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February 18, 2022

**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: Petition of West Penn Power Company For Approval To Distribute The  
Amortized Amount of Excess Accumulated Deferred Income Taxes;  
Docket No. P-2022-**

Dear Secretary Chiavetta:

Transmitted herewith for filing is the Petition of West Penn Power Company (individually referred to as “West Penn Power” or the “Company”) For Approval To Distribute The Amortized Amount of Excess Accumulated Deferred Income Taxes in response to the Commission’s Order at Docket P-2021-3025908.

Copies have been served on the parties in the manner indicated, as shown on the attached Certificate of Service.

Please feel free to contact me if you have any questions.

Sincerely,



Tori L. Giesler

c: As Per Certificate of Service

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Petition of West Penn Power Company For** :  
**Approval To Distribute The Amortized** : **Docket No. P-2022-**  
**Amount of Excess Accumulated Deferred** :  
**Income Taxes** :

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**PETITION OF WEST PENN POWER COMPANY**

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**I. INTRODUCTION**

West Penn Power Company (“West Penn Power” or the “Company”) hereby files this Petition with the Pennsylvania Public Utility Commission (“Commission”) pursuant to 52 Pa. Code § 5.541, and the Commission’s directive in the Order entered on November 18, 2021, at Docket No. P-2021-3025908 (the “November 18 Order”) to approve the distribution of the amortized amount of excess accumulated deferred income taxes (“EADIT”) associated with the Tax Cuts and Jobs Act of 2017 (“TCJA”) for the period of January 1, 2018 through December 31, 2021.

Consistent with the West Penn Power November 18 Order, West Penn Power is required to file a petition to distribute the EADIT-related tax savings to customers associated with the TCJA on or before March 3, 2022.<sup>1</sup> As explained further in this filing, West Penn Power is proposing to distribute the amortized amount of EADIT-related tax savings to customers beginning on the first day of the month after receiving Commission approval, provided West

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<sup>1</sup> The original deadline of January 18, 2022 was extended via Secretarial Letter dated January 6, 2022 at Docket No. P-2021-3025908.

Penn Power is able to provide 10 days' notice, consistent with the interim revision provision contained in the tariff, through December 31, 2022.

In order to facilitate this distribution, West Penn Power proposes to file an interim rate change to include the tax savings associated with amortization of EADIT in its existing TCJA surcharge mechanism, the Tax Cuts and Jobs Act Voluntary Surcharge Rider ("TCJA Rider"). The distribution of the EADIT-related tax savings in the TCJA Rider would result in those tax savings flowing to customers by December 31, 2022.

In support of this Joint Petition, the Company states as follows:

## **II. BACKGROUND**

1. West Penn Power is a wholly owned subsidiary of FirstEnergy Corp. that provides service to approximately 720,000 electric utility customers in Pennsylvania. West Penn Power has its principal place of business at 800 Cabin Hill Drive, Greensburg, PA 15601. West Penn Power is a "public utility" as defined in Section 102 of the Pennsylvania Public Utility Code ("Code"). West Penn Power is an "electric distribution company" and a "default service provider" as defined in Section 2803 of the Code.

2. West Penn Power's attorney authorized to receive service in this matter is:

Tori L. Giesler  
FirstEnergy Service Company  
2800 Pottsville Pike  
P.O. Box 16001  
Reading, PA 19612-6001

3. By Secretarial Letter dated February 12, 2018, at Docket Number M-2018-2641242, the Commission directed West Penn Power and other major jurisdictional utilities to file certain data concerning the effects of the TCJA ("February 2018 Secretarial Letter").

4. On March 9, 2018, West Penn Power filed the required information and completed Attachment C of the Secretarial Letter, reflecting a calculation of a negative surcharge to be applied to customer bills in accordance with the formula set forth therein. The Company refiled the required information on March 12, 2018 correcting the previously submitted filing. This filing by West Penn Power indicated a negative surcharge of 7.34%.

5. On March 15, 2018, the Commission issued a Temporary Rates Order at Docket No. M-2018-2641242, directing West Penn Power and other public utilities to file their current base rates and riders as temporary rates, pursuant to Section 1310(d) of the Code.

6. Based on the data submitted by the Company, the Commission issued the West Penn Power Compliance Order on May 17, 2018 at Docket R 2018 3000604.

7. With regard to the information supporting the -7.34% surcharge, West Penn Power notes that the data used to calculate the surcharge was for the period ending December 31, 2017. The West Penn Power Compliance Order further noted that "the tax savings from TCJA commenced on January 1, 2018" and directed West Penn Power "to record on its books the tax savings associated with the TCJA for the January 1, 2018 through June 30, 2018 time period."<sup>2</sup> The Commission further explained that this account shall also accrue interest at the residential mortgage lending rate specified by the Secretary of Banking in accordance with the Loan Interest and Protection Law.<sup>3</sup>

8. In addition, the West Penn Power Compliance Order stated that:

The rate treatment of this amount plus accrued interest shall be addressed in the Respondent's next base rate case. In that future proceeding, the Respondent and parties can address the appropriate negative surcharge, amortization or other disposition of this deferred regulatory liability, including any legal issues. If Respondent is required to establish deferred regulatory liability and has not filed,

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<sup>2</sup> West Penn Power Compliance Order, p. 4.

<sup>3</sup> *Id.*

within three (3) years of the date this order is entered, a Section 1308(d) general base rate case, Respondent must file a petition to propose how to distribute the funds in the regulatory liability account.

9. On June 1, 2018, Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company, and West Penn Power (collectively, the “Companies”) filed jointly a Petition for Reconsideration at Docket Number R-2018-3000597, et al. The Commission issued its Reconsideration Order on June 14, 2018 allowing the Companies to “record the tax saving associated with the TCJA for the period of January 1, 2018 to March 15, 2018, as well as the interest accrued, in a separate memorandum account.”<sup>4</sup> Separation of the pre-March 15 balance is based on the Companies’ argument that requiring a refund of the tax savings accrued prior to the Commission’s March 15, 2018 Temporary Rates Order violates the prohibition against retroactive ratemaking. This memorandum account as well as the deferred regulatory liability account for the period between March 16 and June 30 will be addressed “in each Company’s next base rate proceeding or in an independent filing.”<sup>5</sup>

10. Consistent with the Reconsideration Order, West Penn Power recorded in a separate “memorandum account” rather than a “deferred regulatory liability account” the tax savings associated with the TCJA for the January 1, 2018 to March 15, 2018 time period in the amount of \$7,011,129. and in a “deferred regulatory liability account” the tax savings associated with the March 16, 2018 to June 30, 2018 period in the amount of \$5,185,889. The total amount of the tax savings associated with the TCJA for the combined January 1, 2018 through June 30, 2018 time period was \$12,197,018.

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<sup>4</sup> Reconsideration Order, p. 7.

<sup>5</sup> *Id.*

11. Cognizant of the economic strain that has been placed on customers over the course of the global COVID-19 pandemic and despite its prior position with respect to the tax savings realized for the January 1, 2018 through March 15, 2018 period, West Penn Power filed a petition on May 17, 2021 proposing to refund all amounts for the period January 1, 2018 through June 30, 2018 to customers beginning January 1, 2022 (“May 17 Petition”).

12. On November 18, 2021, the Commission entered an Opinion and Order approving West Penn Power’s proposed return of tax savings for the period January 1, 2018 through June 30, 2018 as outlined in its May 17 Petition. Within the same order, however, the Commission identified that, through the course of data responses, West Penn Power had failed to recognize the amounts associated with the amortization of EADIT-related savings it had realized as a result of the passage of the TCJA. As a result, the November 18 Order directed the Company to file a petition within sixty days, or January 18, 2022, outlining a proposal as to how it would return the additional EADIT-related tax savings to customers.

13. On December 17, 2021, West Penn Power filed a petition seeking a forty-five-day extension to file its petition, citing various impediments to its ability to meet the original sixty-day deadline.

14. On January 6, 2022, the Commission, via Secretarial Letter, granted the Company’s extension request, making West Penn Power’s petition due on or before March 3, 2022.

### **III. PROPOSAL TO DISTRIBUTE THE AMORTIZED AMOUNT OF EXCESS ACCUMULATED DEFERRED INCOME TAXES**

15. West Penn Power’s proposed refund of calculated tax savings as outlined by its May 17 Petition met the requirements of the calculation directed by the Commission in its February 2018 Secretarial Letter; however, as noted by the November 18 Order, the calculation failed to account for the additional savings that would be related to amortization of EADIT.

16. West Penn Power completed a comprehensive analysis of the annual TCJA surcharge calculation along with reviewing other utilities' calculations and determined that the Company's original calculations from January 1, 2018 through December 31, 2021 included an annual rate base offset rather than a cumulative rate base offset. The rate base offset used in the TCJA calculation should be cumulative in order to reflect the growth in the Company's rate base over time.<sup>6</sup> Therefore, the Company modified the calculation to include a cumulative rate base offset by calculating the difference between the cumulative rate base offset amount and the annual rate base offset amount included in the original TCJA surcharge calculations.

17. West Penn Power recorded tax savings of \$12.8 million comprised of the amortization of EADIT and a cumulative rate base offset, and an additional \$2.3 million for regulatory interest calculated at the residential mortgage lending rate as reflected in Appendix A.

18. Accordingly, West Penn Power proposes to refund the amortization of EADIT-related tax savings and a cumulative rate base offset, including accrued interest, upon Commission approval through December 31, 2022 through its existing TCJA Rider. Currently, the TCJA Temporary Surcharge for 2022 provides for a negative surcharge of 7.17%, which applies as a credit for intrastate service on all customer bills. The amount refunded through this mechanism would be an additional \$15.2 million, which reflects the additional tax savings associated with the amortization of EADIT and a cumulative rate base offset plus applicable interest accrued as shown in Appendix A. Assuming timely approval of this change to allow for a July 1, 2022 implementation of the new TCJA tariff supplement, a negative surcharge of 14.73% would be implemented through December 31, 2022.

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<sup>6</sup> As noted in West Penn Power's petition for request of extension of time to file this petition, West Penn Power believes the cumulative rate base adjustment is consistent with the IRS normalization rules and the conclusions reached in PLR-101961-21 (Oct. 22, 2021).

19. West Penn Power will calculate its TCJA surcharge for period January 1, 2022 forward to include the amortization of EADIT and a cumulative rate base offset in accordance with IRS normalization rules.<sup>7</sup>

20. In order to implement the distribution of the amortization of EADIT and a cumulative rate base offset in a timely manner to customers, the Company requests Commission approval of this Petition no later than June 16, 2022.

#### IV. CONCLUSION

WHEREFORE, West Penn Power respectfully requests that, on or before June 16, 2022, the Commission approve the distribution of the amortization of EADIT and a cumulative rate base offset associated with the Tax Cuts and Jobs Act for the time period of January 1, 2018 through December 31, 2021.

Respectfully submitted,



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Tori L. Giesler  
Attorney No.  
FirstEnergy Service Company  
2800 Pottsville Pike  
P.O. Box 16001  
Reading, PA 19612-6001  
(610) 921-6658 – Telephone

Dated: February 18, 2022

Counsel for:  
West Penn Power Company

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<sup>7</sup> In computing amortization of EADIT using the average rate assumption method, West Penn Power intends to segregate cost-of-removal from book depreciation expense consistent with IRS normalization rules and guidance set forth in PLR-101169-21 (Oct. 15, 2021).



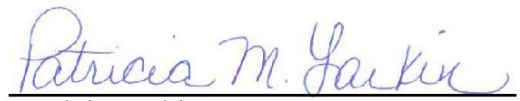
**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Petition of West Penn Power Company For** :  
**Approval To Distribute The Amortized** :                   **Docket No. P-2022-**  
**Amount of Excess Accumulated Deferred** :  
**Income Taxes** :

**VERIFICATION**

I, Patricia Larkin, Analyst, hereby state that the facts above set forth in the Report of Compliance are true and correct to the best of my knowledge, information, and belief and that I expect that West Penn Power Company will 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. § 4904 relating to unsworn falsification to authorities.

Dated: February 18, 2022

  
Patricia Larkin

**West Penn Power Company**  
**TCJA Temporary Surcharge ("TCJA") Calculation**  
**For the Period January 1, 2018 through December 31, 2021**  
**Calculation of Liability Associated with Excess Accumulated Deferred Income Taxes and Rate Base Offset**

Line No.			
1	EADIT	\$ (16,692,628)	EADIT Amortization with non-jurisdictional amount removed
2	Rate Base Offset	<u>7,578,193</u>	Cumulative Rate Base Offset Less Rate Base Offset Included in Original TCJA Calculation
3	Total	\$ (9,114,435)	Calculation = Line 1 + Line 2
4	Complement Tax Rate	0.711079	
5	Total	\$ (12,817,753)	Calculation = Line 3 / Line 4
6	Interest	<u>(2,347,138)</u>	Regulatory Interest
7	Total to be Refunded	\$ (15,164,891)	Calculation = Line 5 + Line 6

**West Penn Power Company**  
**TCJA Temporary Surcharge ("TCJA") Calculation**  
**For the Period January 1, 2018 through December 31, 2021**  
**Interest Calculation**

Month	Additional Refund Amount	Annual Interest Rate	Monthly Interest Rate	Months to the Midpoint	Interest
	(1)	(2)	(3)=(2) / 12	(4)	(5)=(1)*(3)*(4)
Jan-18	\$ (481,698)	5.00%	0.42%	57	\$ (114,403)
Feb-18	(481,239)	5.00%	0.42%	56	(112,289)
Mar-18	(480,792)	5.25%	0.44%	55	(115,691)
Apr-18	(457,772)	5.50%	0.46%	54	(113,299)
May-18	(446,678)	5.50%	0.46%	53	(108,506)
Jun-18	(435,457)	5.50%	0.46%	52	(103,784)
Jul-18					
Aug-18	(422,648)	5.50%	0.46%	50	(96,857)
Sep-18	(412,115)	5.50%	0.46%	49	(92,554)
Oct-18	(401,861)	5.50%	0.46%	48	(88,409)
Nov-18	(391,235)	5.50%	0.46%	47	(84,279)
Dec-18	(370,073)	5.75%	0.48%	46	(81,570)
Jan-19	(358,880)	5.75%	0.48%	45	(77,384)
Feb-19	(587,468)	5.50%	0.46%	44	(118,473)
Mar-19	(586,594)	5.25%	0.44%	43	(110,353)
Apr-19	(565,382)	5.25%	0.44%	42	(103,889)
May-19	(554,927)	5.25%	0.44%	41	(99,540)
Jun-19	(547,409)	5.25%	0.44%	40	(95,797)
Jul-19	(538,646)	5.00%	0.42%	39	(87,530)
Aug-19	(527,690)	4.75%	0.40%	38	(79,373)
Sep-19	(523,279)	4.75%	0.40%	37	(76,639)
Oct-19	(515,369)	4.50%	0.38%	36	(69,575)
Nov-19	(504,118)	4.50%	0.38%	35	(66,165)
Dec-19	(494,388)	4.50%	0.38%	34	(63,034)
Jan-20	(487,431)	4.50%	0.38%	33	(60,320)
Feb-20	(193,818)	4.50%	0.38%	32	(23,258)
Mar-20	(194,313)	4.50%	0.38%	31	(22,589)
Apr-20	(172,290)	4.25%	0.35%	30	(18,306)
May-20	(160,027)	3.75%	0.31%	29	(14,502)
Jun-20	(147,798)	3.50%	0.29%	28	(12,070)
Jul-20	(136,916)	3.50%	0.29%	27	(10,782)
Aug-20	(125,146)	3.75%	0.31%	26	(10,168)
Sep-20	(112,388)	3.50%	0.29%	25	(8,195)
Oct-20	(102,364)	3.50%	0.29%	24	(7,165)
Nov-20	(74,739)	3.50%	0.29%	23	(5,014)
Dec-20	(60,370)	3.75%	0.31%	22	(4,150)
Jan-21	(46,193)	3.75%	0.31%	21	(3,031)
Feb-21	(32,075)	3.75%	0.31%	20	(2,005)
Mar-21	(30,220)	4.00%	0.33%	19	(1,914)
Apr-21	(3,000)	4.25%	0.35%	18	(191)
May-21	9,379	4.50%	0.38%	17	598
Jun-21	23,394	4.50%	0.38%	16	1,404
Jul-21	36,431	4.50%	0.38%	15	2,049
Aug-21	44,274	4.50%	0.38%	14	2,324
Sep-21	57,240	4.25%	0.35%	13	2,635
Oct-21	69,177	4.25%	0.35%	12	2,940
Nov-21	47,900	4.25%	0.35%	11	1,866
Dec-21	59,259	4.25%	0.35%	10	2,099
	(12,817,752)				(2,347,138)

Notes:

Beginning in July 2018, with the implementation of the TCJA Temporary Surcharge, the Company books actual TCJA savings on a one-month lag.

**West Penn Power Company**  
**TCJA Temporary Surcharge ("TCJA") Calculation**  
**For the Period January 1, 2018 through December 31, 2021**  
**Calculation of Interim Rate Effective July 1, 2022 <sup>A</sup>**

Line No.			
1	2022 TCJA Negative Surcharge		-7.17%
2	Additional Refund with Interest (Page 1, Line 7)	\$ (15,164,891)	
3	Gross-up for GRT	<u>1.063</u>	
4	Refund Revenue (Line 2 x Line 3)	\$ (16,115,718)	
5	Budgeted Revenue (July-Dec 2022)	\$ 213,297,289	
6	Additional 2022 Negative Surcharge (Line 4 / Line 5)		-7.56%
7	Interim 2022 TCJA Negative Surcharge (Line 1 + Line 6)		-14.73%

Notes:

A For illustration only. The Company will update rate if implementation occurs prior to or after July 1, 2022.

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Petition of West Penn Power Company To** :  
**Distribute The Amortized Amount of** : **Docket No. P-2022-**  
**Excess Accumulated Deferred Income** :  
**Taxes** :

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a true and correct copy of the foregoing document 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 mail, as follows:

Richard Kanaskie  
Bureau of Investigation & Enforcement  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120  
rkanaskie@pa.gov

Darryl A. Lawrence  
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dlawrence@paoca.org

Steven Gray  
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Harrisburg, PA 17101  
Sgray@pa.gov

Dated: February 18, 2022

  
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