**BEFORE THE**

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission, Bureau :

Of Investigation & Enforcement : :

v. : C-2021-3024913

:

West Penn Power Company :

**INTERIM ORDER**

**SUSPENDING LITIGATION SCHEDULE**

On March 26, 2021, the Commission’s Bureau of Investigation and Enforcement (BIE) filed a Complaint against West Penn Power Company, alleging violations of the Public Utility Code and requesting a civil penalty. BIE alleged that on April 12, 2018, a conductor owned by West Penn Power fell into the wooded property of Terry and Frances Colton, causing a brush fire. After the fire was extinguished Terry Colton came into contact with the conductor and was killed. BIE further alleged violations of the Public Utility Code because, among other things, of West Penn’s failure to properly inspect and maintain the right-of-way and manage the vegetation within the right-of-way. In total, BIE requests a civil penalty in the amount of approximately $3.4 million.

West Penn Power filed an Answer denying the material allegations of the Complaint, New Matter, and Preliminary Objections on May 17, 2021.[[1]](#footnote-1) By letter dated May 21, 2021, BIE requested an extension to June 7, 2021, to file an Answer to West Penn Power’s Preliminary Objections.

By notice dated May 27, 2021, the Complaint was assigned to me. BIE’s extension request was granted. BIE filed a response to the Preliminary Objections and also filed an Answer to West Penn Power’s New Matter on June 7, 2021.

By Interim Order entered on June 11, 2021, West Penn Power’s Preliminary Objections were dismissed. A notice was issued scheduling a prehearing conference for July 14, 2021.

The prehearing conference convened as scheduled. Attorney Kourtney Myers appearing on behalf of BIE. Attorney Tori Giesler appeared on behalf of West Penn Power. The parties reported that settlement discussions were ongoing. After further discussion, the parties agreed to a litigation schedule which provided for the filing of written testimony and evidentiary hearings to be held January 26-27, 2022. A prehearing order memorializing this schedule and other matters agreed upon at the prehearing conference was issued on July 14, 2021.

By email dated October 19, 2021, the parties notified me that they had reached an agreement in principle and requested the suspension of the litigation schedule and the cancellation of the January 2022 hearings. The parties proposed to file a joint petition for settlement no later than December 1, 2021.

THEREFORE,

IT IS ORDERED

1. That the parties request to suspend the litigation schedule set forth in the Interim Order dated July 14, 2021 is granted.

2. That the evidentiary hearings scheduled for January 26-27, 2022, shall be cancelled.

3. That the parties shall file a joint petition for settlement and statements in support of the settlement on or before December 1, 2021.

4. That the joint petition for settlement shall include a stipulation of facts in support of the agreed upon settlement terms.

5. That the statements in support of the settlement shall include a discussion of the civil penalty factors set forth in 52 Pa.Code § 69.1201. If the settlement agreement does not provide for the payment of a civil penalty, the parties shall explain why a penalty is not recommended or appropriate. The statements in support should also include a detailed discussion of why the settlement terms are in the public interest beyond the saving of litigation costs and conservation of judicial resources.

Date: October 20, 2021 /s/

Mary D. Long Administrative Law Judge

**C-2021-3024913 – PA PUC BUREAU OF INVESTIGATION & ENFORCEMENT v. WEST PENN POWER COMPANY**KOURTNEY MYERS ESQUIREPA PUC BI&EPO BOX 3265HARRISBURG PA 17105-3265**717.705.4366**  
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1. West Penn Power was granted extensions of time to file its answer which were unopposed by BIE. [↑](#footnote-ref-1)