



COMMONWEALTH OF PENNSYLVANIA

December 4, 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 for filing please find the Prehearing Memorandum, 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



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## **II. FILING BACKGROUND**

On October 5, 2023, West Penn Power Company (“West Penn”) filed an Application, 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.

The Office of Small Business Advocate (“OSBA”) filed a Protest and Notice of Intervention on October November 6, 2023.

## **III. IDENTIFICATION OF WITNESS AND TENTATIVE ISSUES**

Assisting in the development and presentation of the OSBA’s case in this proceeding will be:

Mr. Mark Ewen  
Industrial Economics Incorporated  
2067 Massachusetts Ave.  
Cambridge, MA 02140  
(617) 354-0074  
[mewen@indecon.com](mailto:mewen@indecon.com)

The OSBA will participate in the case to assure that the interests of small business customers of West Penn are adequately represented and protected. At the time of this writing, the OSBA is still reviewing the materials submitted by West Penn, and the OSBA has not been provided access to the certain confidential materials contained in the filing. These confidential materials include Appendix A (the actual Asset Purchase Agreement) and Appendix D (copy of pole attachment agreement). Nevertheless, the OSBA has identified the following list of issues that it will evaluate in this proceeding:

1. Whether the Company has shown the transaction will yield an affirmative public benefit, consistent with relevant legal standards.
2. Whether the terms of the transaction, including the purchase price, are reasonable and consistent with a competitive arm's length process.
3. Whether the treatment of current LIDA customers affected by the transaction is reasonable.
4. Whether the impacts to current West Penn customers are fair and reasonable, including the long-term potential rate impacts once the purchased assets are rolled into rate base in the next base rates case.
5. Whether the proposed expenditure would pass the Company's economic test to determine whether contributions in aid of construction ("CIAC") are needed.

The OSBA reserves the right to pursue additional issues as they arise throughout the proceeding.

**IV. SERVICE OF DOCUMENTS**

In accordance with 52 Pa. Code § 1.54(b)(3)(i), the OSBA agrees to accept electronic mail delivery of documents on the due date<sup>1</sup> as satisfying the in-hand requirement. The OSBA requests that email delivery of documents also be provided to its witnesses identified above.

In addition to email copies of pleadings, briefs, and exceptions, the OSBA requests email copies of responses to discovery propounded by the OSBA or any other party.

**V. SETTLEMENT**

The OSBA notes its willingness to enter into settlement discussions at the appropriate phase of this proceeding.

**VI. HEARING AND BRIEFING SCHEDULE**

At the time of this writing, the OSBA is working with the parties to develop a procedural schedule.

Respectfully submitted,

*/s/ Steven C. Gray*

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Dated: December 4, 2023

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<sup>1</sup> In accordance with 52 Pa. Code § 1.56(a)(5), documents must be received by 4:30 pm.

**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**

**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 Gail M. Chiodo  
Administrative Law Judge  
The Honorable Alphonso Arnold, III  
Administrative Law Judge  
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*/s/ Steven C. Gray*

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

DATE: December 4, 2023