modifying a municipal lien filed by the City of Philadelphia, the Public Utility Commission (PUC) cannot address it. Only local courts in Philadelphia County can address this type of complaint. The PUC can address a complaint about service or incorrect billing even if that amount is subject to a lien.

In addition, the PUC generally does not handle complaints about cell phone or Internet service, but may be able to resolve a dispute regarding voice communications over the Internet (including the inability to make voice 911/E911 emergency calls) or concerns about high-speed access to Internet service.

5. **Requested Relief**

How do you want your complaint to be resolved? Explain what you want the PUC to order the utility or company to do. Use additional paper if you need more space.

Just reimburse the money that was paid out at that time which was not necessary at that time if the West Penn Power man would have done his job correctly.

Note: The PUC can decide that a customer was not billed correctly and can order billing refunds. The PUC can also fine a utility or company for not following rules and can order a utility or company to correct a problem with your service. Under state law, the PUC cannot decide whether a utility or company should pay customers for loss or damages. Damage claims may be sought in an appropriate civil court.

6. Protection From Abuse (PFA)

Has a court granted a "Protection From Abuse" order that is currently in effect for your personal safety or welfare? The PUC needs this information to properly process your complaint so that your identity is not made public.

Note: You must answer this question if your complaint is against a natural gas distribution utility, an electric distribution utility or a water distribution utility AND your complaint is about a problem involving billing, a request to receive service, a security deposit request, termination of service or a request for a payment agreement.

Has a court granted a "Protection From Abuse" order for your personal safety or welfare?

YES

NO

If your answer to the above question is "yes," attach a copy of the current Protection From Abuse order to this Formal Complaint form.

7. Prior Utility Contact

a. Is this an appeal from a decision of the PUC's Bureau of Consumer Services (BCS)?

YES

NO

Note: If you answered yes, move to Section 8. No further contact with the utility or company is required. If you answered no, answer the question in Section 7 b. and answer the question in Section 7 c. if relevant.

b. If this is not an appeal from a BCS decision, have you spoken to a utility or company representative about this complaint?

YES

NO

Note: You must contact the utility first if (1) you are a residential customer, (2) your complaint is against a natural gas distribution utility, an electric distribution utility or a water utility AND (3) your complaint is about a billing problem, a service problem, a termination of service problem, or a request for a payment agreement.

- c. If you tried to speak to a utility company representative about your complaint but were not able to do so, please explain why.

Did speak to them concerning this was not satisfy with the ~~outcome~~ out come because it was not our fault

Note: Even if you are not required to contact the utility or company, you should always try to speak to a utility or company representative about your problem before you file a Formal Complaint with the PUC.

8. Legal Representation

If you are filing a Formal Complaint as an individual on your own behalf, you are not required to have a lawyer. You may represent yourself at the hearing.

If you are already represented by a lawyer in this matter, provide your lawyer's name, address, telephone number, and e-mail address, if known. Please make sure your lawyer is aware of your complaint. If represented by a lawyer, both you and your lawyer must be present at your hearing.

Lawyer's Name _____
Street/P.O. Box _____
City _____ State _____ Zip _____
Area Code/Phone Number _____
E-mail Address (if known) _____

Note: Corporations, associations, partnerships, limited liability companies and political subdivisions are required to have a lawyer represent them at a hearing and to file any motions, answers, briefs or other legal pleadings.

9. Verification and Signature

You must sign your complaint. Individuals filing a Formal Complaint must print or type their name on the line provided in the verification paragraph below and must sign and date this form in ink. If you do not sign the Formal Complaint, the PUC will not accept it.

Verification:

I Lora Moss (^{mother in law} Alberta Stratton) hereby state that the facts above set forth are true and correct (or are true and correct to the best of my knowledge, information and belief) and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Lora Moss Lora Moss 3-5-16 3-20-16
(Signature of Complainant) (Date)

Title of authorized employee or officer (only applicable to corporations, associations, partnerships, limited liability companies or political subdivisions)

Note: If the Complainant is a corporation, company or political subdivision, the verifier must be an authorized officer or authorized employee. If the Form is filed by individuals, the PUC will not accept it.

10. Two Ways to File Your Formal Complaint

Electronically. You must create an account accessed at <http://www.puc.pa.gov/efiling/default.aspx>

Note: If you are appealing your Bureau of Public Utility Service decision, you must file your formal complaint by mail.

Mail. Mail the completed form with your original by certified mail, first class mail, or overnight.

If you are looking for a signature from Alberta we can not get you one now because on 3-15-16 she has passed away. Any questions call 724-844-0538
Thanks Lora Moss

Secretary
Pennsylvania Public Utility Commission
400 North Street
Harrisburg, Pennsylvania 17120

Note: Formal Complaints sent by fax or e-mail will not be accepted.

If you have any questions about filling out this form, please contact the Secretary's Bureau at 717-772-7777.

Keep a copy of your Formal Complaint for your records.

F. M. C. ELECTRIC

117 Stoneybrook
Greensburg, PA 15601
724-837-3079

Customers Name: Frank Straton Jr

Address: 11380 Guffy Rd Rd.

Phone: _____ Date: 12-6-15

Description Upgrade Service 100amp

Remove old socket, Panel Box

Install new socket Panel Breakers

Electrical Insp. John Stewart

Total Mat. Labor + Inspection

pd ✓ #

Total 1000⁰⁰
Insured - Free Estimates - PA #079291

Please make checks payable to: Frank M. Chavara

EICHELBERGER & SONS
HEATING/AIR CONDITIONING
 10321 Center Highway
 North Huntingdon, PA 15642
 724-863-1932
 www.eichelbergerhvac.com



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 HEATING • AIR CONDITIONING
 HEAT PUMPS • HUMIDIFIERS
 CUSTOMIZED DUCT WORK
 HOT WATER TANKS • AIR CLEANERS
 HOME IMPROVEMENT #PA8776

DATE 12-11-15
 TELEPHONE # _____
 CSA # _____

ALBERTA STRATTON CASA
11380 GUFFOY RILTON RD.
N. HUNTINGDON, PA 15642

PLEASE DETACH AND RETURN WITH YOUR REMITTANCE \$ 8.50

DATE	CHARGES AND CREDITS	BALANCE
	BALANCE FORWARD →	
	OIL NOZZLE	8 50
	.75 70°A	
	Comfort Service Agreement Savings	-\$
	Total	8 50

Your Service Technician was IN SHOP PAY LAST AMOUNT IN THIS COLUMN

EICHELBERGER & SONS • 724-863-1932

TERMS: Net 30 days; After 30 days 1.5% surcharge will be added monthly.

Thank You!

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 724-863-1932
 www.eichelbergerhvac.com



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 CUSTOMIZED DUCT WORK
 HOT WATER TANKS • AIR CLEANERS
 HOME IMPROVEMENT #PA8776

DATE 12-16-15
 TELEPHONE # _____
 CSA # _____

Mrs. STROTTON #106

PLEASE DETACH AND RETURN WITH YOUR REMITTANCE \$ 140.00

DATE	CHARGES AND CREDITS	BALANCE
	BALANCE FORWARD →	
	HONEYWELL PRIMARY CONTROL	
	<i>paid</i>	
	Comfort Service Agreement Savings	-\$
	Total	\$140.00

Your Service Technician was _____ ↑
PAY LAST AMOUNT IN THIS COLUMN

EICHELBERGER & SONS • 724-863-1932

TERMS: Net 30 days; After 30 days 1.5% surcharge will be added monthly.

Thank You!

Thermo Dynamics

Heating • Cooling • Refrigeration

12-18-2015

11:00 PM

- Emergency Service Callout to above address.
- Description of Repair > MAIN ELECTRICAL SERVICE has only one side of power (electric) coming in on service panel
- Check Electrical Current at Service Box
- Remove Electrical meter cover & check power
- Only one leg has electric on one side due to faulty wiring at transformer on main pole outside of house - Power Company's responsibility to repair - Contacted & spoke with representative - was told they would be out ASAP due to customer's health issues.

Emergency Callout Fee: \$ 150.00
Labor to check problem \$ 100.00

Total Repair Cost \$ 350.00
Service

Moss
11380 Guffey Rilltan Rd
N. Huntingdon PA 15642



Secretary
Pennsylvania Public Utility Commission
400 North Street 2nd Floor
Harrisburg, PA 17120

5851-1101