



McNees Wallace & Nurick LLC
100 Pine Street
P.O. Box 1166
Harrisburg, PA 17108-1166

Kenneth R. Stark
Direct Dial: 717.237.5378
Fax: 717.237.5300
kstark@mcneeslaw.com

December 4, 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 Prehearing Memorandum 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
Administrative Law Judges
Pennsylvania Public Utility Commission
400 North Street
Commonwealth Keystone Building
Harrisburg, PA 17120
gchiodo@pa.gov
alphonarno@pa.gov

Richard Kanaskie, Esquire
Director of Bureau of Investigation &
Enforcement
400 North Street
Commonwealth Keystone Building
Harrisburg, PA 17120
Rkanaskie@pa.gov

David B. MacGregor, Esquire
Devin T. Ryan, Esquire
Post & Schell, P.C.
17 North Second Street 12th Floor
Harrisburg, PA 17101-1601
dmacgregor@postschell.com
dryan@postschell.com

Melanie J. El Atieh, Esquire
Senior Assistant Consumer Advocate
Office of the Consumer Advocate
555 Walnut Street, 5th Floor
Harrisburg, PA 17101
MElAtieh@paoca.org

Tori Giesler, Esquire
Angelina Umstead, Esquire
FirstEnergy Service Company
2800 Pottsville Pike
P.O. Box 16001
Reading, PA 19612-6001
tgiesler@firstenergycorp.com
aumstead@firstenergycorp.com

Rebecca Lyttle Assistant Small Business
Advocate Pennsylvania Office of Small
Business Advocate Forum Place 555 Walnut
Street, 1st Floor Harrisburg, Pennsylvania
relyttle@pa.gov

Steven C. Gray Senior Supervising Assistant
Small Business Advocate Pennsylvania Office
of Small Business Advocate Forum Place 555
Walnut Street, 1st Floor Harrisburg,
Pennsylvania 17101
sgray@pa.gov



Kenneth R. Stark

Date: December 4, 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.	:	

**PREHEARING MEMORANDUM
OF
THE LETTERKENNY INDUSTRIAL DEVELOPMENT AUTHORITY**

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

Pursuant to the November 14, 2023, Prehearing Conference Order issued by Presiding Administrative Law Judges (“ALJs”) Gail M. Chiodo and Alphonso Arnold III, the Letterkenny Industrial Development Authority (“LIDA”) hereby submits this Prehearing Memorandum in the above-captioned proceeding.

I. HISTORY OF THE PROCEEDING

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”).

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.

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

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

On November 28, 2023, LIDA filed an unopposed petition to intervene out-of-time in this proceeding.

II. ANTICIPATED ISSUES

LIDA anticipates that this proceeding will address the following issues:

- a. Whether approval of the Application provides substantial affirmative benefits and is in the public interest; and
- b. Whether the proposed transaction set forth in the Application affirmatively promotes the service, accommodation, convenience, or safety of the public.

LIDA supports Commission approval of the Application, and will be available to provide any additional evidence required to show that the Application demonstrates substantial affirmative benefits and is in the public interest. LIDA anticipates pursuing these issues

during this proceeding, as necessary, and reserves the right to raise further issues and to respond to all matters raised by other parties.

III. PROPOSED WITNESSES AND PARTICIPATION IN PROCEEDING

LIDA expects to present LIDA's Executive Director, Kip Feldman, as LIDA's chief witness, to provide background on LIDA and LIDA's perspective on this transaction and the importance of enabling LIDA to sell its electric distribution system in order to focus on economic redevelopment and revitalization in Franklin County near and around the Letterkenny Army Depot. Mr. Feldman's business address is 4759 Innovation Way, Chambersburg, PA 17201.

LIDA also intends to participate in this proceeding through the submission of discovery, cross-examination of other parties' witnesses, and the submission of briefs, exceptions, and reply exceptions, if necessary.

IV. LIST OF ANY EXHIBITS OR DOUMENTS

LIDA will not be presenting any exhibits or documents during the December 6, 2023, Prehearing Conference. LIDA reserves its right to present any exhibits or documents as part of the evidentiary hearings in this proceeding.

V. PROPOSED SCHEDULE AND DISCOVERY RULES

Considering the importance of timely closing this transaction to LIDA, LIDA believes it is appropriate to set forth more expedited procedures for discovery as well as a litigation schedule that avoids delayed review and adjudication of the Application. LIDA supports the following schedule proposed by West Penn that was circulated to the parties. LIDA envisions that only one day of hearings will be necessary.

October 5, 2023	Joint Application filed with the Commission
December 6, 2023	Prehearing Conference
January 4, 2024	Direct Testimony of West Penn and LIDA
January 29, 2024	Intervenors' Direct Testimony
February 14, 2024	Rebuttal Testimony
February 26, 2024	Surrebuttal Testimony
March 5, 2024	Oral Rejoinder and Hearings
March 25, 2024	Main Briefs
April 8, 2024	Reply Briefs

LIDA also supports the following discovery rule modifications that West Penn proposes:

- (a) Answers to written interrogatories shall be served in-hand within ten (10) calendar days of service.
- (b) Responses to requests for document production, entry for inspection, or other purposes must be served in-hand within ten (10) calendar days.
- (c) Requests for admissions will be deemed admitted unless answered within ten (10) calendar days or objected to within five (5) calendar days of service.
- (d) Objections to interrogatories shall be communicated orally within three (3) calendar days of service of the interrogatories; unresolved objections shall be served in writing within five (5) days of service of the interrogatories. Objections to interrogatories served on a Friday shall be communicated orally within four (4) calendar days, and unresolved objections shall be served in writing within six (6) days of service of the interrogatories.
- (e) Motions to dismiss objections and/or direct the answering of interrogatories shall be filed within three (3) calendar days of service of the written objections.
- (f) Answers to motions to dismiss objections and/or direct the answering of interrogatories shall be filed within three (3) calendar days of service of such motions.
- (g) Discovery and discovery-related pleadings propounded after 12:00 noon on a Friday or after 12:00 noon on any business day immediately preceding a state holiday will be deemed served on the next business day for purposes of determining the due date of the responses and responsive pleadings.

LIDA will cooperate with the ALJs and the parties at the Prehearing Conference to finalize a complete procedural schedule. LIDA will also cooperate with the ALJs and the parties to develop appropriate discovery rules for this proceeding.

VI. POSSIBILITY OF SETTLEMENT

LIDA is willing to participate in discussions with the parties to amicably resolve the issues in this proceeding.

Respectfully submitted,

McNEES WALLACE & NURICK LLC

By 

Susan E. Bruce (Pa. ID 80146)
Kenneth R. Stark (Pa. ID 312945)
Adeolu A. Bakare (Pa. ID 208541)
McNEES WALLACE & NURICK LLC
100 Pine Street
P.O. Box 1166
Harrisburg, PA 17108-1166
Phone: (717) 232-8000
Fax: (717) 237-5300
sbruce@mcneeslaw.com
kstark@mcneeslaw.com
abakare@mcneeslaw.com

Counsel to the Letterkenny Industrial
Development Authority

Dated: December 4, 2023