

200 Brook Hollow Road
Mount Pleasant, PA 15666

October 17, 2019

VIA ELECTRONIC FILING

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

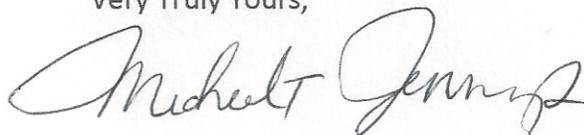
Re: Michael T. Jennings v. West Penn Power Company
Docket No. C-2018-3006031

Dear Secretary Chiavetta,

Enclosed please find my Petition for Protective Order in the form of my Stipulated Protective Order in the above-referenced matter. This document has been served on West Penn Power as shown in the Certificate of Service.

Please contact me if you have any questions.

Very Truly Yours,



Michael T. Jennings

ssj
Enclosures

CC: ALJ Watson
Certificate of Service
1

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

MICHAEL T. JENNINGS	:	
Complainant	:	
v.	:	Docket No. C-2018-3006031
	:	
WEST PENN POWER COMPANY	:	
Respondent	:	

PETITION FOR PROTECTIVE ORDER

Michael T. Jennings (Complainant) files this Petition pursuant to 52 Pa. Code § 5.423 (b) for the entry of a Protective Order, in the form attached hereto as, Stipulated Protective Agreement, **Exhibit A**, to limit the disclosure of confidential and proprietary information (Confidential Information) produced in discovery or submitted for the record by any party in the above-referenced matter. In further support of this Petition, Complainant states as follows:

1. On November 14, 2018, Michael T. Jennings (“Complainant”) filed a Formal Complaint with the Public Utility Commission regarding 200 Brook Hollow Road, Mount Pleasant, Pennsylvania 15666, electronically filed on November 15, 2018.
2. The Formal Complaint was assigned to Administrative Law Judge Jeffrey A. Watson.
3. On February 12, 2019, West Penn Power propounded interrogatories upon the Complainant to which the Complainant answered and electronically filed on March 2, 2019. Complainant explained to West Penn Power more answers would be provided if they would sign and return the enclosed Stipulated Protective Agreement to protect my family’s confidential medical information. West Penn Power did not respond nor did they sign the agreement.
4. On September 20, 2019, Complainant filed a Request for Entry of a Protective Order.
5. On September 30, 2019, ALJ Watson entered an Interim Order which directed, in part,

that the parties shall confer on or before October 10, 2019 and attempt to agree or stipulate to the terms of a protective order to address the disclosure and use of medical information and documentation and other sensitive information in this proceeding. Further, the parties were directed to submit a stipulated protective order or, in the event an agreement is not reached by the parties, either party, or both, may submit a request for a protective and a protective order on or before October 17, 2019.

6. The Complainant will be producing confidential medical information to West Penn Power. Accordingly, the entry of a Protective Order will protect Complainant's information and documents that are considered confidential.

7. West Penn Power stated in their Petition for Protective Order, dated October 17, 2019, "On October 4, 2019, in an effort to comply with ALJ Watson's directive in the Interim Order issued September 30, 2019, the Company sent a copy of the proposed protective order to the Complainant for his review..." Complainant did not receive anything from West Penn Power except an email from Kaitlyn B. Weidel on October 17, 2019 regarding West Penn Power's filing of a Protective Order. **(See Exhibit B.)**

8. Complainant has attempted to have the Stipulated Protective Agreement agreed upon since March 2, 2019 via first-class mail. West Penn Power ignored the request.

9. On October 7, 2019, Complainant sent the Stipulated Protective Agreement again first-Class mail. **(See Exhibit C, return receipt signed by a West Penn Power employee.)**

10. West Penn Power states in their Petition "By letter dated October 7, 2019, the Complainant provided no comment or input regarding the draft protective order forwarded to the Complainant on October 4, 2019..." The Complainant never received said draft protective order. I could not comment on something I never received.

10. On October 15, 2019, Complainant made one last attempt, by email **(See Exhibit D)** to Lauren Lepkoski and Tori Giesler, to have the agreement acknowledged by West Penn Power;

however, they did not respond, acknowledge receipt or sign and return the agreement.

11. On October 17, 2019, Complainant received an email from Kaitlyn B. Weidel. **(See No. 7 above and Exhibit B.)** This is the only thing I have received from West Penn Power in this matter.

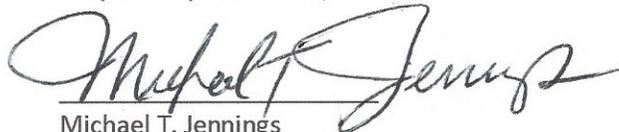
12. The Complainant gave West Penn Power several opportunities to discuss the Stipulated Protective Agreement, but they chose not to respond to the Complainant. West Penn Power chose to wait until the eleventh hour (4:55P) and file their Petition for Protective Order instead of conferring with Complainant. West Penn Power wants the information, so it seems they would be eager to confer.

13. I tried to file this petition on October 17, 2019, however, I kept getting an error message from the system. **(See Exhibit E.)**

14. The Complainant avers that the Stipulated Protective Agreement will protect his family's Confidential information from production or use outside the bounds of this docketed Proceeding even further than the one West Penn is proposing. The Complainant was not privy to "the appropriate form for a protective order" that West Penn Power mentioned in their Petition for Protective Order, only that the parties were to propose one if they chose to do so.

WHEREFORE, for all of the foregoing reasons, this Petition should be granted and a Stipulated Protective Agreement in the form of attached hereto as Exhibit A should be issued.

Respectfully Submitted,



Michael T. Jennings
200 Brook Hollow Road
Mount Pleasant, PA 15666
724-600-9338

Lilmac2@zoominternet.net

Dated: October 17, 2019

EXHIBIT A

STIPULATED PROTECTIVE AGREEMENT

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

MICHAEL T. JENNINGS

v.

WEST PENN POWER COMPANY

:
:
:
:
:

Docket No. C-2018-3006031

:

STIPULATED PROTECTIVE AGREEMENT

This Agreement is between and among Michael T. Jennings (“Jennings”); West Penn Power Company (WPP) attorney Lauren Lepkoski, Esquire, and West Penn’s experts and any and all other experts whom WPP lawyers hire or whom WPP’s lawyers may consult in regards to the above-captioned proceeding (“Proceeding”). This Agreement establishes procedures for the protection of certain confidential information involved in the Proceeding.

Intending to be legally bound, the parties hereby agree as follows:

1. That the information subject to this Stipulated Protective Agreement is all correspondence, documents, data, personal health information, studies, and other materials to be furnished by Jennings’ medical providers pursuant to WPP’s interrogatories to Jennings as to the family’s health conditions, and which Jennings’ medical providers may provide to WPP pursuant to a release signed by Jennings. Such materials will be referred to below as “Confidential Information.” When a statement or exhibit is identified for the record, the portions thereof that constitute Confidential Information shall be so designated for the record.

2. All Confidential Information shall only be made available to WPP subject to the terms of this Stipulated Protective Agreement. WPP counsel shall use or disclose the Confidential Information only for purposes of preparing or presenting evidence,

cross examination or argument in this Proceeding. WPP may afford access to Confidential Information made available by Jennings' experts and health care providers (1) only to WPP's experts, and (2) only subject to the terms of this Stipulated Protective Agreement.

Before WPP discloses any Confidential Information to anyone, (1) WPP shall secure written assurance from each of such potential persons to whom disclosure may be made that he or she will maintain the confidentiality of the Confidential Information and not disclose the Confidential Information further except in preparation for the above-mentioned Proceeding; (2) WPP shall provide Jennings with a list of West Penn experts to whom WPP intends to disclose the Confidential Information; and (3) signatures of such experts, that they agree to the terms of this Agreement shall be furnished to Jennings before WPP discloses any Confidential Information to any WPP expert.

3. WPP shall use its best efforts to safeguard the Confidential Information and not disclose any Confidential Information except as provided herein. WPP agrees to give Jennings written notice within 5 days of WPP's discovery of any unintentional disclosure of the Confidential Information and WPP shall cooperate with Jennings to rectify to the extent possible, any damage to Jennings for unintentional disclosure of Confidential Information.

Jennings retains the right to challenge the adequacy of West Penn's written assurances that Confidential Information will not be jeopardized. No other persons may have access to the Confidential Information except as authorized by order of the Commission or of the presiding Administrative law Judges.

Prior to making Confidential Information available to an expert, WPP shall deliver a copy of this Stipulated Protective Agreement to such expert and shall receive a written

acknowledgement from the expert in the form attached as Appendix A to this Stipulated Protective Agreement or similar acknowledgement consistent with the terms of this Stipulated Protective Agreement. Jennings shall be notified promptly of the identity of all persons provided access to Confidential Information pursuant to this paragraph and paragraph 2 above and shall be provided with a copy of each acknowledgement signed by each expert.

4. WPP acknowledges that all health information it receives from Jennings' healthcare providers pursuant to WPP's interrogatory requests is Confidential Information and WPP shall immediately stamp each page of such document "Confidential" and shall keep all Confidential Information segregated from its general litigation files in a secure location.

5. WPP will consider and treat the Confidential Information as within the exemptions from disclosure provided in the Pennsylvania Right-to-Know Act as set forth at 65 P.S. § 67.708(b)(11). To the extent Confidential Information is provided electronically or by email, or other electronic means, WPP and its experts will send such information encrypted, and will use such electronic files only for this Proceeding, will not copy the files onto any hard drive and will not make any additional copies.

6. Any public references to Confidential Information by WPP or its experts shall be to the title or exhibit reference in sufficient detail to permit persons access to the Confidential Information to understand fully the reference, but not more. The Confidential Information shall remain a part of the record, to the extent admitted, for all purposes of administrative or judicial review but shall remain in segregated location and shall be prominently marked "CONFIDENTIAL."

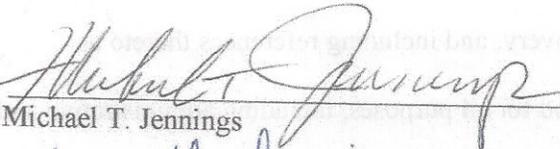
7. That part of any record of this Proceeding containing Confidential Information, including but not limited to all exhibits, writings, direct testimony, cross

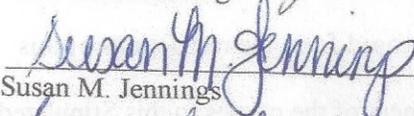
examination, argument, and responses to discovery, and including references thereto as mentioned in paragraph 6 above, shall be sealed for all purposes, including administrative and judicial review, unless such Confidential Information is released from the restrictions of this Stipulated Protective Agreement, either through the agreement of the parties to this Stipulated Protective Agreement or pursuant to an order of an Administrative Law Judge or the Commission.

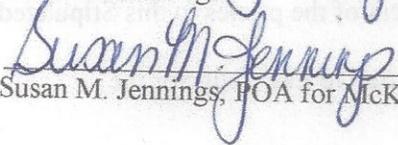
8. Jennings shall retain the right to question or challenge the admissibility of Confidential Information; to refuse to produce or object to the production of Confidential Information on any proper ground; and to seek additional measures of protection of Confidential Information beyond those provided in this Stipulated Protective Agreement.

9. That within thirty (30) days after a Commission decision is entered in the Proceedings, or in the event of appeals, within thirty (30) days after appeals are finally decided, WPP and WPP's experts upon request, shall either destroy or return to Jennings all copies of all documents and other materials not entered into the record, including notes, electronic or emailed files, which contain any Confidential Information. In the event that WPP elects to destroy all copies of documents and other materials containing Confidential Information instead of returning the copies of documents and other materials containing Confidential Information to Jennings, West Penn shall immediately certify in writing to Jennings that all the Confidential Information has been destroyed.

Agreed:

By:  Date: 10-7-19
Michael T. Jennings

By:  Date: 10-7-19
Susan M. Jennings

By:  Date: 10-7-19
Susan M. Jennings, POA for McKenzie S. Jennings

By: _____
Signature Lauren M. Lepkoski, Esq.

Date: _____

By: _____
Signature Tori Giesler

Date: _____

West Penn Witness:

By: _____ Print Name: _____
Signature

Date: _____

West Penn Witness:

By: _____ Print Name: _____
Signature

Date: _____

West Penn Witness:

By: _____ Print Name: _____
Signature

Date: _____

West Penn Witness:

By: _____ Print Name: _____
Signature

Date: _____

West Penn Witness:

By: _____ Print Name: _____
Signature

Date: _____

West Penn Witness:

By: _____ Print Name: _____
Signature

Date: _____

APPENDIX A

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

MICHAEL T. JENNINGS

v.

Docket No. C-2018-3006031

WEST PENN POWER COMPANY

STIPULATED PROTECTIVE AGREEMENT

TO WHOM IT MAY CONCERN:

The undersigned is _____ for West Penn Power Company, in the Proceeding as defined in the Stipulated Protective Agreement. The undersigned has read and understands the Stipulated Protective Agreement agreed to in the Proceeding, which Stipulated Agreement deals with the treatment of Confidential Information. The undersigned agrees to be bound by, and comply with, the terms and conditions of said Stipulated Protective Agreement.

Signature

Printed Name

ADDRESS

EMPLOYER

DATE: _____

Exhibit B

From: Giesler, Tori tgiesler@firstenergycorp.com
Subject: Jennings, Michael T. v. West Penn Power Company; Docket No. C-2018-3006031
Date: October 17, 2019 at 4:55 PM
To: Jeff Watson jeffwatson@pa.gov, lilmac2@zoominternet.net
Cc: Giesler, Tori tgiesler@firstenergycorp.com, Lepkoski, Lauren M llepkoski@firstenergycorp.com



Please find attached a copy of the Petition for Protective Order from West Penn Power Company regarding the above-referenced matter. Hard copies will follow pursuant to the cover letter and certificate of service.

Thank you.

Kaitlyn B. Weidel
Executive Assistant
FirstEnergy Service Company
Legal Department - Reading
2800 Pottsville Pike
PO Box 16001
Reading, PA 19612
Kweidel@firstenergycorp.com
Telephone: 610-921-6685
Facsimile: 330-315-9263

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Jennings,
Michae...der.pdf

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CERTIFIED MAIL® RECEIPT**

Domestic Mail Only

For delivery information, visit our website at www.usps.com®.

READING, PA 19612

Certified Mail Fee	\$3.50
Extra Services & Fees (check box, add fee as appropriate)	
<input type="checkbox"/> Return Receipt (hardcopy)	\$2.80
<input type="checkbox"/> Return Receipt (electronic)	\$0.00
<input type="checkbox"/> Certified Mail Restricted Delivery	\$0.00
<input type="checkbox"/> Adult Signature Required	\$0.00
<input type="checkbox"/> Adult Signature Restricted Delivery	\$0.00

Postage	\$0.70
Total Postage and Fees	\$7.00

Sent To Lauren Lepkoski ; Tori Grester
 Street and Apt. No., or PO Box No.
 City, State, ZIP+4®

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions



Stipulated
 Prot. Agreement
 #2 sent.

Exhibit C

Price \$0.70

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:
Lauren Leposki
Tori Grester
WPP
Stipulated Prot. Agreement



9590 9402 3829 8032 4354 69

7016 3010 0000 8001 2236

COMPLETE THIS SECTION ON DELIVERY

A. Signature
 Tori M. Grester Agent
 Addressee

B. Received by (Printed Name) Tori M Grester C. Date of Delivery

D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No

3. Service Type
- | | |
|--|---|
| <input type="checkbox"/> Adult Signature | <input type="checkbox"/> Priority Mail Express® |
| <input type="checkbox"/> Adult Signature Restricted Delivery | <input type="checkbox"/> Registered Mail™ |
| <input type="checkbox"/> Certified Mail® | <input type="checkbox"/> Registered Mail Restricted Delivery |
| <input type="checkbox"/> Certified Mail Restricted Delivery | <input type="checkbox"/> Return Receipt for Merchandise |
| <input type="checkbox"/> Collect on Delivery | <input type="checkbox"/> Signature Confirmation™ |
| <input type="checkbox"/> Collect on Delivery Restricted Delivery | <input type="checkbox"/> Signature Confirmation Restricted Delivery |

Exhibit D

From: Susan Jennings lilmac2@zoominternet.net 
Subject: Stipulated Protective Agreement - Docket Number C-2018-3006031
Date: October 15, 2019 at 9:36 AM
To: Lauren Lepkoski llepkoski@firstenergycorp.com, Tori Giesler tgiesler@firstenergycorp.com
Bcc: Susan Jennings oilsofgrace@hotmail.com

MJ

Dear Ms. Lepkoski and Ms. Giesler,

As a courtesy, I am sending my Stipulated Protective Agreement to you by email. I mailed a certified/return receipt copy to your office via first class mail on October 7, 2019. My request has gone unanswered and I am making a last attempt to fulfill the Interim Order dated September 20, 2019.

Please have all parties having access to my confidential health information sign the agreement and fill out the form at Appendix A. Please mail all signed copies back to me. If you choose not to sign and use this agreement, please explain in writing why you choose not to use it and why you will not sign.

If I do not hear back from you on or before October 17, 2019, I will proceed with the Interim Order instructions to submit a request for a protective order along with this Stipulated Protective Agreement to Honorable Jeffrey A. Watson.



Stipulated
Protect...ent.pdf

Very Truly Yours
Michael T. Jennings

Exhibit E



PENNSYLVANIA
PUBLIC UTILITY COMMISSION

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We apologize for this inconvenience.

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

MICHAEL T. JENNINGS
Complainant

v.

WEST PENN POWER COMPANY
Respondent

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:
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Docket No. C-2018-3006031

VERIFICATION

I, Michael T. Jennings, hereby state that the facts set forth above 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. Section 4904.

10-17-19

Date

Michael T. Jennings
Michael T. Jennings

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

MICHAEL T. JENNINGS	:	
Complainant	:	
	:	
v.	:	Docket No. C-2018-3006031
	:	
WEST PENN POWER COMPANY	:	
Respondent	:	

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the Petition for Protective Order, Stipulated Protective Agreement, of Michael T. Jennings upon the individuals listed below, in accordance with the requirement of 52 Pa. Code § 1.54 (relating to service by a participant.)

Service by e-mail and e-filing, as follows:

Lauren Lepkoski
Tori Giesler
FirstEnergy Service Company
2800 Pottsville Pike
P.O. Box 16001
Reading, PA 19612-6001
llepkoski@firstenergycorp.com
tgiesler@firstenergycorp.com

Service by e-filing and first-class mail:

Administrative Law Judge Jeffrey A. Watson
Pennsylvania Public Utility Commission
Piatt Place, Suite 220
301 5th Avenue
Pittsburgh, PA 15222

Dated: October 17, 2019



Michael T. Jennings
200 Brook Hollow Road
Mount Pleasant, PA 15666
724-600-9338
Lilmac2@zoominternet.net