

45734

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Township of Springdale

v.

Duquesne Light Company and
West Penn Power Company.

DOCKETED

JAN 23 2001

DOCUMENT
FOLDER

Docket No.:
C-00967749.

01 JAN 23 AM 11:14

RECEIVED
STANDARD

INTERIM ORDER SIX—
OPENING RECORD UNTIL APRIL 30, 2001, FOR SETTLEMENT DISCUSSIONS
AND SUPPLEMENTING THE RECORD

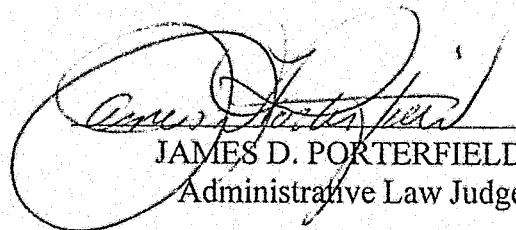
Interim Order Five, issued August 3, 2000, granted the motion of Allegheny Power, t/a West Penn Power Company (WPPC), to have the record remain open until October 31, 2000. On October 5, 2000, WPPC filed its proposed Statement No. 3, reflecting recent events that pertain to the proceeding. Neither the Township of Springdale nor Duquesne Light Company (DLC) has had an opportunity to cross-examine the witness whose testimony is set forth in WPPC Statement No. 3. Given that relevant litigation between DLC and WPPC has been resolved and given that the restructuring plans of WPPC and DLC, respectively, under the Electricity Generation Customer Choice and Competition Act (66 Pa. C. S. A., Chapter 28), have become final, all relevant facts can now be taken into consideration in order to finally resolve the formal complaint. To promote a timely resolution of the complaint, a post-hearing settlement conference between the parties and the presiding officer has been scheduled for January 30, 2001. At the settlement conference, it will be determined whether additional hearing time is necessary for, among other reasons, cross-examining the witness whose proposed testimony is tentatively identified as WPPC Statement No. 3.

THEREFORE, IT IS ORDERED, AS FOLLOWS:

1. That the evidentiary record in *Township of Springdale v. Duquesne Light Company and West Penn Power Company*, at Docket No. C-00967749, is hereby reopened and will remain open until April 30, 2001.

2. That West Penn Power Company Statement No. 3, the Direct Testimony of David L. Schroeder, is admitted into the record, subject to timely motions and cross-examination by adverse parties.

Dated: January 18, 2001


JAMES D. PORTERFIELD
Administrative Law Judge

C-00967749 Township of Springdale v. Duquesne Light Company and West Penn Power Company

Complainant claims residents currently serviced by Duquesne Light Company are requesting service from West Penn Power Company. Duquesne Light Company and West Penn Power Company are stated in the transfer of electric service in the area over a dispute as to how to calculate the purchase price of the distribution facilities of both electric companies certified service area of Springdale Township.

STEPHEN YAKOPEC JR ESQUIRE
1706 FIFTH AVENUE
ARNOLD PA 15068
(724) 339-3377

RICHARD S HERSKOVITZ ESQUIRE
REGINA M SESTAK ESQUIRE
DQE INC
CHERRINGTON CORPORATE CENTER
MAIL DROP C4-4-3
CORAOPOLIS PA 15108
(412) 393-1546
Fax Number: (412) 393-1541

JOHN L MUNSCHE ESQUIRE
WEST PENN POWER COMPANY
800 CABIN HILL DRIVE
GREENSBURG PA 15601-1689
(724) 838-6210
Fax Number: (724) 838-6177

RECEIVED

JAN 26 2001

PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

DOCUMENT
FOLDER

DOCKETED
JAN 29 2001

MEMORANDUM

COMMONWEALTH OF PENNSYLVANIA
PA Public Utility Commission

DATE: January 30, 2001

SUBJECT: Township of Springdale v. Duquesne Light Company and
West Penn Power Company
Docket No. C-00967749

TO: Barb Barbush, Docket Management
PA Public Utility Commission

FROM: James D. Porterfield, Administrative Law Judge
Office of Administrative Law Judge, Pittsburgh

JDP/som

Enclosed for filing is ALJ Exhibit No. 1 (original and one copy) with regard to the above captioned case. Please place this exhibit in the appropriate file.

Thank you.

JDP:som

Enclosure (1)

DOCUMENT
FOLDER

STEPHEN YAKOPEC, JR.
ATTORNEY AT LAW

ALD Exh No. 2
C-00967749

1715 FIFTH AVENUE • ARNOLD, PENNSYLVANIA 15068

FACSIMILE
724-339-3414

OFFICE
724-339-3377

LOWER BURRELL
724-335-8773

October 10, 2000

Honorable James Porterfield
Administrative Law Judge
Pennsylvania Public Utility Commission
1103 Pittsburgh State Office Building
300 Liberty Avenue
Pittsburgh, PA 15222

RE: Springdale Township v Duquesne Light and
West Penn Power
Docket # C-00967749

DOCKETED
FEB 05 2001

Dear Judge Porterfield:

I have reviewed West Penn Power Company's Statement #3, Direct Written Testimony of David L. Schroeder and in response, on behalf of the Township of Springdale, make the following arguments.

Springdale Township instituted this proceeding in 1996 prior to restructuring as stated on page 8 lines 18 & 19 of Schroeder Testimony. West Penn was aware of this proceeding and the potential that these customers could be transferred to it when they did their restructuring plan. West Penn simply made an error in its business judgement by not considering the impact of the Springdale Township customers in its restructuring settlement. West Penn should not be able to benefit from their mistake and oversight.

Schroeder's testimony (page 8-9, lines 22-2) presumes that the Springdale Township customers were included in Duquesne Light's Stranded Cost Evaluation. Mr. Schroeder simply does not know. His testimony therefore is speculative on this issue and should be stricken.

Schroeder's testimony (page 9, lines 17-20) indicates that the Springdale customers were not included in West Penn's restructuring settlement. However, he fails to say that this was the fault of West Penn from not considering the Springdale customers. Why should West Penn benefit from its own mistake? Principles of estoppel should apply.

Likewise, Schroeder's testimony (page 12 lines 3-7) indicates that it is inappropriate for West Penn to assume the provider of last resort for Springdale customers because they were not in West Penn's restructuring proceeding. However, the reason they were not in West Penn's

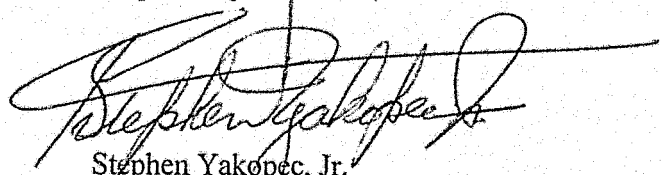
DOCUMENT
FOLDER

restructuring proceeding was that West Penn just simply forgot to consider this issue. Again, West Penn should not be able to benefits from its owns mistakes.

Schroeder's testimony (page 12 lines 20-23) indicates that Duquesne or its transferees should provide the provider of last resort service. If these customers are transferred to West Penn then West Penn is the transferee and can provide the provider of last resort service to the Springdale customers.

Nowhere in the testimony of West Penn does it indicate what significance 260 Springdale Township residents would have on the bottom line of West Penn Power's profit and loss statement. Nowhere does West Penn set forth the total amount of customers that they have and how 260 residents of Springdale Township would financially burden or substantially impact West Penn's financial position. It is submitted that the impact of Springdale Township residents would have a negligible impact on West Penn Power's economic viability.

Respectfully submitted,



Stephen Yakopec, Jr.

cc: Larry R. Crayne, Esquire
Duquesne Light Company

John L. Munsch, Esquire
Allegheny Energy

RECEIVED

OCT 11 2000

Division of Public Utility
Public Utility Commission

OALJ Hearing Report

Please Check Those Blocks Which Apply

Docket No.:	C-00967749		YES	NO
Case Name:	Township of Springdale	Prehearing Held:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	v.	Hearing Held:	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	Duquesne Light Company and	Testimony Taken:	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	West Penn Power Company	Transcript Due:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Location:	Pittsburgh	Hearing Concluded:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
		Further Hearing Needed:	<input type="checkbox"/>	<input checked="" type="checkbox"/>
		Estimated Add'l Days:		
Date:	January 30, 2001	RECORD CLOSED:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
ALJ:	James D. Porterfield	DATE:	04/30/01	
Reporting Firm:	Commonwealth Reporting	Briefs to be Filed:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
		DATE:		
		Bench Decision:	<input type="checkbox"/>	<input checked="" type="checkbox"/>
		REMARKS:	See Interim Order Six - record reopened and closed 04/30/01	

DOCKETED

FEB 14 2001

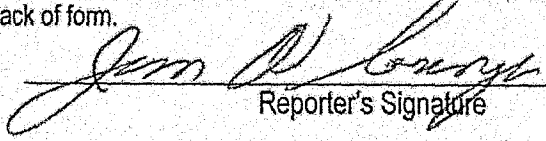
DOCUMENT
FOLDER

RECEIVED
FEB 14 2001
PUBLIC UTILITY COMMISSION
SECRET

PLEASE PRINT CLEARLY - Incomplete information may result in delay of processing.

Name and Telephone Number	Address	Who are you representing?
John L. Munsch Telephone: 724-838-6210	800 Cabin Hill Drive City: Greensburg PA Zip: 15601 E-mail Address: jmunsch@duquesnelighting.com	West Penn Power Company
Richard S. Herskovitz (Richard S. HERSKOVITZ) Telephone: (412) 393-3662	400 FAIRWAY DR., SUITE 400 City: CORAOPOLIS PA Zip: 15108 E-mail Address:	DUG. LT. Co.
STEPHEN YAKOPEC JR. 1715 5 TH AVE ARNOLD, PA. 15068 Telephone: 724-339-3377	1715 5 TH AVE. City: ARNOLD PA Zip: 15068 E-mail Address:	724-339-3414 Fax Number:

Check this box if additional parties or attendees appear on back of form.


 Reporter's Signature

Note: Completion of this form does not constitute an entry of appearance, see 52 Pa. Code §§1.24 and 1.25.

RHO