

Teresa Harrold, Esq.
(610) 921-6783
(330) 315-9263 (Fax)

March 12, 2020

VIA ELECTRONIC FILING

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

Re: Lisa Cartwright v. West Penn Power Company
Docket No. C-2019-3012731

Dear Secretary Chiavetta:

Enclosed please find the Motion to Compel of West Penn Power Company with regard to the above-captioned matter. This document has been served on the Complainant as shown in the Certificate of Service.

Please contact me if you have any questions regarding this matter.

Very truly yours,


Teresa Harrold

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Enclosures

c: As Per Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

LISA CARTWRIGHT

v.

WEST PENN POWER COMPANY

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Docket No. C-2019-3012731

NOTICE TO PLEAD

TO: Lisa Cartwright

Pursuant to 52 Pa. Code § 5.342(g), you are hereby notified that, if you do not file a written response denying or correcting the enclosed Motion to Compel of West Penn Power Company within five (5) days from the service of the Notice or, in the alternative, respond orally to this Motion at the hearing scheduled for March 17, 2020, the facts set forth by West Penn Power Company in the Motion may be deemed to be true, thereby requirement no other proof. All pleading, such as a Reply to Motion, must be filed with the Secretary of the Pennsylvania Public Utility Commission, with a copy service to counsel for West Penn Power Company, and where applicable, the Administrative Law Judge presiding over the case.

File with:

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

With a copy to:

Administrative Law Judge Mark Hoyer
Pennsylvania Public Utility Commission
Piatt Place, Suite 220
301 5th Avenue
Pittsburgh, PA 15222

Teresa Harrold
FirstEnergy Service Company
2800 Pottsville Pike
P.O. Box 16001
Reading, Pennsylvania 19612-6001

Date: March 12, 2020



Teresa Harrold, Esquire

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

LISA CARTWRIGHT

v.

WEST PENN POWER COMPANY

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Docket No. C-2019-3012731

**MOTION OF WEST PENN POWER COMPANY TO COMPEL RESPONSES TO
INTERROGATORIES AND DOCUMENT REQUESTS**

TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

West Penn Power Company (“West Penn” or the “Company”) by and through its attorney, Teresa Harrold, and pursuant to 52 Pa. Code §§ 5.342, 5.371, and 5.372, hereby files this Motion to compel Lisa Cartwright (“Complainant”) to provide full and complete responses to interrogatories and document requests issued by the Company on February 13, 2020. In support thereof, the Company avers as follows:

I. BACKGROUND

1. On September 9, 2019, the Complainant filed a Formal Complaint with the Pennsylvania Public Utility Commission (“Commission”) regarding her electric service at 213 Good Street, Jeannette, Pennsylvania 15644, which was electronically served on the Company that same day.

2. On September 30, 2019, the Company filed its Answer and New Matter denying the material allegations in the Formal Complaint.

3. On October 3, 2019, an Interim Order Setting Conference Between the Parties was issued in the above-captioned proceeding.

4. Unfortunately, mediation between the parties was unsuccessful.

5. On November 12, 2019, a telephonic hearing notice was issued which scheduled a telephonic hearing for December 19, 2019 before Administrative Law Judge (“ALJ”) Mark Hoyer. That same day, a Prehearing Order was also issued.

6. On December 11, 2019, the Company timely submitted its proposed hearing exhibits in accordance with the Prehearing Order. No exhibits were received from the Complainant.

7. On December 16, 2019, the Complainant requested a continuance of the telephonic hearing for medical reasons. This request for continuance was granted and, on December 17, 2019, a Telephonic Hearing Cancellation/Reschedule Notice was issued which rescheduled the telephonic hearing for January 14, 2020.

8. On January 6, 2020, the Company timely submitted its updated proposed hearing exhibits in accordance with the Prehearing Order. No exhibits were received from the Complainant.

9. Due to the continued unavailability of the Complainant, the January 14, 2020 hearing was continued. On January 16, 2020, a Telephonic Hearing Cancellation/Reschedule Notice was issued which rescheduled the telephonic hearing for February 13, 2020.

10. On February 5, 2020, the Company timely submitted its updated proposed hearing exhibits in accordance with the Prehearing Order. No exhibits were received from the Complainant.

11. On February 13, 2020, both parties appeared at the telephonic hearing before ALJ Hoyer. At the telephonic hearing, the Complainant averred that her Complaint solely relates to her removal from the Company’s Pennsylvania Customer Assistance Program (“PCAP”), allegations that were not included in her Formal Complaint, and that she had a number of

documents she intends to present. Given the Complainant's allegations at hearing, ALJ Hoyer agreed to continue the hearing again.

12. On February 13, 2020, in accordance with 52 Pa. Code § 5.341, the Company forwarded to the Complainant interrogatories and document requests ("Discovery Requests"). In its Discovery Requests, the Company sought information and documents related to the Complainant's allegations related to her removal from PCAP. A full copy of the Company's Discovery Requests is attached as Exhibit A.

13. On February 13, 2020, a Telephonic Hearing Cancellation/Reschedule Notice was issued which rescheduled the telephonic hearing for March 17, 2020.

14. On March 10, 2020, the Company timely submitted its updated proposed hearing exhibits in accordance with the Prehearing Order. Once again, no exhibits have been received from the Complainant.

15. Further, the Complainant has not filed any objection to the Discovery Requests and has not provided any responses or the requested documents by the due date. To date, no response to the Discovery Requests has been received from the Complainant.

II. MOTION TO COMPEL

16. The Commission's regulations permit the discovery of "any matter, not privileged, which is relevant to the subject matter involved in the pending action." 52 Pa. Code § 5.321(c).

17. Generally speaking, this Commission applies a standard of relevance which is less restrictive than that required by parties to present information into the evidentiary record. It is not grounds for objection that the information sought will be inadmissible at hearing if the information sought appears reasonably calculated to lead to the discovery of admissible evidence. 52 Pa. Code § 5.321(c).

18. Discovery may be obtained regarding any matter relevant to the subject matter. Relevant evidence is evidence that tends to make an act at issue more or less probable. Moreover, evidence is relevant if it advances the inquiry in some degree and, thus, has probative value. Although the law does not furnish an absolute test of relevancy, the Pennsylvania Supreme Court follows a two-part analysis for determining relevance. In *Commonwealth v. Stewart*, 461 Pa. 274, 336 A.2d 282 (1975), the Court held that “[i]t must be determined first if the inference sought to be raised by the evidence bears upon a matter at issue in this case and, second, whether the evidence renders the desired inference more probable than it would be without the evidence. *Id.* at 284.

19. The information sought here by the Company is relatively simple and straightforward. It is directly relevant and material to the allegations raised by the Complainant at the telephonic hearing on February 13, 2020. The Company is entitled to the requested information to enable it to fully investigate what information the Complainant relied on to make the allegations at the prior telephonic hearing.

20. The Commission’s regulations at 52 Pa. Code § 5.371 address the consequences of a participant’s failure to comply with the Commission’s discovery regulations. Section 5.371 provides that:

- (a) The Commission or the presiding officer may, on motion, make an appropriate order if one of the following occurs:
 - (1) A party fails to appear, answer, file sufficient answers, file objections, make a designation or otherwise respond to discovery requests, as required under this subchapter.

21. Further, 52 Pa. Code § 5.372 provides that the presiding officer may impose appropriate sanctions upon a party found to be found in violation of the obligations set forth in the Commission’s regulations.


22. As a result of the Complainant's failure to provide any response to the Company's Discovery Requests, which demonstrates her lack of cooperation and willingness to participate in this proceeding as required under the Commission's regulations, the Complainant should be precluded from providing any exhibits during the telephonic hearing scheduled for March 17, 2020.

23. In the event the Complainant is directed by the ALJ to respond to the Company's Discovery Requests, but fails to, the Company respectfully requests that the Formal Complaint against the Company be dismissed in its entirety.

WHEREFORE, West Penn Power Company respectfully requests that the Complainant be barred from providing exhibits during the telephonic hearing scheduled for March 17, 2020. Further, in the event the Administrative Law Judge orders the Complainant to respond to the Company's Discovery Requests and the Complainant fails to respond to them, the Company respectfully requests that the Administrative Law Judge dismiss in its entirety the Formal Complaint of Lisa Cartwright.

Respectfully submitted,

Dated: March 12, 2020



Teresa Harrold
Attorney No. 311082
FirstEnergy Service Company
2800 Pottsville Pike
P.O. Box 16001
Reading, Pennsylvania 19612-6001
(610) 921-6783

Counsel for West Penn Power Company



Teresa Harrold, Esq.
(610) 921-6783
(330) 315-9263 (Fax)

February 13, 2020

VIA UNITED PARCEL SERVICE

Lisa Cartwright
213 Good Street Front
Jeannette, PA 15644

Re: Lisa Cartwright v. West Penn Power Company
Docket No. C-2019-3012731

Dear Ms. Cartwright:

Enclosed please find the Interrogatories and Requests for Production of Documents (Set I) to Lisa Cartwright. Pursuant to 52 Pa. Code §§ 5.341 and 5.349, *et seq.*, your answers are due within twenty days of service of this letter (March 5, 2020). In addition, any objections are due within ten days of service of this letter (February 24, 2020). This document has been served as indicated within the Certificate of Service.

Very truly yours,

A handwritten signature in black ink, appearing to read "T. Harrold".

Teresa Harrold

Enclosures

c: As Per Certificate of Service
Administrative Law Judge Mark Hoyer (Cover Letter and Certificate)
Rosemary Chiavetta, Esq., Public Utility Commission (Cover Letter and Certificate)

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

LISA CARTWRIGHT

:::

v.

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Docket No. C-2019-3012731

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WEST PENN POWER COMPANY

**INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS OF
WEST PENN POWER COMPANY TO LISA CARTWRIGHT, SET I**

The West Penn Power Company (“West Penn” or “Company”) hereby propounds these Interrogatories and Requests for Production of Documents (Set I) to Lisa Cartwright (the “Complainant”). Telephone or other contact concerning availability and timing of formal responses is encouraged. The answer to each interrogatory should be started on a new page. The answers should restate the question asked and indicate the person(s) supplying the information.

Pursuant to 52 Pa. Code § 5.342, you must send your answers to me within 20 days (March 5, 2020) and objections within 10 days (February 24, 2020). Your answers and objections should not be filed with the Pennsylvania Public Utility Commission. You should only file the cover letter and certificate of service with the Commission’s Secretary Rosemary Chiavetta. If you have any objection to any of the interrogatories or the request for documents, please identify the interrogatory or request and state your objection in full as to why you should not have to answer/produce it. Any objection not raised within the 10-day period provided for by 52 Pa. Code § 5.342(c) will be deemed waived and you will not be permitted to raise the objection at a later time.

Dated: February 13, 2020

INSTRUCTIONS

- A. In answering these interrogatories and requests for production of documents, please furnish all information available to you, including any such information possessed by others that you can obtain, and not merely such information known of your own personal knowledge. If you cannot answer the interrogatories and requests in full after exercising due diligence to secure the information to do so, so state and answer to the extent possible.
- B. Other than for the reasons identified herein, you must provide an answer to all interrogatories and requests for production of documents. If the answer to the question is “none” or “unknown,” such statement must be written in the answer. If you consider the question to be inapplicable, “N/A” must be written in the answer. If an answer is omitted because of a claim of privilege, the basis of privilege is to be stated.
- C. If the answer to any of the interrogatories and requests for production of documents is that you lack knowledge of some or all of the requested information, describe all efforts made by you to obtain the information necessary to answer that interrogatory or request.
- D. These interrogatories and requests for production of documents are to be deemed continuing in nature, and you shall promptly supply, by way of supplemental response, any additional responsive information that may become known to you or anyone acting on your behalf after your answers have been prepared or served.
- E. As used herein, the terms “Complainant” and “you” refer to Lisa Cartwright and her attorneys, agents, or representatives.
- F. As used herein, the terms “Company,” “West Penn,” and “Respondent” refer to the West Penn Power Company, and any agent, agency, or affiliate thereof.

G. As used herein, the term “proceeding” refers to the instant complaint proceeding at the Pennsylvania Public Utility Commission at Docket No. C-2019-3012731.

H. As used herein, the term “household” refers to you and all other individuals who reside at the service location.

I. As used herein, the term “service location” refers to 213 Good Street, Jeannette, PA 15644.

J. As used herein, the terms “document” or “documentation” include any written, printed, typed, recorded, or graphic matter, whether produced or reproduced or stored on paper, cards, tapes, film, electronic facsimile, computer storage devices or any other devices or media, including, but not limited to papers; books; letters; photographs; objects; tangible things; correspondence; e-mails; websites; webpages; telegrams; cables; telex messages; memoranda; medical records; notes; notations; records; work papers; transcripts; minutes; reports and recordings of telephone or other conversations, or of interviews, or of conferences, or of other meetings; affidavits; statements; opinions; proposals; reports; surveys; plans; studies; analyses; audits; evaluations; contracts; agreements; journals; statistical records; invoices; receipts; desk calendars; appointment books; diaries; lists; tabulations; summaries; sound recordings; computer printouts; data processing input and output; microfilms; all records kept by electronic, photographic, or mechanical means; and things similar to any of the foregoing, however denominated. When one or more of the foregoing documents is requested or referred to, the request or reference shall include, but is not limited to, the original and each and every copy and draft thereof having writings, notations, corrections, or markings unique to such copy or draft.

K. As used herein, all other words are to be given their ordinary and usual meanings, according to a current edition of Webster’s Dictionary.

**INTERROGATORIES OF WEST PENN POWER COMPANY TO LISA
CARTWRIGHT, SET I**

1. Please explain in writing each of the issues you intend to raise at the hearing in this proceeding. Include all relevant dates and refer to any documents that you intend to present at the hearing in this matter that supports your position regarding each issue.
2. Please identify your current household income.
3. Please provide either monthly or annual income documentation that supports that household income you state in response to question 2 above.
4. Please identify all household members at the service location.
5. Please identify when you believe you were enrolled in the Company's customer assistance program.
6. Please identify when you believe you were removed from the Company's customer assistance program.
7. Please identify what "breach" you believe occurred prior to this proceeding.
8. Please identify what outcome or relief you are seeking in this proceeding.

**REQUESTS FOR PRODUCTION OF DOCUMENTS OF WEST PENN POWER
COMPANY TO LISA CARTWRIGHT, SET I**

9. Please provide copies of all proposed exhibits you intend to submit for the hearing in this proceeding.
10. Please provide copies of all documents you are relying upon in support of your position in this proceeding.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

LISA CARTWRIGHT :
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 v. : **Docket No. C-2019-3012731**
 :
WEST PENN POWER COMPANY :

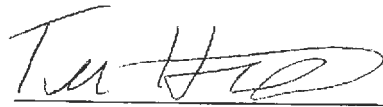
CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the Proposed Exhibits of West Penn Power Company upon the individual listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

Service by USP overnight delivery as follows:

Lisa Cartwright
213 Good Street Front
Jeannette, PA 15644

Dated: February 13, 2020



Teresa Harrold
FirstEnergy Service Company
2800 Pottsville Pike
P.O. Box 16001
Reading, Pennsylvania 19612-6001
(610) 921-6783
tharrold@firstenergycorp.com

Counsel for West Penn Power Company

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

LISA CARTWRIGHT

v.

WEST PENN POWER COMPANY

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Docket No. C-2019-3012731

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the Motion to Compel of West Penn Power Company 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:

Lisa Cartwright
213 Good Street Front
Jeannette, PA 15644
inkslisa1@gmail.com

Administrative Law Judge Mark Hoyer
Pennsylvania Public Utility Commission
Piatt Place, Suite 220
301 5th Avenue
Pittsburgh, PA 15222
mhoyer@pa.gov

Dated: March 12, 2020



Teresa Harrold
FirstEnergy Service Company
2800 Pottsville Pike
P.O. Box 16001
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(610) 921-6783
tharrold@firstenergycorp.com