



March 9, 2022

**VIA E-FILING**

**David P. Zambito**

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Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2 North – Filing Room  
Harrisburg, PA 17120

**RE: Pennsylvania Public Utility Commission, Bureau of Investigation and Enforcement  
v. Westover Property Management Company, L.P. d/b/a Westover Companies;  
Docket No. C-2022-3030251**

**Petition for Protective Order**

Dear Secretary Chiavetta:

Enclosed for filing with the Pennsylvania Public Utility Commission (“Commission”) is a Petition for Protective Order (“Petition”). The Petition is filed by Westover Property Management Company, L.P. d/b/a Westover Companies, but it is not opposed by the Bureau of Investigation and Enforcement.

Copies of this filing have been served as shown on the attached Certificate of Service.

Please contact me if you have any question regarding this filing. Thank you for your attention to this matter.

Sincerely,

COZEN O'CONNOR

By: David P. Zambito

Counsel for *Westover Property Management, L.P.*  
*d/b/a Westover Companies*

DPZ:kmg

Enclosures

cc: Per Certificate of Service  
Peter Quercetti, Vice President of Operations Management, Westover Companies  
Alexander Stefanelli, CFO, Westover Companies

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,  
Bureau of Investigation and Enforcement

v.

Westover Property Management Company, L.P.  
d/b/a Westover Companies

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Docket No. C-2022-3030251

**CERTIFICATE OF SERVICE**

I hereby certify that I have this 9<sup>th</sup> day of March, 2022 served a true copy of the foregoing **Petition for Protective Order**, upon the parties, listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

**VIA E-MAIL AND FIRST CLASS MAIL**

Stephanie M. Wimer, Esq.  
Kayla L. Rost, Esq.  
Michael L. Swindler, Esq.  
Pennsylvania Public Utility Commission  
Bureau of Investigation & Enforcement  
Commonwealth Keystone Building  
400 North Street – 2 West  
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stwimer@pa.gov  
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David P. Zambito, Esq.  
Counsel for *Westover Property Management  
Company, L.P. d/b/a Westover Companies*

**VERIFICATION**

I, Alexander Stefanelli, hereby state that the facts set forth above are true and correct to the best of my knowledge, information and belief and that I expect to 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).

Date:

3/9/2022

Alex Stefanelli

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission, Bureau of Investigation and Enforcement	:	
	:	
	:	Docket No. C-2022-3030251
v.	:	
	:	
Westover Property Management Company, L.P. d/b/a Westover Companies	:	
	:	

**NOTICE TO PLEAD**

Pursuant to 52 Pa. Code § 5.365, you are hereby notified that you have twenty (20) days from the service of the enclosed Petition for Protective Order (“Petition”) to file an Answer to the Petition. Your failure to answer will allow the Commission to rule on the Petition without a response from you, thereby requiring no other proof. All pleadings, such as an Answer, must be filed with the Secretary of the Pennsylvania Public Utility Commission, with a copy served on counsel for Westover, and where applicable the Administrative Law Judge presiding over the case.

**File with:**

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

**With a copy to:**

David P. Zambito, Esq. (PA ID #80017)  
Jonathan P. Nase, Esq. (PA ID #44003)  
Cozen O’Connor  
17 North Second St., Suite 1410  
Harrisburg, PA 17101



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David P. Zambito, Esq. (I.D. No. 80017)  
Jonathan P. Nase, Esq. (I.D. No. 44003)  
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E-mail: jnase@cozen.com

Dated: March 9, 2022

*Counsel for Westover Property Management  
Company, L.P. d/b/a/ Westover Companies*

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
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**PETITION FOR PROTECTIVE ORDER**

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Westover Property Management Company, L.P. d/b/a Westover Companies (“Westover”) hereby requests that the attached Protective Order be entered in the above-captioned proceeding pursuant to the provisions of 52 Pa. Code §§ 5.365(a). In support thereof, Westover represents as follows:

1. The Parties to this proceeding are: Westover and the Bureau of Investigation and Enforcement (“I&E”) of the Pennsylvania Public Utility Commission (the “Commission”).
2. The Parties are engaging in discovery and continue to do so.
3. The Parties anticipate submitting testimony and exhibits in this proceeding.
4. Proprietary Information within the definition of 52 Pa. Code § 5.365 may be presented or requested during the course of this proceeding, which justifies the issuance of a Protective Order. For example, Parties may seek information that is customarily treated as sensitive, proprietary or confidential. Therefore, treatment of such information as set forth in the attached proposed Protective Order is justified because unrestricted disclosure of such information would not be in the public interest. These considerations constitute cause for the restrictions specified in 52 Pa. Code § 5.365.

5. Under 52 Pa. Code §§ 5.362(a)(7) and 5.365, the Office of Administrative Law Judge or the Commission may issue a Protective Order to limit or prohibit disclosure of confidential commercial information and other confidential information where the potential harm to a participant would be substantial and outweighs the public's interest in having access to the confidential information. In applying this standard, relevant factors to be considered include: the extent to which disclosure would cause unfair economic or competitive damage; the extent to which the information is known by others and used in similar activities; and the worth or value of such information to the Party and the Party's competitors. 52 Pa. Code §§ 5.365(a)(1) – (3).

6. Paragraph 2 of the attached proposed Protective Order defines "Proprietary Information" as "those materials which customarily are treated by that Party as sensitive or proprietary, which are not available to the public, and which, if disclosed freely, would subject that Party or its clients to risk of competitive disadvantage or other business injury." Clearly, protecting this type of information from disclosure is appropriate.

7. Paragraph 12 of the attached proposed Protective Order protects against overly broad designations of protected information by giving all Parties the right to question or challenge the confidential or proprietary nature of the Proprietary Information.

8. Limitation of the disclosure of Proprietary Information will not prejudice the rights of the participants, nor will such limitation frustrate the prompt and fair resolution of this proceeding. The proposed Protective Order balances the interests of the Parties, the public, and the Commission.

9. The attached proposed Protective Order will protect the Proprietary Information while allowing the Parties to use such information for purposes of the instant litigation.

10. Westover has provided advance copies of this Petition and the proposed Protective Order to counsel for I&E, who indicated that I&E does not oppose the instant Petition.

WHEREFORE, for all the foregoing reasons, Westover respectfully requests that the Presiding Officer grant this Petition and issue the attached Protective Order.

Respectfully submitted,



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David P. Zambito, Esq. (PA ID# 80017)  
Jonathan P. Nase, Esq. (PA ID# 44003)  
Cozen O'Connor  
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Harrisburg, PA 17101  
Telephone: (717) 703-5892  
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Email: dzambito@cozen.com  
Email: jnase@cozen.com

*Counsel for Westover Property Management  
Company, L.P. d/b/a/ Westover Companies*

Dated: March 9, 2022

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement	:	
	:	Docket No. C-2022-3030251
v.	:	
	:	
Westover Property Management Company, L.P.	:	
d/b/a Westover Companies	:	

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**PROTECTIVE ORDER**

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Upon consideration of the Petition for Protective Order that was filed by Westover Property Management Company, L.P. d/b/a Westover Companies (“Westover”) on March 9, 2022, and the record as a whole;

IT IS ORDERED THAT:

1. The Petition is hereby granted with respect to all materials and information identified in Paragraphs 2-3 below, which have been or will be filed with the Commission, produced in discovery, or otherwise presented during the above-captioned proceeding and all proceedings consolidated therewith. All persons previously or hereafter granted access to the materials and information identified in Ordering Paragraphs 2-3 of this Protective Order shall use and disclose such information only in accordance with this Protective Order.

2. The materials or information subject to this Protective Order include all correspondence, documents, data, information, studies, methodologies, and other materials furnished in this proceeding, which are believed by a Party to be of a proprietary or confidential nature and which are so designated by being stamped or otherwise marked “CONFIDENTIAL.” The Parties may designate as “CONFIDENTIAL” those materials which customarily are treated



by that Party as sensitive or proprietary, which are not available to the public, or which, if disclosed freely, would subject that Party or its clients to risk of competitive disadvantage or other business injury. The Parties may also designate as “CONFIDENTIAL” correspondence, documents, data, information, studies, methodologies, and other materials furnished in this proceeding, which are believed by a Party to be information the disclosure of which would compromise security against sabotage or criminal or terrorist acts and the nondisclosure of which is necessary for the protection of life, safety, public property or public utility facilities and which are so designated by being stamped or otherwise marked “CONFIDENTIAL.” Such materials will be referred to below as “Proprietary Information.” When a statement or exhibit is identified for the record, the portions thereof that constitute Proprietary Information shall be appropriately designated as such for the record.

3. The Parties may designate as “CONFIDENTIAL” those materials that are believed by that Party to be Proprietary Information as defined in paragraph 2 above.

4. Proprietary Information produced in this proceeding shall be made available to counsel for the non-producing Party, subject to the terms of this Protective Order. Such counsel shall use or disclose the Proprietary Information only for purposes of preparing or presenting evidence, cross examination or argument in this proceeding. To the extent required for participation in this proceeding, counsel for a Party may afford access to Proprietary Information only to a Party’s expert(s) and staff, subject to the conditions set forth in this Protective Order. However, said expert(s) or staff may not be a “Restricted Person.”

5. Proprietary Information shall not be made available to a “Restricted Person.”

(a) For the purpose of this Protective Order, “Restricted Person” shall mean:

(a) an officer, director, stockholder, partner, owner, or employee of any competitor of Westover,

(b) an officer, director, stockholder, partner, owner or employee of any affiliate of a competitor of Westover (including any association of competitors of Westover); (c) an officer, director, stockholder, owner, or employee of a competitor of a customer of Westover if the Proprietary Information concerns a specific, identifiable customer of Westover; and (d) an officer, director, stockholder, owner, or employee of an affiliate of a competitor of a customer of Westover if the Proprietary Information concerns a specific, identifiable customer of Westover; provided, however, that no expert shall be disqualified on account of being a stockholder, partner, or owner unless that expert's interest in the business would provide a significant motive for violation of the limitations of permissible use of the Proprietary Information. For purposes of this Protective Order, stocks, partnership, or other ownership interests valued at more than \$10,000 (excluding mutual funds) or constituting more than a 1% interest in a business establishes a significant motive for violation.

(b) If an expert for the Party, another member of the expert's firm, or the expert's firm generally also serves as an expert for, or as a consultant or advisor to, a Restricted Person, said expert must: (1) identify each Restricted Person and each expert or consultant; (2) make reasonable attempts to segregate those personnel assisting in the expert's participation in this proceeding from those personnel working on behalf of a Restricted Person; and (3) if segregation of such personnel is impractical the expert shall give to the producing Party written assurances that the lack of segregation will in no way jeopardize the interests of Westover or its customers. Westover shall have the right to challenge the adequacy of the written assurances that Westover or its customers' interests will not be jeopardized. No other persons may have access to the Proprietary Information except as authorized by order of the Commission.

6. Prior to making Proprietary Information available to any person as provided in Paragraph 4 of this Protective Order, counsel shall deliver a copy of this Protective Order to such person and shall receive a written acknowledgment from that person in the form attached to this Protective Order and designated as “Appendix A.” A Party’s expert(s) shall not be permitted to inspect, participate in discussions regarding, or otherwise be permitted access to Proprietary Information pursuant to this Protective Order unless and until an executed Non-Disclosure Certificate has been provided to the producing Party. Attorneys and outside experts are responsible for ensuring that persons under their supervision or control comply with this Protective Order. The producing Party shall be notified promptly of the identity of all persons provided access to Proprietary Information pursuant to this paragraph and shall be provided with a copy of each acknowledgment signed by each expert.

7. A producing Party shall designate data or documents as constituting or containing Proprietary Information by stamping or otherwise marking the documents “CONFIDENTIAL.” Where only part of data compilations or multi-page documents constitutes or contains Proprietary Information, the producing Party, insofar as reasonably practicable within discovery and other time constraints imposed in this proceeding, shall designate only the specific data or pages of documents which constitute or contain Proprietary Information. The Proprietary Information shall be served upon the nonproducing Party hereto only in an envelope or other sealed package separate from the nonproprietary materials, and the envelope shall be conspicuously marked “CONFIDENTIAL,” or through a secure electronic format where the transmittal of the Proprietary Information is conspicuously marked “CONFIDENTIAL.”

8. For purposes of filing, to the extent that Proprietary Information is placed in the Commission’s report folders, such information shall be handled in accordance with routine

Commission procedures inasmuch as the report folders are not subject to public disclosure. To the extent that Proprietary Information is placed in the Commission's testimony or document folders, such information shall be separately bound, conspicuously marked, and accompanied by a copy of this Protective Order. Public inspection of Proprietary Information shall be permitted only in accordance with this Protective Order.

9. The Parties will consider and treat the Proprietary Information as within the exemptions from disclosure provided in the Pennsylvania Right-to-Know Law as set forth at 65 P.S. § 67.101 *et seq.*, until such time as the information is found to be non-proprietary. In the event that any person or entity seeks to compel the disclosure of Proprietary Information, the nonproducing Party shall promptly notify the producing Party in order to provide the producing Party an opportunity to oppose or limit such disclosure.

10. Any public reference to Proprietary Information by counsel or persons afforded access thereto shall be to the title or exhibit referenced in sufficient detail to permit persons with access to the confidential information to fully understand the reference and not more. The Proprietary Information shall remain a part of the record, to the extent admitted, for all purposes of administrative or judicial review.

11. Part of any record of this proceeding containing Proprietary Information, including but not limited to all exhibits, writings, testimony, cross examination, argument and responses to discovery shall be sealed for all purposes, including administrative and judicial review, unless such Proprietary Information is released from the restrictions of this Protective Order, either through the agreement of the Parties or pursuant to order of the Administrative Law Judge, the Commission or appellate court.

12. The Parties affected by the terms of this Protective Order shall retain the right to question or challenge the confidential or proprietary nature of Proprietary Information; to question or challenge the admissibility of Proprietary Information; to refuse or object to the production of Proprietary Information on any proper ground, including but not limited to relevance, materiality, or undue burden; to seek an order permitting disclosure of Proprietary Information beyond that allowed in this Protective Order; and to seek additional measures of protection of Proprietary Information beyond those provided in this Protective Order. If a challenge is made to the designation of a document or information as Proprietary Information, the Party claiming that the information is Proprietary Information retains the burden of demonstrating that the designation is necessary and appropriate.

13. Unresolved challenges arising under Paragraph 12 shall be decided on petition by the presiding officer or the Commission as provided by 52 Pa. Code § 5.365(a). All such challenges will be resolved in conformity with existing rules, regulations, orders, statutes, precedent, etc., to the extent that such guidance is available.

14. Within thirty (30) days after a Commission final order is entered in the above-captioned proceeding, or in the event of appeals, within thirty days after appeals are finally decided, the Parties, upon request, shall either destroy or return to the producing Party all copies of all documents and other materials not entered into the record, including notes, which contain any Proprietary Information . Further, all electronic communications containing information marked as “CONFIDENTIAL” shall immediately be deleted by all recipients. In the event that a Party elects to destroy all copies of documents and other materials containing Proprietary Information instead of returning the copies to the producing Party, the Party shall certify in writing to the producing Party that the Proprietary Information has been destroyed.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Administrative Law Judge

**APPENDIX A**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement	:	
	:	Docket No. C-2022-3030251
v.	:	
	:	
Westover Property Management Company, L.P.	:	
d/b/a Westover Companies	:	

TO WHOM IT MAY CONCERN:

The undersigned is the \_\_\_\_\_ of \_\_\_\_\_ (the receiving party).

The undersigned has read and understands the Protective Order dated \_\_\_\_\_, 2022 in the above-referenced proceeding, which Protective Order deals with the treatment of Proprietary Information. The undersigned agrees to be bound by, and comply with, the terms and conditions of said Protective Order. In the case of an independent expert, the undersigned represents that he/she has complied with the provisions of paragraph 4 of the Protective Order prior to submitting this Acknowledgement.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Employer