



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
COMMONWEALTH KEYSTONE BUILDING
400 NORTH STREET, HARRISBURG, PA 17120

BUREAU OF
INVESTIGATION
&
ENFORCEMENT

May 24, 2022

Via Electronic Filing

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

Re: Pennsylvania Public Utility Commission,
Bureau of Investigation and Enforcement v.
West Penn Utilities
Docket No. C-2022-3031862
Motion for Default Judgment

Dear Secretary Chiavetta:

Enclosed for electronic filing please find the Bureau of Investigation and Enforcement's Motion for Default Judgment in the above-referenced proceeding. Copies have been served on the parties of record in accordance with the Certificate of Service.

Should you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in blue ink that reads 'Emily A. Farren'.

Emily A. Farren
Prosecutor
Bureau of Investigation and Enforcement
PA Attorney ID No. 322910
(717) 783-6150
efarren@pa.gov

EAF/jfm
Enclosures

cc: As per Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement,	:	
Complainant	:	
	:	
v.	:	Docket No. C-2022-3031862
	:	
West Penn Utilities,	:	
Respondent	:	

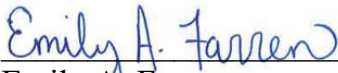
NOTICE TO PLEAD

The Bureau of Investigation and Enforcement (“I&E”) of the Pennsylvania Public Utility Commission (“Commission”) has filed a Motion for Default Judgment in the above-captioned matter, pursuant to the Commission’s regulations at 52 Pa. Code § 5.103. You are hereby notified to file a written response within twenty (20) days of the service of the Motion, consistent with 52 Pa. Code § 5.61.

Your Answer must be verified, pursuant to 52 Pa. Code § 1.36, and the original sent to:

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

Additionally, you must serve a copy on the undersigned prosecutor.



Emily A. Farren
Prosecutor
PA Attorney ID No. 322910

Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120
(717) 783-6150
efarren@pa.gov

Dated: May 24, 2022

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement,	:	
Complainant	:	
	:	
v.	:	Docket No. C-2022-3031862
	:	
West Penn Utilities,	:	
Respondent	:	

MOTION FOR DEFAULT JUDGMENT

NOW COMES the Pennsylvania Public Utility Commission’s (“Commission”) Bureau of Investigation and Enforcement (“I&E”), by its prosecuting attorneys, and files this Motion for Default Judgment against West Penn Utilities (“Respondent”), pursuant to Section 5.103 of the Commission’s regulations, 52 Pa. Code § 5.103. In support thereof, I&E respectfully represents as follows:

1. I&E commenced this action on April 11, 2022, by filing a Complaint.
2. On April 13, 2022, the Complaint was served by electronic mail to

Respondent at s.dowling_westpennutilities@yahoo.com.¹

3. Attached to the Complaint was a Notice advising Respondent that it must file an Answer within twenty (20) days by mailing an original to the Secretary of the Commission at the address provided or by eFiling the Answer using the Commission’s website at the URL provided.

¹ Service by Commission staff shall be performed electronically only, given the Commission’s inability to maintain normal mailing operations due to COVID-19. See *Suspension of Regulatory and Statutory Deadlines; Modification to Filing and Service Requirements*, Docket No. M-2020-3019262 (Emergency Order ratified on March 26, 2020).

4. The Notice also advised Respondent that if it failed to answer the Complaint, as directed therein, I&E would request that the Commission issue an Order imposing the penalties set forth in the Complaint.

5. Respondent did not pay the administrative penalty of \$2,500 that was sought in the Complaint for Respondent's violation of Section 180(2.1) the PA One Call Law, 73 P.S. § 180(2.1), for Respondent's failure, as an excavator of a complex project, to notify facility owners through the Pennsylvania One Call System at least ten (10) business days prior to commencing excavation.

6. Respondent did not file an Answer with the Commission as set forth in the Notice.

7. Pursuant to Section 5.61(c) of the Commission's regulations, a Respondent who fails to file an Answer to a Complaint within the 20-day response period may be deemed in default, and the relevant facts stated in the Complaint may be deemed admitted. 52 Pa. Code § 5.61(c).

8. The Commonwealth Court has upheld the Commission's authority to sustain complaints that are not answered within twenty days. *See Fusaro v. Pa. Pub. Util. Comm'n*, 382 A.2d 794, 797 (Pa. Cmwlt. 1978).

9. I&E respectfully requests that the Commission enter a Default Order against Respondent that sustains I&E's complaint and:

- a. Directs Respondent to pay the requested administrative penalty of \$2,500 within thirty (30) days of the entry date of the Commission's Order; and,

- b. Order such other remedies as the Commission may deem appropriate.

Respectfully submitted,



Emily A. Farren

Prosecutor

PA Attorney ID No. 322910

Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120
(717) 783-6150
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Date: May 24, 2022

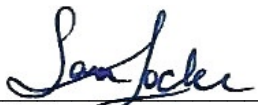
**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement,	:	
Complainant	:	
	:	
v.	:	Docket No. C-2022-3031862
	:	
West Penn Utilities,	:	
Respondent	:	

VERIFICATION

I, Sara Andrade-Locke, Damage Prevention Supervisor, Damage Prevention Section, Bureau of Investigation and Enforcement, hereby state that the facts above set forth are true and correct to the best of my knowledge, information, and belief and that I expect the Bureau will be able to prove the same at any 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: May 24, 2022



Sara Andrade-Locke
Damage Prevention Supervisor
Damage Prevention Section
Bureau of Investigation and Enforcement
Pennsylvania Public Utility Commission
400 North Street
Harrisburg, PA 17120

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

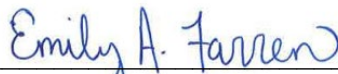
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Bureau of Investigation and Enforcement,	:	
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	:	
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	:	
West Penn Utilities,	:	
Respondent	:	

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing Motion for Default Judgment, in the manner and upon the parties listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

Served via Electronic Mail

West Penn Utilities
Scott Michael Dowling
2085 Forest Grove Rd.
Coraopolis, PA 15108
Email: s.dowling_westpennutilities@yahoo.com



Emily A. Farren
Prosecutor
PA Attorney ID No. 322910

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