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November 28, 2023

**VIA ELECTRONIC FILING**

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2nd Floor  
Harrisburg, PA 17120

**RE: Application of West Penn Power Company, Under Section 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:

Attached for filing with the Pennsylvania Public Utility Commission is a Petition to Intervene Out-of-Time of The Letterkenny Industrial Development Authority.

As shown by the attached Certificate of Service, all parties to this proceeding are being duly served via email. We can provide parties with a hard copy of this document upon request. Thank you.

Sincerely,

A handwritten signature in blue ink that reads "Kenneth R. Stark".

Kenneth R. Stark  
MCNEES WALLACE & NURICK LLC

c: Certificate of Service

## CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document upon the participants, listed below, in accordance with the requirements of Section 1.54 (service).

### VIA EMAIL

The Honorable Gail M. Chiodo  
The Honorable Alphonso Arnold, III  
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Kenneth R. Stark

Date: November 28, 2023

*Counsel to Letterkenny Industrial Development Authority*

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of West Penn Power Company,	:	A-2023-3043428
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.	:	

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**PETITION TO INTERVENE  
OUT-OF-TIME  
OF  
THE LETTERKENNY INDUSTRIAL DEVELOPMENT AUTHORITY**

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**TO THE HONORABLE PRESIDING ADMINISTRATIVE LAW JUDGES GAIL M. CHIODO AND ALPHONSO ARNOLD III:**

Pursuant to Sections 5.71 through 5.74 and Section 5.103 of the Pennsylvania Public Utility Commission’s (“PUC” or “Commission”) Regulations, 52 Pa. Code §§ 5.71-5.74, 5.103, the Letterkenny Industrial Development Authority (“LIDA”) hereby files this Petition to Intervene in the above-captioned proceeding and respectfully moves to intervene out-of-time. In support of its Petition to Intervene, LIDA asserts the following:

## **I. RELEVANT BACKGROUND**

1. On October 6, 2023, the West Penn Power Company (“West Penn”) filed an application (“Application”) requesting all necessary authority, approvals, and certificates of public convenience from the Commission pursuant to Section 1102 of the Public Utility Code (“Code”), 66 Pa. C.S. § 1102, authorizing the transfer by sale of facilities and other property relating to LIDA’s electric distribution service to all of its customers in Letterkenny, Greene, and Hamilton Townships, Franklin County, Pennsylvania to West Penn pursuant to an Asset Purchase Agreement (“Agreement”).

2. On October 21, 2023, the Commission published the Application in the *Pennsylvania Bulletin*, which triggered a deadline of November 6, 2023 for formal protests and petitions to intervene.

3. On November 6, 2023, the Office of Small Business Advocate (“OSBA”) filed a protest to the Application and requested evidentiary hearings and the issuance of an initial decision in this proceeding by the PUC’s Office of Administrative Law Judge.

4. Also on November 6, 2023, the Office of Consumer Advocate (“OCA”) filed a notice of intervention and public statement.

5. On November 14, 2023, the Commission issued a notice setting this proceeding for evidentiary hearing procedures and the Presiding Administrative Law Judges issued a prehearing conference order.

6. The prehearing conference is scheduled for 10 a.m. on December 6, 2023.

## **II. PETITION TO INTERVENE**

7. LIDA is a public authority organized under the Economic Development Financing Law, 73 P.S. §§ 371 *et seq.*, with a mailing address and shared offices and staff at 4759 Innovation Way, Chambersburg, PA 17201.

8. LIDA was formed in August 1997 to implement redevelopment activities for the reuse of the Letterkenny Army Depot as a business park, known as the Cumberland Valley Business Park (“Business Park”), as a result of the Federal Base Realignment and Closure Commission’s recommendation in 1995 to substantially downsize the Letterkenny Army Depot, resulting in a loss of 2,000 jobs and economic shock to Franklin County. *See* “The Economic Impact of Letterkenny Army Depot in Franklin County, Pennsylvania, Shippensburg University (Spring 2016), available at <https://fcadc.com/wp-content/uploads/2018/06/LEAD-ECONOMIC-IMPACT-FINAL-REPORT-2016.pdf>.

9. LIDA owns and operates an electric distribution system (“EDS”), consisting of eight 12 kilovolt (“kV”) electric distribution circuits, associated transformers, and lower voltage circuits, that serves approximately 130 non-residential, general power service customers in portions of Letterkenny, Greene, and Hamilton Townships, including both the Business Park and the Letterkenny Army Depot, in Franklin County, Pennsylvania. West Penn operates and maintains the EDS on behalf of LIDA pursuant to an Operations & Maintenance Agreement, dated January 1, 2011, between West Penn and LIDA.

10. Effective, August 16, 2023, West Penn and LIDA executed the Agreement, under which West Penn would purchase equipment, tangible personal property, easements, and other assets relating to LIDA’s electric distribution service and facilities in portions of Letterkenny, Greene, and Hamilton Townships, Franklin County, Pennsylvania.

11. The names and address of LIDA’s attorneys are:

Susan E. Bruce (Pa. ID 80146)  
Kenneth R. Stark (Pa. ID 312945)  
Adeolu A. Bakare (Pa. ID 208541)  
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12. Section 1103(a) of the Public Utility Code requires that the PUC must find that the granting of a certificate of public convenience is necessary or proper for the service, accommodation, convenience, or safety of the public. *Id.* at § 1103(a). LIDA respectfully submits that granting the Application is necessary and serves the public interest. Because the Application will yield substantial, affirmative public benefits per *City of York v. Pa. PUC*, 295 A. 825, 828 (Pa. 1972), the Application should be approved without conditions to and modification of the Agreement.

13. As evidenced by the recent disposition of its wastewater system assets,<sup>1</sup> LIDA has embarked on a gradual process to remove itself from the utility business to instead focus on LIDA’s core statutory and business objectives: redevelopment of the real estate at the Business

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<sup>1</sup> On July 14, 2022, the Commission entered an order approving the sale and transfer of certain wastewater system assets of LIDA and the Franklin County General Authority to the York Water Company – Wastewater. *See* Application of the York Water Company – Wastewater et al., Docket No. A-2021-3029945 (Order entered July 14, 2022) (hereinafter “Wastewater System Order”). No parties protested that application and the Commission found that granting the application was necessary or proper for the service, accommodation, convenience, or safety of the public and is in the public interest. Wastewater System Order at 15.

Park. With only two full-time staff and limited resources, LIDA believes it should narrowly focus its efforts on economic revitalization and development at the Business Park.

14. As the counterparty to the Agreement that would transfer control of LIDA's EDS to West Penn, LIDA has an interest in this proceeding that is not and cannot be represented by any other party of record. As the owner of the EDS, LIDA is well-positioned to provide its perspective and information concerning the EDS and the underlying transaction to help the Commission and the parties understand the importance of the Application and its public interest benefits. LIDA did not intervene earlier in this proceeding to conserve public resources and because LIDA was deferring to West Penn's prosecution of the Application, similar to LIDA's approach in deferring to the buyer of LIDA's wastewater system assets. However, OSBA's request for evidentiary hearings and OCA's intervention have necessitated LIDA's need to participate as an intervenor in this proceeding. Consequently, LIDA satisfies the standards for intervention under Section 5.72 of the Commission's Regulations, 52 Pa. Code § 5.72.

15. LIDA respectfully submits that LIDA's out-of-time petition to intervene will not cause any prejudice to the parties in this proceeding or otherwise delay this proceeding, especially given that LIDA is requesting to intervene in advance of the prehearing conference scheduled on December 6, 2023. **LIDA has conferred with the OSBA and OCA regarding this petition/motion and has authorization to represent that neither the OSBA nor the OCA oppose LIDA's participation as an intervenor in this proceeding.**

16. LIDA requests that Your Honors review and rule on LIDA's request to intervene and as soon as practicable and no later than during the prehearing conference scheduled for December 6, 2023. To the extent deemed necessary, LIDA, pursuant to Section 5.43 of the Commission's regulations, 52 Pa. Code § 5.43, requests waiver of the Commission's regulations

governing the deadlines for petitions to intervene and answers to motions. *See* 52 Pa. Code §§ 5.74(b), 5.103(c). LIDA has demonstrated good cause to intervene out-of-time and the other parties to this proceeding – the OSBA and the OCA – do not oppose LIDA’s participation in this proceeding.

### **III. CONCLUSION**

**WHEREFORE**, the Letterkenny Industrial Development Authority respectfully requests Your Honors grant this out-of-time petition to intervene to enable the Letterkenny Industrial Development Authority to participate as an intervenor in this proceeding.

Respectfully submitted,

McNEES WALLACE & NURICK LLC

By 

Susan E. Bruce (Pa. ID 80146)  
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Counsel to the Letterkenny Industrial  
Development Authority

Dated: November 28, 2023

**VERIFICATION**

I, Kip Feldman, hereby state that the facts above set forth are true and correct (or 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).



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Kip Feldman, Executive Director  
Letterkenny Industrial Development Authority

Dated: November 27, 2023