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December 26, 2019

**VIA ELECTRONIC FILING**

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

**Re: Eugene J. Bazan v. West Penn Power Company**  
**Docket No. C-2017-2640338**

Dear Secretary Chiavetta:

This letter serves as the response of West Penn Power Company (“West Penn”) to the “Petition for Subpoenas” and “Request for Surrebuttal”, both dated December 16, 2019, as submitted by the Complainant in the above-referenced matter. By way of background, this matter has now been ongoing for two years, having been initiated in December 2017. During that time, the parties were afforded ample opportunity for the completion of discovery, with the discovery window closing in this matter on September 9, 2019. In addition, the date by which all parties were required to provide notification of witnesses was February 14, 2019. At this point, direct and rebuttal testimony have already been exchanged, and the parties are in the final stages of preparing their respective cases in anticipation of evidentiary hearings in this matter, which begin on February 7, 2019 – just over one month away.

Over the course of this procedural process of this case, the Complainant has actively conducted discovery – to the extent of issuing six sets of extensive discovery to West Penn. In addition, the parties notified each other and the presiding officer of their witnesses both in accordance with the deadline set in this matter as well as provided updates at the most recent prehearing conference held in this matter in June 2019. The simple fact is that the Complainant has had ample time to provide notice of his desire to subpoena and present as witnesses those individuals listed in the Petition for Subpoenas but instead has chosen to surprise West Penn by filing this last-minute request for subpoena without any prior notice. Furthermore, the parties and the presiding officer discussed - and agreed upon – the dates selected for the submission of direct and rebuttal testimony in this matter. At no point was a request for additional testimony made during those conversations. Finally, surrebuttal and/or rejoinder is not appropriate for purposes of this type of proceeding. Rather, it would be most appropriate to follow the course of other similar proceedings whereby the parties present their written testimony at the evidentiary hearing in this matter, make their witnesses available for cross examination, and then are given the opportunity for re-direct of those witnesses. To offer the Complainant a more extensive opportunity for

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testimony – indeed, any different a procedural path - than is afforded any other complainant before the Pennsylvania Public Utility Commission would be discriminatory and inappropriate.

As such, the Complainant's requests for subpoenas as well as the request for surrebuttal and/or rejoinder testimony and a third day of hearings should be outright rejected on these bases. In the alternative, West Penn respectfully requests that a stay be placed on a determination as to these various requests such that an expedited prehearing conference may be set for the parties and the presiding officer to convene and discuss these requests in more detail. Please note that to the extent West Penn's objections to the Complainant's requests are overruled the alternative request is granted, the Company's counsel is unavailable for a prehearing conference until January 6, 2020 due to pre-scheduled time out of the country over the holiday season. It is West Penn's suggestion that any such prehearing conference be held the week of January 6, 2020.

Copies of this report are being provided in accordance with the attached Certificate of Service. Should you have any questions regarding this report, please do not hesitate to contact me.

Very truly yours,



Tori L. Giesler

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Enclosures

c: As per Certificate of Service

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**EUGENE J. BAZAN**

**v.**

**WEST PENN POWER COMPANY**

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**Docket No. C-2017-2640338**

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a true copy of the aforementioned documents upon the individuals listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

Service by electronic and First Class Mail, postage prepaid, as follows:

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Dated: December 26, 2019



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