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December 4, 2023

***VIA ELECTRONIC FILING***

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2nd Floor  
P.O. Box 3265  
Harrisburg, PA 17105-3265

**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**

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Dear Secretary Chiavetta:

Attached for filing in the Prehearing Conference Memorandum of West Penn Power Company in the above-referenced proceeding. Copies will be provided as indicated on the Certificate of Service.

Respectfully submitted,



Devin Ryan  
DTR/dmc  
Attachment

cc: The Honorable Gail Chiodo (*via email; w/attachments*)

Rosemary Chiavetta, Secretary  
December 4, 2023  
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The Honorable Alphonso Arnold III (*via email; w/attachments*)  
Certificate of Service

## CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Application of West Penn Power Company has been served by certified mail return receipt requested, upon the following.

### VIA EMAIL ONLY

Steven C. Gray, Esquire  
Rebecca Lyttle, Esquire  
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Harrisburg, PA 17101  
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Susan E. Bruce, Esquire  
Kenneth R. Stark, Esquire  
Adeolu A. Bakare, Esquire  
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*Counsel for Letterkenny Industrial  
Development Authority*

Date: December 4, 2023



Devin T. Ryan

**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 : Docket No. A-2023-3043428  
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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**PREHEARING CONFERENCE MEMORANDUM OF  
WEST PENN POWER COMPANY**

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**TO ADMINISTRATIVE LAW JUDGES GAIL M. CHIDO AND ALPHONSO  
ARNOLD III:**

Pursuant to 52 Pa. Code § 5.222(d) and the November 14, 2023 Prehearing Conference Order, West Penn Power Company (“West Penn”), hereby submits this Prehearing Conference Memorandum.

**I. SERVICE OF DOCUMENTS**

1. West Penn requests that all documents be served on:

David B. MacGregor (ID # 28804)  
Devin T. Ryan (ID # 316602)  
Megan E. Rulli (ID # 331981)  
Post & Schell, P.C.  
17 North Second Street  
12th Floor  
Harrisburg, PA 17101-1601

Phone: 717-731-1970  
Fax: 717-731-1985  
E-mail: dmacgregor@postschell.com  
E-mail: dryan@postschell.com  
E-mail: mrulli@postschell.com

Tori L. Giesler (ID # 207742)  
Angelina Umstead (ID # 309615)  
FirstEnergy Service Company  
2800 Pottsville Pike  
P.O. Box 16001  
Reading, PA 19612-6001  
Phone: 610-921-6658  
E-mail: tgiesler@firstenergycorp.com  
E-mail: aumstead@firstenergycorp.com

Please be advised that Mr. Devin Ryan will speak as the lead attorney for West Penn for purposes of the prehearing conference. However, other counsel for West Penn will be participating and available during the telephonic prehearing conference as needed.

2. West Penn agrees to receive service of documents electronically in this proceeding. Further, to the extent that materials are available electronically, it is requested that copies also be served upon David B. MacGregor at dmacgregor@postschell.com, Megan E. Rulli at mrulli@postschell.com, Tori L. Giesler at tgiesler@firstenergycorp.com, and Angelina Umstead at aumstead@firstenergycorp.com.

## **II. PROCEDURAL HISTORY**

3. The above-captioned proceeding was initiated on October 5, 2023, when West Penn filed the Application requesting that the Pennsylvania Public Utility Commission (“Commission”) grant all of the necessary authority, approvals and certificates of public convenience under Sections 507, 1102(a)(1), and 1102(a)(3) of the Public Utility Code, 66 Pa.C.S. §§ 507, 1102(a)(1), and 1102(a)(3), for: (1) West Penn’s acquisition of certain electric distribution facilities from Letterkenny Industrial Development Authority (“LIDA”); (2) West Penn’s right to initiate and provide electric distribution service in portions of Letterkenny, Greene, and Hamilton Townships,

Franklin County, Pennsylvania currently served by LIDA; and (3) any other approvals necessary to complete the contemplated transaction.

4. On October 6, 2023, the Commission issued a Secretarial Letter, which: (1) acknowledged receipt of the Application; (2) enclosed a copy of the Public Notice to be published by West Penn in a newspaper having general circulation in the area involved and file proof of publication with the Commission on or before November 6, 2023; and (3) stated that the Public Notice would appear in the October 21, 2023 issue of the *Pennsylvania Bulletin*.

5. On October 19, 2023, the Office of Small Business Advocate (“OSBA”) filed a Notice of Appearance.

6. On October 23, 2023, the Commission issued a Secretarial Letter containing the first set of data requests propounded by the Commission’s Bureau of Technical Utility Services (“TUS”).

7. Also on October 23, 2023, West Penn filed its proof of publication, as required by the October 6, 2023 Secretarial Letter.

8. On November 2, 2023, West Penn filed its responses to TUS’s first set of data requests.

9. On November 6, 2023, the Office of Consumer Advocate (“OCA”) filed a Notice of Intervention and Public Statement, and the OSBA filed a Protest, Notice of Intervention, Public Statement, and Verification.

10. On November 14, 2023, the Commission issued an Initial Telephonic Prehearing Conference Notice, scheduling the telephonic prehearing conference for 10:00 AM on December 6, 2023, before the ALJs. The Commission also issued the ALJs’ Prehearing Conference Order, which, among other things, directed the parties to file prehearing memoranda on or before 4:00

PM on December 4, 2023.

11. On November 16, 2023, the OSBA filed a Notice of Appearance of Rebecca Lyttle.
12. On November 28, 2023, West Penn filed a Notice of Appearance of Megan E. Rulli.
13. On November 29, 2023, LIDA filed a Petition to Intervene Out-of-Time.
14. Pursuant to 52 Pa. Code § 5.222(d) and the Prehearing Conference Order, West

Penn hereby submits this Prehearing Conference Memorandum.

**III. ISSUES AND EVIDENCE**

15. The primary issue in this proceeding is whether the proposed acquisition of LIDA’s electric distribution system and the expansion of West Penn’s service territory are in the public interest. 66 Pa.C.S. §§ 507, 1102(a)(1), (3). The testimony and exhibits of West Penn and LIDA will demonstrate that the Application will produce substantial affirmative public benefits and that the Commission should grant all necessary authority, approvals, and certificates of public convenience for the proposed transaction.

16. West Penn reserves the right to raise and/or address additional issues that may arise during the course of the proceeding.

17. West Penn currently intends to offer the following witness to testify in this proceeding on the following subject matters:

Statement No.	Witness	Subjects Addressed
1.	David Young Rates Consultant 76 South Main Street Akron, OH, 44308 330-414-7517	Overview of the Proposed Transaction Benefits of the Proposed Transaction Impact on Rates and Business Development

2.	Kip Feldman Executive Director Letterkenny Industrial Development Authority (LIDA) 4759 Innovation Way Chambersburg, PA 17201 717-400-7883	Overview of LIDA and Proposed Transaction Benefits of Proposed Transaction to LIDA Customers
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18. West Penn also reserves the right to call and present additional witnesses to address any issues that may arise during the course of the proceeding.

**IV. DISCOVERY**

19. Based on the litigation schedule that is proposed in this proceeding, West Penn proposes the following modifications to the standard timelines for discovery set forth in the Commission’s regulations as necessary or appropriate.

- (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.

20. West Penn also proposes the use of electronic service of discovery responses. Specifically, West Penn proposes to post all discovery responses to a Microsoft OneDrive site operated by Post & Schell, P.C. West Penn will file and serve a letter notifying the parties when the applicable discovery responses have been posted to the OneDrive site. Once posted, parties will be able to access, review, download, and/or print the discovery responses as needed.

**V. LITIGATION SCHEDULE**

21. West Penn proposes the following schedule:

January 4, 2024	Direct Testimony of West Penn Power 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

22. West Penn has discussed the proposed schedule with the parties that have intervened or petitioned to intervene in this matter, and the parties have mutually agreed upon the schedule set forth above, subject to Your Honors' availability for hearings. West Penn is willing to work to accommodate potential scheduling conflicts for other parties' witnesses to attend and testify at the evidentiary hearing.

**VI. SETTLEMENT**

23. As of this time, no settlement discussions have been held. West Penn remains open and available for settlement discussions and would support initiatives to begin settlement discussions at the earliest possible date.

Respectfully submitted,



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Dated: December 4, 2023

*Attorneys for West Penn Power Company*