

COMMONWEALTH OF PENNSYLVANIA



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December 4, 2023

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:

Attached for electronic filing please find the Office of Consumer Advocate's Prehearing Memorandum in the above-referenced proceeding. Copies have been served on the parties as indicated on the enclosed Certificate of Service.

Respectfully submitted,

/s/ Melanie J. El Atieh  
Melanie J. El Atieh  
Senior Assistant Consumer Advocate  
PA Attorney I.D. # 209323  
MElAtieh@paoca.org

Enclosures:

cc: The Honorable Gail M. Chiodo (**email only:** [gchiodo@pa.gov](mailto:gchiodo@pa.gov))  
The Honorable Alphonso Arnold III (**email only:** [alphonarno@pa.gov](mailto:alphonarno@pa.gov))  
Certificate of Service  
4859-3330-4723

CERTIFICATE OF SERVICE

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 : Docket No. A-2023-3043428  
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 :

I hereby certify that I have this day served a true copy of the following document, the Office of Consumer Advocate’s Prehearing Memorandum, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

**SERVICE BY E-MAIL ONLY**

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*Counsel for Letterkenny Industrial Development  
Authority*

/s/ Melanie J. El Atieh  
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Phone: (717) 783-5048  
Dated: December 4, 2023  
\*4872-9442-2163

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 : Docket No. A-2023-3043428  
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 THE  
OFFICE OF CONSUMER ADVOCATE

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Pursuant to the Prehearing Conference Order issued on November 14, 2023, in the above-captioned proceeding, by the Honorable Gail M. Chiodo, Administrative Law Judge (ALJ), and Alphonso Arnold III, ALJ, of the Office of Administrative Law Judge of the Pennsylvania Public Utility Commission (Commission), the Office of Consumer Advocate (OCA) hereby submits, by and through its undersigned counsel, the following Prehearing Conference Memorandum.

**I. PROCEDURAL BACKGROUND**

On October 5, 2023, West Penn Power Company (WPP) filed with the Pennsylvania Public Utility Commission (Commission) an application under Sections 507, 1102(a)(1), and 1102(a)(3) of the Pennsylvania Public Utility Code (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 (LIDA); (2) WPP's right to initiate and provide electric distribution service in the 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 (Application).

The Application was published in the *Pennsylvania Bulletin* on October 21, 2023, at 53 Pa.B. 6678 (Oct. 21, 2023). Formal protests and petitions to intervene to the Application were directed to be filed on or before November 6, 2023.

On November 6, 2023, the Office of Small Business Advocate (OSBA) filed a Protest to the Application. OSBA raised concern over whether the transaction will result in affirmative public benefits that outweigh the harms thereof, particularly raising concerns over the impact that the transaction will have on rates.

Also on November 6, 2023, the OCA filed a Notice of Intervention and Public Statement.

On November 14, 2023, ALJs Chiodo and Arnold issued a Prehearing Conference Order, which directed the parties to submit prehearing memoranda by December 4, 2023, at 4:00 p.m., and to appear at a telephonic Prehearing Conference on December 6, 2023, at 10:00 a.m.

On November 28, 2023, counsel for LIDA filed a Petition to Intervene Out-of-Time, which was unopposed by WPP, OCA, and OSBA.

## **II. ISSUES**

The objective of the OCA in intervening in this case is to protect the interests of consumers in WPP's service territory and in the proposed new service territory should the acquisition be approved. The OCA seeks to ensure that WPP's request for approval of the proposed acquisition of property used or useful in the public service and that all other approvals requested by WPP in

the Application meet the applicable requirements of the Pennsylvania Constitution, Public Utility Code, Commission's regulations and orders, and case law.

### **III. WITNESSES**

At this time, the OCA has not yet determined whether it will present a witness. Once the OCA determines that a witness is necessary for any portion of its case, it will notify all parties of record immediately.

### **IV. DISCOVERY**

In order to effectively investigate and adequately develop a record in this proceeding, the OCA requests a modification to the Commission's procedural rules, 52 Pa. Code Section 5.321, *et seq.*, on a going-forward basis, as set forth below:

1. Answers to interrogatories and responses to requests for document production, entry for inspection, or other purposes shall be served within ten (10) calendar days of service of the interrogatories or requests for production.
2. Objections to interrogatories and/or requests for production shall be communicated orally to the propounding party within three (3) calendar days of service; unresolved objections shall be served in writing on the propounding party within five (5) calendar days of service of the interrogatories and/or requests for production.
3. Motions to dismiss objections and/or direct the answering of interrogatories and/or requests for production shall be filed within three (3) calendar days of service of written objections.
4. Answers to motions to dismiss objections and/or direct the answering of interrogatories and/or requests for production shall be filed within three (3) calendar days of service of such motions.

5. Requests for admission be deemed admitted unless answered within ten (10) days or objected to within five (5) days of service.

6. Discovery requests and discovery related pleadings (such as objections, motions, and answers to same) served after 4:30 p.m. Monday through Thursday or after 12:00 p.m. on a Friday or the day preceding a holiday shall be deemed to have been served on the next business day.

7. Answers to on-the-record data requests will be provided within five (5) calendar days.

**V. SERVICE ON THE OCA**

The OCA will be represented in this proceeding by Melanie J. El Atieh, Senior Assistant Consumer Advocate. The OCA asks that all documents should be served by electronic mail (e-mail) on the OCA as follows:

Attorney:

Melanie J. El Atieh  
Senior Assistant Consumer Advocate  
E-Mail: [melatieh@paoca.org](mailto:melatieh@paoca.org)

With a copy to:

Ryan Marshall  
Clerical Assistant  
E-mail: [RMarshall@paoca.org](mailto:RMarshall@paoca.org)

**VI. PROPOSED SCHEDULE**

The OCA will work with the parties to develop a litigation schedule that is acceptable to the Presiding Officer and the parties.

**VII. SETTLEMENT**

The OCA is willing to participate in settlement discussions.

Respectfully submitted,

*/s/ Melanie J. El Atieh*

Melanie J. El Atieh

Senior Assistant Consumer Advocate

PA Attorney ID # 209323

melatieh@paoca.org

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Counsel for:  
Patrick M. Cicero  
Consumer Advocate

DATED: December 4, 2023