



COMMONWEALTH OF PENNSYLVANIA

November 6, 2023

**E-FILED**

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

**Re: Application of West Penn Power Company, Under Sections 507, 1102(a)(1), and 1102(a)(3) of the Public Utility Code, for All of the Necessary Authority, Approvals and Certificates of Public Convenience for: (1) the Acquisition of Certain Electric Distribution Facilities from the Letterkenny Industrial Development Authority; (2) West Penn Power Company's Right to Initiate and Provide Electric Distribution Service in the Portions of Letterkenny, Greene, and Hamilton Townships, Franklin County, Pennsylvania Currently Served by the Letterkenny Industrial Development Authority; and (3) Any Other Approvals Necessary to Complete the Contemplated Transaction / Docket No. A-2023-3043428**

Dear Secretary Chiavetta:

Enclosed please find the Protest, Notice of Intervention, Public Statement, and Verification, on behalf of the Office of Small Business Advocate ("OSBA"), in the above-captioned proceeding.

Copies will be served on all known parties in this proceeding, as indicated on the attached Certificate of Service.

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

Sincerely,

*/s/ Steven C. Gray*

Steven C. Gray  
Senior Supervising  
Assistant Small Business Advocate  
Attorney ID No. 77538

*Enclosures*

cc: Mark Ewen  
Parties of Record

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Application of West Penn Power Company, Under Sections 507, 1102(a)(1), and 1102(a)(3) of the Public Utility Code, for All of the Necessary Authority, Approvals and Certificates of Public Convenience for: (1) the Acquisition of Certain Electric Distribution Facilities from the Letterkenny Industrial Development Authority; (2) West Penn Power Company’s Right to Initiate and Provide Electric Distribution Service in the Portions of Letterkenny, Greene, and Hamilton Townships, Franklin County, Pennsylvania Currently Served by the Letterkenny Industrial Development Authority; and (3) Any Other Approvals Necessary to Complete the Contemplated Transaction** : **Docket No. A-2023-3043428**

**PROTEST OF THE  
OFFICE OF SMALL BUSINESS ADVOCATE**

**Introduction**

Pursuant to 52 Pa. Code § 5.51(a), the Office of Small Business Advocate (“OSBA”) submits this Protest in response to the Application of West Penn Power Company (“West Penn”), Under Sections 507, 1102(a)(1), and 1102(a)(3) of the Public Utility Code, for All of the Necessary Authority, Approvals and Certificates of Public Convenience for: (1) the Acquisition of Certain Electric Distribution Facilities from the Letterkenny Industrial Development Authority; (2) West Penn Power Company’s Right to Initiate and Provide Electric Distribution Service in the Portions of Letterkenny, Greene, and Hamilton Townships, Franklin County, Pennsylvania Currently Served by the Letterkenny Industrial Development Authority (“LIDA”); and (3) Any Other Approvals Necessary to Complete the Contemplated Transaction

(“Application”) that was filed with the Pennsylvania Public Utility Commission (“Commission”) on October 5, 2023.

### **Standing**

In response to 52 Pa. Code §§ 5.52(a)(1) and (a)(3), the OSBA is an agency of the Commonwealth of Pennsylvania authorized by the Small Business Advocate Act (Act 181 of 1988, 73 P.S. §§ 399.41 - 399.50) to represent the interest of small business consumers as a party in proceedings before the Commission.

### **Grounds for this Protest**

In response to 52 Pa. Code §§ 5.52(a)(2), the OSBA states the following grounds as the basis for this Protest.

The legal standard to get a Certificate of Public Convenience is a showing of an affirmative public benefit. The Application’s evidence for public benefits are mostly no-harm items, which is not sufficient for the finding of an affirmative public benefit.

Furthermore, for West Penn to demonstrate an affirmative public benefit, it will have to demonstrate more than mere continued LIDA ownership or sale to a third party.

The Application is unclear as to whether the distribution assets in question are solely dedicated to relevant customers, or whether other West Penn assets are used to provide service or backup in the event of an outage.

The impact upon these customers must be examined, as well as the impact upon other West Penn customers.

The rate schedule serving these customers must be examined to ascertain if those rates are just and reasonable, both before and after the transaction would be completed.

The OSBA observes that it seems doubtful that the \$0.7 million in base distribution revenue from these customers, net the \$0.2 million in lost revenue for operating the system, will cover \$7.2 million in utility rate base. Consequently, customer rate impacts must be thoroughly examined.

It must be examined whether this expenditure would pass West Penn's economic test to determine whether contributions in aid of construction ("CIAC") are needed.

**Conclusion**

In view of the issues set forth above, the Office of Small Business Advocate respectfully requests that the Pennsylvania Public Utility Commission:

- A. Direct the Office of Administrative Law Judge to hold hearings on the Application and prepare an initial decision; and
- B. Grant such other relief as may be necessary or appropriate.

Respectfully submitted,

*/s/ Steven C. Gray*

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Steven C. Gray  
Attorney I.D. No. 77538  
Senior Supervising  
Assistant Small Business Advocate

For:  
NazAarah Sabree  
Small Business Advocate

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Dated: November 6, 2023

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Application of West Penn Power Company, Under Sections 507, 1102(a)(1), and 1102(a)(3) of the Public Utility Code, for All of the Necessary Authority, Approvals and Certificates of Public Convenience for: (1) the Acquisition of Certain Electric Distribution Facilities from the Letterkenny Industrial Development Authority; (2) West Penn Power Company’s Right to Initiate and Provide Electric Distribution Service in the Portions of Letterkenny, Greene, and Hamilton Townships, Franklin County, Pennsylvania Currently Served by the Letterkenny Industrial Development Authority; and (3) Any Other Approvals Necessary to Complete the Contemplated Transaction** : **Docket No. A-2023-3043428**

**NOTICE OF INTERVENTION  
OF THE OFFICE OF SMALL BUSINESS ADVOCATE**

The Office of Small Business Advocate (“OSBA”) files this Notice of Intervention with respect to the Application of West Penn Power Company (“West Penn”), Under Sections 507, 1102(a)(1), and 1102(a)(3) of the Public Utility Code, for All of the Necessary Authority, Approvals and Certificates of Public Convenience for: (1) the Acquisition of Certain Electric Distribution Facilities from the Letterkenny Industrial Development Authority; (2) West Penn Power Company’s Right to Initiate and Provide Electric Distribution Service in the Portions of Letterkenny, Greene, and Hamilton Townships, Franklin County, Pennsylvania Currently Served by the Letterkenny Industrial Development Authority (“LIDA”); and (3) Any Other Approvals Necessary to Complete the Contemplated Transaction (“Application”) that was filed with

the Pennsylvania Public Utility Commission (“Commission”) on October 5, 2023. In support of this Notice of Intervention, the OSBA avers as follows:

1. The OSBA is an agency of the Commonwealth of Pennsylvania authorized by the Small Business Advocate Act (Act 181 of 1988, 73 P.S. §§ 399.41 - 399.50) to represent the interest of small business consumers as a party in proceedings before the Commission.

2. Representing the OSBA in this proceeding is:

Steven C. Gray, Esquire  
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(717) 783-2525  
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Respectfully submitted,

*/s/ Steven C. Gray*

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Date: November 6, 2023



All of the Necessary Authority, Approvals and Certificates of Public Convenience for: (1) the Acquisition of Certain Electric Distribution Facilities from the Letterkenny Industrial Development Authority; (2) West Penn Power Company's Right to Initiate and Provide Electric Distribution Service in the Portions of Letterkenny, Greene, and Hamilton Townships, Franklin County, Pennsylvania Currently Served by the Letterkenny Industrial Development Authority ("LIDA"); and (3) Any Other Approvals Necessary to Complete the Contemplated Transaction ("Application") that was filed with the Pennsylvania Public Utility Commission ("Commission").

The Small Business Advocate is intervening in this proceeding in order to protect the interests of the West Penn's and LIDA's current small business customers. A thorough inquiry by the Commission into all of the elements of the Application Petition is necessary to ascertain whether the proposed transaction is just, reasonable, non-discriminatory, and provides an affirmative public benefit.

In view of the foregoing, the Small Business Advocate is requesting that the Application be subject to investigation and evidentiary hearings before the Commission. The Small Business Advocate will ask the Commission to deny or modify any aspect of the transaction proposed in the Application that is not proven to be just, reasonable, non-discriminatory, and includes an affirmative public benefit.

Dated: November 6, 2023

**VERIFICATION**

I, NazAarah Sabree, hereby state that the facts set forth herein 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: November 6, 2023

  
\_\_\_\_\_  
(Signature)

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Application of West Penn Power :  
Company, Under Sections 507, :  
1102(a)(1), and 1102(a)(3) of the Public :  
Utility Code, for All of the Necessary :  
Authority, Approvals and Certificates of :  
Public Convenience for: (1) the :  
Acquisition of Certain Electric :  
Distribution Facilities from the :  
Letterkenny Industrial Development : **Docket No. A-2023-3043428**  
Authority; (2) West Penn Power :  
Company's Right to Initiate and Provide :  
Electric Distribution Service in the :  
Portions of Letterkenny, Greene, and :  
Hamilton Townships, Franklin County, :  
Pennsylvania Currently Served by the :  
Letterkenny Industrial Development :  
Authority; and (3) Any Other Approvals :  
Necessary to Complete the Contemplated :  
Transaction :**

**CERTIFICATE OF SERVICE**

I hereby certify that true and correct copies of the foregoing have been served via email (*unless other noted below*) upon the following persons, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

The Honorable Charles E. Rainey Jr.  
Chief Administrative Law Judge  
Pennsylvania Public Utility Commission  
400 North Street  
Commonwealth Keystone Building  
Harrisburg, PA 17120  
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DATE: November 6, 2023

*/s/ Steven C. Gray*

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