

January 13, 2020

Via Electronic Filing

Rosemary Chiavetta, Esquire
Secretary
PA Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

**Re: Docket No. C-2019-3009143
Amanda Herr v. West Penn Power Company
Reply Exceptions of West Penn Power Company**

Dear Secretary Chiavetta:

Attached for filing is the Reply Exceptions of West Penn Power Company has to the Exceptions of Amanda Herr (Complainant).

A copy of the attached Reply Exceptions has been provided 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/lam
Enclosure

cc: Special Agent Gail Chiodo, PA Public Utility Commission [w/encl.]
Office of Special Assistants, PA Public Utility Commission [w/encl.]
Teresa K. Harrold, Esquire, FirstEnergy Service Company [w/encl.]
Amanda Herr [w/encl.]

**Re: Docket No. C-2019-3009143
Amanda Herr v. West Penn Power Company
Reply Exceptions of West Penn Power Company**


CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been served upon the following person, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

Via First Class Mail

Amanda Herr
REDACTED

Dated: January 13, 2020



Margaret A. Morris, Esquire

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

AMANDA HERR :
 :
 v. : Docket No. C-2019-3009143
 :
 WEST PENN POWER COMPANY :

**REPLY EXCEPTIONS
OF WEST PENN POWER COMPANY
TO THE EXCEPTIONS OF
AMANDA HERR**

Margaret A. Morris, Esq.
REGER RIZZO & DARNALL LLP
Cira Centre, 13th Floor
2929 Arch Street
Philadelphia, PA 19104

Dated: January 13, 2020

Counsel for West Penn Power Company

Introduction

In accordance with the Commission's directive and Section 5.535 of the Commission's Regulation, 52 Pa. Code § 5.535, West Penn Power Company (West Penn or the Company) submits its Reply to the Exceptions of Amanda Herr (Complainant) which support the adoption of the Initial Decision (ID) of Special Agent Gail Chiodo (Special Agent Chiodo). The Commission should deny the Exceptions, and affirm the ID in its entirety. The findings of facts and conclusions of law set forth in the well-reasoned ID are based on the record evidence

Relevant History of Proceedings

In her Formal Complaint, filed on April 11, 2019, the Complainant represented that she had a Protection From Abuse Order and requested an affordable Commission payment arrangement (PAR). On May 2, 2019, West Penn filed an Answer and New Matter denying the material averments.

A telephonic hearing was held on August 27, 2019. The Complainant appeared *pro se*, offered her testimony and sponsored two exhibits, which included a valid PFA Order. The Company offered the testimony of one witness and all nineteen exhibits were admitted into the record. The ID was issued on December 13, 2019. The Complainant filed Exceptions on December 30, 2019.

Initial Decision

Special Agent Chiodo found that Chapter 14 of the Code was not applicable since the Complainant had a valid PFA Order (FOF 18) and that a Commission PAR must be consistent with Section 56.421 of Commission regulations. Special Agent Chiodo, based on the record evidence that the Complainant's income is well below 150% of the Federal poverty level, directed a 10-year Commission PAR. She specifically stated:

However, in deciding the appropriate payment arrangement, each case has its own unique circumstances. In the instant case, it is significant that Ms. Herr has recently secured rent-free housing, thus eliminating

what often consumes a significant portion of a customer's monthly income; and that she is employed part-time and intends to be employed full-time. Under the circumstances, an extended repayment period of one hundred twenty (120) months or ten (10) years is reasonable. *Compare, Stiffler, supra.* (providing a 10-year repayment period reasonable for a \$13,722.19 debt wherein the customer had a monthly income of \$1,049 for a household of four). Under the current arrearage of \$15,838.03, this calculates to be a monthly payment of \$132 per month in addition to her monthly budget bill. At the time of the hearing, the evidence showed that Ms. Herr was paying an EGS rate that was higher than West Penn's price-to-compare rate. Further, testimony and documentary evidence showed that for over the past year, Ms. Herr's EGS rate was "dramatically" higher than West Penn's price-to-compare rate, sometimes twice as much. Therefore, Ms. Herr is encouraged to reduce her monthly budget bill by exploring other rates including the price-to-compare rate of Respondent.

ID at 15-16

Exceptions

The Exceptions state 3 issues: (1) My income has changed drastically [sic]; (2) I would like an attorney as I ask for before; (3) I am low-income cannot afford this.

Change of income

The Complainant alleges a change in income since the record closed on September 13, 2019. Special Agent Chiodo found, based on the record evidence, that the Complainant had a household of 4 with gross monthly income of \$954¹ and that she no longer had the expense of paying rent.²

Section 5.431 of the Commission's regulations³ provides that after the record is closed, additional matters may not be relied upon or accepted into the record unless allowed for good cause shown by the presiding officer or the Commission upon motion. At no time prior to the issuance of the ID did the Complainant file a petition to reopen the record to introduce any evidence that her income had changed.

¹ ID at 15.

² ID at 12.

³ 52 Pa. Code § 5.431.

Furthermore, the directed 10-year PAR was based on the Complainant's income being "well below 150% of the Federal poverty level." ID at 15. The length of the directed PAR is consistent with the factors set forth in Section 56.421. The Complainant's first Exception should be denied based on the record evidence.

Request for Attorney

The Complainant simply states she wants an attorney "as [she] ask before." As noted in the Initial Decision, the Complaint was filed on April 11, 2019 and the hearing occurred on August 13, 2019. There was ample time for the Complainant to seek legal counsel. The Complainant's second Exception should be denied based on the record evidence.

10-Year Directed PAR

The Complainant alleges she cannot afford the 10-year directed PAR for the outstanding balance at the time of the hearing in the amount of \$15,838.03. FOF 44. The record evidence supports Special Agent Chiodo's analysis and disposition of the PAR consistent with Commission regulation and precedent.

By law a public utility is entitled to receive payment for the service it provides. *Scaccia v. West Penn Power Co.*, 55 Pa. P.U.C. 637 (1982). Otherwise, customers' unpaid bills are included in the utility's uncollectible expense, and ultimately paid by the remaining ratepayers. *Cf., Bolt v. Duquesne Light Co.*, 66 Pa. P.U.C. 463 (1988); *Thomas P. O'Toole v. The Bell Telephone Co. of Pennsylvania*, Docket Number C-923964 (Final Order entered August 20, 1992). Here, the Company has provided the Complainant with residential electric service totaling \$15,838.03. The Complainant's third Exception should be denied based on the record evidence.

Conclusion

For the reasons set forth above, West Penn Power Company respectfully requests that the Commission deny the Exceptions and adopt the Initial Decision of the Special Agent Gail Chiodo without modification.

Respectfully submitted,

Dated: January 13, 2020



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