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File #: 196522

March 1, 2024

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

Dear Secretary Chiavetta:

Enclosed for filing in the above-captioned proceeding is the Joint Stipulation of Facts of FirstEnergy Pennsylvania Electric Company, Letterkenny Industrial Development Authority, and the Office of Small Business Advocate. As noted in footnote 1 of the Joint Stipulation, the Office of Consumer Advocate has represented that it does not oppose the filing of this Joint Stipulation.

Copies of this filing are being served as indicated below and on the Certificate of Service.

Rosemary Chiavetta
March 1, 2024
Page 2

Respectfully submitted,



Devin Ryan

DTR/dmc
Attachment

cc: The Honorable Gail Chiodo (*via email; w/attachments*)
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 this filing has been served upon the following:

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Date: March 1, 2024



Devin T. Ryan, Esquire

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of FirstEnergy Pennsylvania :
Electric 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 : Docket No. A-2023-3043428
Distribution Facilities from the :
Letterkenny Industrial Development :
Authority; (2) FirstEnergy Pennsylvania :
Electric 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 :

JOINT STIPULATION OF FACTS

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

FirstEnergy Pennsylvania Electric Company (“FE PA” or the “Company”), Letterkenny Industrial Development Authority (“LIDA”), and the Office of Small Business Advocate (“OSBA”), parties to the above-captioned proceeding (hereinafter collectively referred to as the “Stipulating Parties”),¹ hereby file this “Joint Stipulation of Facts” (“Stipulation”) in the above-captioned proceeding. As set forth in this Stipulation, the OSBA has withdrawn its Protest and no longer opposes FE PA’s above-captioned Application. As a result, this proceeding is no

¹ The Office of Consumer Advocate (“OCA”) has represented that it does not oppose the filing of this Joint Stipulation of Facts or approval of the application in the above-referenced proceeding.

longer contested. The Stipulating Parties stipulate to the fact supporting the Application and respectfully request that Administrative Law Judges Gail M. Chiodo and Alphonso Arnold III (“ALJs”) and the Pennsylvania Public Utility Commission (“Commission”) approve the Application as filed.

In support of the Stipulation, the Stipulating Parties represent as follows:

I. STIPULATION OF FACTS

1. The Stipulating Parties hereby stipulate to the admission of FE PA’s above-Application into evidence in this proceeding. Proprietary and Non-Proprietary versions of the Application were filed. A true and correct copy of the Non-Proprietary version of the Application is attached hereto as **Stipulating Parties Exhibit 1.**²

2. The Stipulating Parties hereby stipulate to the admission of FE PA Statement No. 1 – Direct Testimony of David M. Young, including FE PA Exhibit DMY-1 (CONFIDENTIAL), FE PA Exhibit DMY-2, and FE PA Exhibit DMY-3.

3. The Stipulating Parties hereby stipulate to the admission of LIDA Statement No. 1 – Direct Testimony of Kip Feldman, including LIDA Exhibit No. RMF-1 and LIDA Exhibit No. RMF-2.

² The Proprietary version of the Application contained **CONFIDENTIAL Appendix A**, which was a copy of the Asset Purchase Agreement (“Agreement”), and **CONFIDENTIAL Appendix D**, which was a copy of the Pole Attachment Agreement, while the Non-Proprietary version did not contain **CONFIDENTIAL Appendix A or D**. The Asset Purchase Agreement was subsequently presented as FE PA Exhibit DMY-1 (CONFIDENTIAL), which the Stipulating Parties are stipulating to be admitted into evidence. *See* Paragraph 2, *infra*. The Stipulating Parties are requesting that **CONFIDENTIAL Appendix D** be admitted into evidence as part of the Application. *See* Paragraph 1.

4. FE PA is a wholly-owned subsidiary of FirstEnergy Corp. that provides transmission and distribution service to about 2,108,000 electric utility customers within approximately 32,400 square miles across Pennsylvania.

5. FE PA is a “public utility” as defined in Section 102 of the Public Utility Code, 66 Pa.C.S. § 102, and an “electric distribution company” and “default service provider” as defined in Section 2803 of the Public Utility Code, 66 Pa.C.S. § 2803.

6. LIDA is a public redevelopment authority organized under the Economic Development Financing Law, 73 P.S. §§ 371, *et seq.*

7. Incorporated by Franklin County, LIDA was formed in August 1997 to implement redevelopment activities for the reuse of the Letterkenny Army Depot as a business park, as a result of the Federal Base Realignment and Closure Commission’s (“BRAC”) recommendation in 1995 to substantially downsize the Letterkenny Army Depot, resulting in a loss of 2,000 jobs and economic shock to Franklin County.

8. LIDA’s role in the development of the Cumberland Valley Business Park (“Business Park”) includes, but is not limited to: (a) serving as the legal conduit for the transfer of excess land at the Army Depot from the federal government; (b) supporting reliable utility systems to serve the tenants of the Business Park; (c) financing projects within the Business Park; (d) attracting and maintaining tenants in the Business Park; and (e) creating a Business Park association and related documents to assist in managing the Business Park.

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 50 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.

10. FE PA operates and maintains the EDS on behalf of LIDA pursuant to an Operations & Maintenance Agreement (“O&M Agreement”), dated January 1, 2011, between FE PA and LIDA. FE PA Exhibit DMY-3 is a true and correct copy of the O&M Agreement.

11. Effective August 16, 2023, West Penn Power Company (“West Penn”) and LIDA executed the Asset Purchase 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 (“Transaction”).

12. The LIDA Board approved the Transaction based on an approximate purchase price of \$5,600,000, which will be specifically determined based on a 15% discount from the full depreciated net capital asset value at the time of closing.

13. After the Application was originally filed, West Penn was merged into FE PA.³ Specifically, on December 7, 2023, the Commission approved, among other things, the merger of FirstEnergy’s Pennsylvania operating companies (*i.e.*, Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company, and West Penn) into FE PA. The merger transaction closed on January 1, 2024. As a result of that merger, FE PA became the applicant in this proceeding.

14. LIDA is disposing of its utility assets and infrastructure for several reasons.

³ *Joint Application of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company, West Penn Power Company, Keystone Appalachian Transmission Company, Mid-Atlantic Interstate Transmission, LLC, and FirstEnergy Pennsylvania Electric Company for All of the Necessary Authority, Approvals, and Certificates of Public Convenience, Docket Nos. A-2023-3038771, et al.*

15. First, the continued ownership of utility systems by LIDA is not sustainable and is not a productive use of LIDA's finite resources. LIDA's primary purpose under its enabling statute is to create industrial or commercial development authorities to further economic activity in the Commonwealth. 73 P.S. §§ 372, 371.1(1). With only two employees, LIDA is leanly staffed and does not have the resources or expertise to continue with utility system ownership, which requires ever-increasing levels of expertise and sophistication. With respect to the EDS, LIDA outsources all functions except for billing. The regulatory climate – which requires ever-increasing levels of sophistication and expertise around environmental compliance, decarbonization, cybersecurity, and system resilience/reliability – presents too many risks and liabilities for a small entity like LIDA.

16. Second, LIDA's ultimate goal and plan is to sell all of its assets and real estate at the appropriate time when sufficient economic development is achieved, thereby allowing for privatization to naturally maintain and facilitate additional economic development in the future. LIDA expects that the final phase/transfer of real estate from the Army to LIDA will occur around 2028-2030. LIDA will then build out the remainder of that real estate into the 2030s. Upon LIDA's eventual dissolution, any remaining assets held by LIDA will revert back to Franklin County, LIDA's incorporating municipality.

17. Third, the proposed Transaction builds upon LIDA's recent sales of utility assets and infrastructure. On August 25, 2022, LIDA and the Franklin County General Authority sold a wastewater system and water system to The York Water Company. The Commission approved the sale on July 14, 2022. LIDA sold the water and wastewater systems due to the stringent and burdensome regulatory requirements and because the systems were no longer financially viable under LIDA ownership. Also, on October 1, 2022, LIDA sold its short-line railroad to PA &

Southern Railway, LLC. Therefore, a successful sale of the EDS will be the last step to complete LIDA's disposal of all of its utility assets.

18. Fourth, pursuant to Section 9a of the O&M Agreement, FE PA retains a first option to purchase or lease the EDS in the event that LIDA decides to sell or lease the EDS. Given FE PA's purchasing right, robust knowledge of the EDS, and knowledge of LIDA's customers, LIDA has long believed that FE PA would be the natural purchaser of the EDS. If the Transaction is approved, LIDA expects there to be a seamless transition from LIDA ownership of the EDS to FE PA ownership of the EDS.

19. Through the Application, FE PA has proposed to integrate LIDA's existing customer accounts into three existing rate schedules of the West Penn Rate District: (a) Schedule 20 – General Service; (b) Schedule 30 – General Power Service for loads up to 400 kilowatts (“kW”); and (c) Schedule 35 – General Power Service for loads over 400 kW.

20. FE PA cannot adopt LIDA's existing rates primarily because LIDA's rates, which have been in place since 2007, are fully bundled declining block rates. Pursuant to 66 Pa.C.S. § 2804(3), West Penn unbundled its electric utility services, tariffs, and customer bills to separate the charges for generation, transmission, and distribution. FE PA then adopted those same unbundled charges for generation, transmission, and distribution for the West Penn Rate District. Additionally, the Commission's regulations at 52 Pa. Code § 54.187(d) state that default service rates may not use a declining block structure. Because LIDA is unable to unbundle its existing declining block rates, FE PA assumes that the generation portion of the rate is a declining block rate and cannot be adopted.

21. FE PA Exhibit DMY-2 contains true and correct copies of the West Penn Rate District's Schedules 20, 30, and 35 from FE PA's Commission-approved tariff, which set forth the distribution rates and charges that will be charged to the affected customers.

22. Before originally filing the Application, West Penn calculated bills for LIDA's customers using 2022 average billing determinants and average applicable rider rates for LIDA's customers. The calculated West Penn average bills were compared to calculated LIDA bills which used the same billing determinants and LIDA's tariff rate schedules. Because LIDA's rates are fully bundled, the Company assumed all customers would take default service based on the commercial customer class rate of the Price-To-Compare Default Service ("PTC") Rider for purposes of the calculation. The commercial PTC rate was used as a proxy for the Hourly Pricing Default Service Rider rates for those customers with demands greater than 100 kW. LIDA's customers currently cannot shop for competitive electric generation supply service.

23. Of the 131 LIDA customer accounts on LIDA Schedule II and Schedule III, 118 customer bills will decrease by 0.3% to 44.6% when they are transitioned to FE PA's West Penn Rate District, with an average savings of 13.8%. With similar usage and demand in the future, 108 LIDA customer accounts are expected to see bill savings greater than \$10 per month on an annualized basis, 74 of those customer accounts are expected to see savings greater than \$50 per month on an annualized basis, and 48 of those customer accounts are expected to see bill savings greater than \$100 per month on an annualized basis.

24. Twelve LIDA Schedule III customer accounts transferring to West Penn Rate District Schedule 20 with usage less than 100 kilowatt hours per month are expected to have bill increases, which is primarily attributable to West Penn Rate District's flat monthly customer

charge of \$9.52 per month. One LIDA Schedule II customer transferring to West Penn Rate District Schedule 35 is expected to have a bill increase of less than 5.0% on an annualized basis.

25. The LIDA customer on LIDA Schedule I is expected to have a bill increase of 27.5% on an annualized basis. This increase is primarily due to the deductive billing methodology currently used for LIDA's Schedule I customer.

26. The proposed Transaction is in the public interest and will produce substantial affirmative public benefits.

27. The proposed Transaction also will benefit the competitive market for electric generation supply service by enabling LIDAs' customers to choose their own electric generation supplier. Currently, LIDA's customers cannot shop for competitive electric generation supply service and must pay an all-in rate to LIDA for electric service. By shopping for competitive electric generation supply service, LIDA's customers may achieve savings as compared to the West Penn Rate District's PTC. Doing so would help increase any bill savings and help offset or reduce any bill increases that would result from the transition to the West Penn Rate District's rates. Customers also could select preferred generation requirements, such as electric supply procured solely from solar and wind generation resources.

28. In addition, the proposed Transaction represents the most efficient and cost-effective solution to ensure that LIDA's customers in Letterkenny, Greene, and Hamilton Townships continue to receive reasonable, adequate, safe, and reliable electric distribution service. The proposed Transaction will benefit these affected customers by providing them with near seamless transition to a permanent means of receiving reasonable, adequate, safe, and reliable electric distribution service from FE PA. Indeed, as a longstanding certificated electric public utility, FE PA has more than sufficient staff, experience, and resources to provide

reasonable, adequate, safe, and reliable service to these customers. FE PA also has extensive experience in this general geographical area, has received high marks for customer service, and continues to make significant investments to improve its electric distribution system. Further, FE PA's service territory is presently contiguous with LIDA's service area, and the existing interconnection of LIDA's facilities will allow for a near seamless transition between service provided by LIDA and that provided by FE PA.

29. Another benefit is that LIDA customers will enjoy service from a Commission-regulated utility as well as the regulatory protections from the Commission, including the ability to file any complaints and participate in any rate proceedings before the Commission. Indeed, unlike a new utility seeking Commission certification for the first time, FE PA is presumed to be technically, financially, and legally fit to provide electric distribution services by virtue of its long-standing existence and service as a regulated and certificated electric utility in Pennsylvania.

30. Also, the proposed Transaction has widespread local business and public support. The LIDA Board, composed of 15 people selected by the Franklin County Commissioners to represent the public interest, unanimously approved the Transaction. Also, Franklin County, LIDA's incorporating municipality, supports the Transaction. Local business leaders and the Franklin County Area Development Corporation likewise support the Transaction. The Stipulating Parties are not aware of any opposition to the Transaction.

31. The proposed Transaction also will help business development in Letterkenny, Greene, and Hamilton Townships. Companies looking to bring their business to the LIDA Industrial Park area are largely anticipated to have lower rates with FE PA under the West Penn Rate District than they otherwise would have had with LIDA.

32. Moreover, the proposed Transaction will result in more transparent and detailed billing and rates for LIDA customers. Although LIDA's billing and rates are simple, they are not as detailed, granular, and transparent as FE PA's billing approach. In fact, the Army is approximately 50% of the load that LIDA serves, and LIDA is not capable of providing the type of resilient and reliable electric service and the type of metering data that the Army requires for its critical mission, as prescribed by the Department of Defense. In contrast, FE PA can provide more granular and accurate interval metering data, which will enable the Army and other customers to understand how they can reduce their load during peak times, thereby helping to curtail and minimize their capacity and transmission obligations (which can be significant line items in a customer's bill).

33. The proposed transaction also will benefit the West Penn Rate District and its customers because FE PA will realize certain operational and administrative savings by integrating the subject customers into its customer base.

34. Additionally, there will be no negative impact on FE PA's service to its existing customers resulting from the proposed transaction. FE PA's existing facilities are already relied on by LIDA to provide electric service to LIDA's customers in Letterkenny, Greene, and Hamilton Townships.

35. The proposed Transaction will not result in anticompetitive or discriminatory conduct because no electric distribution company or municipality is currently certificated to provide electric service to the area served by LIDA. Therefore, the expansion of FE PA's certificated service territory to include LIDA's service area will not result in competition between fixed electric distribution utilities.

36. Finally, LIDA's continued ownership of the EDS also presents certain risks for LIDA and its customers. For example, LIDA's current generation supply rates are relatively low compared to current market rates. It is expected that there will be a meaningful generation supply rate increase for LIDA customers should LIDA still retain ownership of its EDS in mid-2025. As a PJM Interconnection, LLC ("PJM") member, LIDA is also at risk of directly bearing any costs associated with a significant financial default of a PJM member, as the costs of the losses associated with such a default are allocated to PJM members. Also, any reliability issues attributable to LIDA ownership could result in business interruptions and loss of revenues. Regulatory compliance on both the environmental and energy front creates more financial and safety risk for LIDA and its customers.

37. For these reasons, the Application should be approved as filed because it is in the public interest and will produce substantial affirmative public benefits.

II. TERMS AND CONDITIONS OF THE STIPULATION

38. This Stipulation is being presented only to resolve issues in the above-captioned proceeding and facilitate the approval of FE PA's Application. Regardless of whether this Stipulation is approved or not, no adverse inference shall be drawn, nor shall prejudice result to any Stipulating Party, in this or any future proceeding, as a consequence of this Stipulation or any of its terms or conditions.

39. Attached hereto as **Appendix A** is a proposed "Order Granting Joint Stipulation of Facts" for consideration by the Presiding Officer.

WHEREFORE, the Stipulating Parties, by their respective counsel, respectfully request that the Honorable Administrative Law Judges Gail M. Chiodo and Alphonso Arnold III admit the foregoing Joint Stipulation of Facts into the record in this proceeding on the terms and conditions set forth in the Stipulation and approve FirstEnergy Pennsylvania Electric Company's Application as filed.

Respectfully submitted,



Date: March 1, 2024

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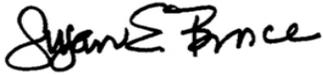
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Attorneys for Letterkenny Industrial Development Authority

Date: March 1, 2024

/s/ Steven C. Gray

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Date: 3-01-2024

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Attorneys for Letterkenny Industrial Development Authority

Date: _____

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Attorney for Office of Small Business Advocate

APPENDIX A

27029508v1

4871-7545-8473, v. 3

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of FirstEnergy Pennsylvania :
Electric 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 : Docket No. A-2023-3043428
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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 :

ORDER GRANTING JOINT STIPULATION OF FACTS

On March 1, 2024, FirstEnergy Pennsylvania Electric Company, Letterkenny Industrial Development Authority, and the Office of Small Business Advocate (“Stipulating Parties”), all parties to the above-captioned proceeding, filed a “Joint Stipulation of Facts” (“Stipulation”) in the above-captioned proceeding. Each of the Stipulating Parties stipulated to the veracity and authenticity of the facts set forth in the Stipulation and requested that the Stipulation be admitted into the record of this proceeding on the terms and conditions set forth in the Stipulation. The Stipulation is attached to this Order.

As the request of the Stipulating Parties is reasonable, the request will be granted.

THEREFORE, IT IS ORDERED:

1. That the Stipulation, filed on March 1, 2024, is admitted into the record of this proceeding on the terms and conditions set forth in the Stipulation; and

2. That the presiding officers will prepare a Recommended Decision adjudicating the Application of FirstEnergy Pennsylvania Electric Company based on the evidence set forth in the Stipulation.

Date: _____

Gail M. Chiodo
Administrative Law Judge

Alphonso Arnold III
Administrative Law Judge

Stipulating Parties Exhibit 1

Devin Ryan

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717-612-6052 Direct
717-731-1985 Direct Fax
Matter #196522

October 5, 2023

VIA ELECTRONIC FILING

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor North
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-**

Dear Secretary Chiavetta:

Enclosed for filing is the above-captioned Application of the West Penn Power Company ("West Penn") in the above-referenced proceeding. The filing fee in the amount of \$350.00 will be provided at the time of the e-filing. Copies will be provided as indicated on the Certificate of Service.

West Penn notes that Proprietary and Non-Proprietary copies of the Application are being submitted.

The Proprietary version is not enclosed and is being uploaded separately to the Pennsylvania Public Utility Commission's ("Commission") ShareFile folder for confidential filings.

The Proprietary version contains proprietary and competitively-sensitive materials, namely Appendix A, which is a copy of the Asset Purchase Agreement, and Appendix D, which is a copy

Rosemary Chiavetta, Secretary
October 5, 2023
Page 2

of the pole attachment agreement between Letterkenny Industrial Development Authority and Franklin County. Accordingly, West Penn respectfully requests that the Proprietary version of the Application be afforded proprietary treatment and placed in a non-public folder.

Additionally, under separate cover, West Penn is sending the Commission a CD containing PDF copies of the Proprietary and Non-Proprietary versions of the Application.

The parties listed on the enclosed Certificate of Service are being served with the Non-Proprietary copy of the Application.

Copies will be provided per the attached Certificate of Service.

Respectfully submitted,



Devin Ryan

DR/dmc
Attachment

cc: 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.

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VIA CERTIFIED MAIL: RETURN RECEIPT REQUESTED

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Administration Building
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Chambersburg, PA 17201

Letterkenny Township Board of Supervisors
4924 Orrstown Road
Orrstown, PA 17244

Franklin County Planning Commission
Administration Building
272 N. 2nd Street
Chambersburg, PA 17201

Department of Environmental Protection
Southcentral Regional Office
909 Elmerton Avenue
Harrisburg, PA 17110-8200

Greene Township Board of Supervisors
1145 Garver Lane
Chambersburg, PA 17202

Hamilton Township Board of Supervisors
1270 Crottlestown Road
Chambersburg, PA 17202

Date: October 5, 2023



Devin T. Ryan, Esquire

**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 : Docket No. A-2023-_____
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 :

**APPLICATION OF
WEST PENN POWER COMPANY**

By this Application, West Penn Power Company (“West Penn” or the “Applicant”) requests all necessary authority, approvals, and certificates of public convenience from the Pennsylvania Public Utility Commission (“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 Letterkenny Industrial Development Authority’s (“LIDA”) 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”). A copy of the Agreement is attached hereto as **CONFIDENTIAL Appendix A**.

To effectuate the proposed transaction, West Penn requests all of the necessary authority, approvals and certificates of public convenience under Sections 507, 1102(a)(1), and 1102(a)(3)

of the 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 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.

In support thereof, West Penn states the following:

I. INTRODUCTION

1. West Penn is a wholly-owned subsidiary of FirstEnergy Corp. West Penn provides transmission and distribution service to about 746,000 electric utility customers within 10,400 square miles in central and southwestern Pennsylvania.

2. West Penn is a “public utility” as defined in Section 102 of the Public Utility Code, 66 Pa.C.S. § 102, and an “electric distribution company” and “default service provider” as defined in Section 2803 of the Public Utility Code, 66 Pa.C.S. § 2803.

3. The complete name and address of West Penn are as follows:

West Penn Power Company
800 Cabin Hill Drive
Greensburg, PA 15601

4. The attorneys for West Penn are:

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West Penn’s attorneys are authorized to receive all notices and communications regarding this Application.

5. 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.

6. 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 Cumberland Valley Business Park and the Letterkenny Army Depot, in Franklin County, Pennsylvania.

7. The complete name and address of LIDA is as follows:

Letterkenny Industrial Development Authority
4759 Innovation Way
Chambersburg, PA 17201

8. 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.

9. West Penn submits, as explained in more detail herein, that all criteria necessary for granting of the required proposals pursuant to the Public Utility Code have been met and that approval of the Application will yield substantial, affirmative public benefits; therefore, the Application should be approved without conditions to and modification of the Agreement.

II. BACKGROUND

10. LIDA was created to redevelop up to 1,200 acres that Letterkenny Army Depot (“LEAD”) was to return to the community as part of the 1995 round of base realignments and closings. LIDA also acquired the various utility systems (electric, water, wastewater) from LEAD at that time.

11. Under its governing statute, the Economic Development Financing Law, LIDA’s primary role is to effectuate economic redevelopment and manage real estate in Franklin County. LIDA’s primary purpose and vision is not to serve as a long-term owner or operator of utility systems.¹ To allow LIDA to focus on its statutory objectives and obligations to economically revitalize Franklin County near the Army Depot, LIDA recently sold its water and wastewater utilities to The York Water Company and, under the Agreement, will sell the EDS to West Penn subject to the Commission’s approval.

12. West Penn operates and maintains the EDS on behalf of LIDA pursuant to an Operations & Maintenance Agreement (“O&M Agreement”) dated January 1, 2011, between West Penn and LIDA. Pursuant to Section 9a of the O&M Agreement, West Penn retains a first option to purchase or lease the EDS in the event that LIDA decides to sell or lease the System.

13. On April 11, 2022, West Penn received a notice from LIDA that it intended to sell the EDS, offering West Penn the first option on the purchase. The parties entered into a non-disclosure agreement and negotiations commenced.

14. On January 9, 2023, West Penn and LIDA executed a Letter of Intent (“LOI”) memorializing the key terms of a purchase of the EDS while working towards a definitive purchase agreement.

¹ See *Petition of Letterkenny Indus. Dev. Auth. for Declaratory Order*, Docket No. P-00981345 (Order entered Nov. 19, 1998).

15. On August 16, 2023, West Penn and LIDA executed the Agreement.
16. On September 21, 2023, West Penn and LIDA executed an amended Agreement.

III. DESCRIPTION OF THE PROPOSED TRANSACTION

17. Under the Agreement, West Penn has agreed to purchase and LIDA has agreed to sell equipment, tangible personal property, easements, and other assets relating to LIDA's electric service to its customers in portions of Letterkenny, Greene, and Hamilton Townships, including both the Cumberland Valley Business Park and the Letterkenny Army Depot, in Franklin County, Pennsylvania. *See* **CONFIDENTIAL Appendix A § 2.01**.

18. The "Purchased Assets" are defined in Section 2.01 of the Agreement. *See* **CONFIDENTIAL Appendix A § 2.01**.

19. The "Excluded Assets" are defined in Section 2.02 of the Agreement. *See* **CONFIDENTIAL Appendix A § 2.01**.

20. As detailed in the Agreement, West Penn has agreed to purchase LIDA's above-described assets for cash in an aggregate amount equal to eighty-five percent (85%) of the depreciated net capital asset value of the Purchased Assets at the time of Closing (as calculated in accordance with Schedule 2.06(a)). *See* **CONFIDENTIAL Appendix A § 2.06(a)**.

21. The sale price was the result of an arm's length negotiation.

22. Funding for the acquisition would be from cash on hand or short-term borrowings under West Penn's money pool.

23. Based upon information provided by LIDA, the estimated depreciated net capital asset value is \$7,193,638.02. Pursuant to Section 2.06(a) of the Agreement, at least five business days prior to the closing, LIDA will provide West Penn with a schedule of the depreciated net capital asset value of LIDA's above-described assets.

24. West Penn's Board of Directors approved the Agreement on June 23, 2023. LIDA's Board approved the Agreement on July 10, 2023, in Resolution # 23-7-10. A copy of Resolution # 23-7-10 is attached hereto as **Appendix B**.

25. Under the Agreement, the transaction shall close no more than 60 days after the date on which the last of the conditions precedent to the Closing set forth in Article 9 of the Agreement have been satisfied or, to the extent permitted by applicable law, waived by the party for whose benefit such conditions precedent exist, or on any date mutually agreed to by the parties. *See Appendix A § 2.07.*

26. Upon information and belief, all current LIDA customers are utilizing West Penn smart meters; therefore, it is expected that any field work necessary to transition these customers to West Penn will be minimal. Prior to transitioning, West Penn will conduct an audit of the facilities to check joint attachers and unmetered load as well as perform an engineering review of circuit reliability.

27. West Penn is proposing to integrate LIDA's customers into three existing West Penn rate schedules: Schedule 20 – General Service; Schedule 30 – General Power Service for loads up to 400 kilowatts (“kW”); and Schedule 35 – General Power Service for loads over 400 kW. Schedules 20 and 30 are included in West Penn's commercial customer class while Schedule 35 is included in West Penn's industrial customer class. Attached hereto as **Appendix C** are true and correct copies of Schedules 20, 30, and 35 from West Penn's Commission-approved tariff, which set forth the distribution rates and charges that will be charged to the affected customers.

28. As explained below, the Commission should approve the purchase and sale of all the equipment, tangible personal property, and easements contemplated by the Agreement and

grant all other necessary approvals pursuant to Sections 507 and 1102 of the Code because the proposed transaction is just and reasonable and in the public interest.

IV. LEGAL STANDARDS AND APPROVALS REQUESTED

29. Section 1102(a)(3) of the Code provides, in pertinent part, that the Commission's prior approval, evidenced by a certificate of public convenience, is required:

For any public utility or an affiliated interest of a public utility . . . to acquire from, or to transfer to, any person or corporation . . . by any method or devise whatsoever, including the sale or transfer of stock and including a consolidation, merger, sale or lease, the title to, or the possession or use of, any tangible or intangible property used or useful in the public service.

66 Pa.C.S. § 1102(a)(3).

30. To the extent that the Commission maintains that Section 1102(a)(3) approval is required to consummate the transaction, West Penn respectfully requests such approval through the instant Application.

31. In addition, Section 1102(a)(1) of the Public Utility Code states that a certificate of public convenience is required:

(1) For any public utility to begin to offer, render, furnish or supply within this Commonwealth service of a different nature or to a different territory than that authorized by:

(i) A certificate of public convenience granted under this part or under the former provisions of the act of July 26, 1913 (P.L.1374, No.854), known as "The Public Service Company Law," or the act of May 28, 1937 (P.L.1053, No.286), known as the "Public Utility Law."

(ii) An unregistered right, power or privilege preserved by section 103 (relating to prior rights preserved).

66 Pa.C.S. § 1102(a)(1).

32. Here, the transaction contemplated by the Agreement is subject to the provisions of Section 1102(a)(1) because it will result in West Penn's initiation of electric distribution service in the portions of Letterkenny, Greene, and Hamilton Townships in Franklin County, Pennsylvania that are currently served by LIDA.

33. Section 507 of the Code, 66 Pa.C.S. § 507, provides that, except for contracts between a public utility and a municipal corporation to furnish service at tariff rates, no contract or agreement between a public utility and a municipal corporation shall be valid unless filed with the Commission at least 30 days prior to its effective date.

34. Here, the Agreement is subject to the provisions of Section 507 because it is a contract between West Penn, a public utility, and LIDA, an authority created under the laws of the Commonwealth and, as such, a municipal corporation under the Pennsylvania Public Utility Code.

35. In addition, West Penn's assumption of LIDA's existing pole attachment agreement between LIDA and Franklin County, a municipality, is subject to the provisions of Section 507.

36. Section 1103 of the Public Utility Code sets forth the procedure to obtain certificates of public convenience. *See* 66 Pa.C.S. § 1103.

37. The Commission may issue a certificate of public convenience upon a finding that "the granting of such certificate is necessary or proper for the service, accommodation, convenience, or safety of the public." 66 Pa.C.S. § 1103(a).

38. This standard requires the Commission to find that the proposed transfer of public utility facilities contemplated by the Agreement will "affirmatively promote the service, accommodation, convenience, or safety of the public in some substantial way." *City of York v. Pa. PUC*, 295 A.2d 825, 828 (Pa. 1972); *see Amended Application of UGI Utils., Inc. for Approval to Render Natural Gas Distrib. Servs. to the Pub. in Portions of N. Coventry and E. Coventry*

Twps., Chester Cnty., Pa., 2007 Pa. PUC LEXIS 249, at *23-24 (Mar. 7, 2007) (Initial Decision) (citations omitted), *became final without further action*, Docket Nos. A-123100F0035, *et al.* (Order entered May 18, 2007).

39. The “substantial public interest” standard is satisfied by a simple preponderance of the evidence of benefits, and such burden can be met by showing a likelihood or probability of public benefits that need not be quantified or guaranteed. *See Popowsky v. Pa. PUC*, 594 Pa. 583, 611, 937 A.2d 1040, 1057 (Pa. 2007). Further, the substantial public benefit test does not require that every customer receive a benefit from the Agreement. *See Popowsky*, 937 A.2d at 1061.

40. Further, under Sections 1102 and 1103 of the Public Utility Code, West Penn must demonstrate that the party to whom the assets and service obligations are being transferred is legally, technically, and financially fit. *See Seaboard Tank Lines v. Pa. PUC*, 502 A.2d 762, 764 (Pa. Cmwlth. 1985); *Warminster Twp. Mun. Auth. v. Pa. PUC*, 138 A.2d 240, 243 (Pa. Super. 1958).

41. As explained in Section V.B, *infra*, West Penn enjoys a rebuttable presumption that it is technically, legally, and financially fit to provide electric distribution service because West Penn is an existing certificated public utility. *See McCloskey v. PUC*, 195 A.3d 1055, 1058–59 (Pa. Cmwlth. 2018).

42. Moreover, under Section 2811(e) of the Public Utility Code, the Commission evaluates whether an electric utility’s “acquisition or disposition of assets . . . is likely to result in anticompetitive or discriminatory conduct, including the unlawful exercise of market power.” 66 Pa.C.S. § 2811(e)(1).

43. As set forth in Section V.D, *infra*, the proposed transaction will not result in anticompetitive or discriminatory conduct and will actually provide benefits to the competitive market for retail electric supply service.

V. THE PROPOSED TRANSACTION IS IN THE PUBLIC INTEREST AND SHOULD BE APPROVED

44. As explained in more detail below, the proposed transaction is in the public interest because: (1) it will confer substantial public benefits by, among other things, providing LIDA's customers with reasonable, adequate, safe, and reliable electric distribution service from West Penn; (2) West Penn has been serving territory contiguous to LIDA's service territory for many years and LIDA's facilities are already interconnected with West Penn's distribution system; (3) West Penn has maintained the EDS for approximately 25 years; (4) the existing interconnection of LIDA's facilities will allow for a near seamless transition between the service provided by LIDA and that provided by West Penn; (5) as an existing and long-standing electric utility, West Penn is technically, financially, and legally fit to provide electric distribution services to all of LIDA's customers in Letterkenny, Greene, and Hamilton Townships, and has access to significant resources that will benefit LIDA's current customers; (6) LIDA desires to exit the business of providing utility service to customers to focus on its core economic redevelopment statutory objectives, having already sold its water and wastewater system assets; and (7) the proposed transaction will not result in anticompetitive or discriminatory conduct.

A. BENEFITS OF THE PROPOSED TRANSACTION

45. The proposed transaction will result in substantial public benefits and, therefore, is in the public interest.

46. The proposed transaction represents the most efficient and cost-effective solution to ensure that LIDA's customers in Letterkenny, Greene, and Hamilton Townships continue to receive reasonable, adequate, safe, and reliable electric distribution service.

47. The proposed transaction will benefit these affected customers by providing them with a permanent means of receiving reasonable, adequate, safe, and reliable electric distribution service from West Penn.

48. West Penn has been maintaining LIDA's facilities since the mid-1990's and, therefore, has extensive knowledge of the needs and attributes of its system.

49. Moreover, LIDA's facilities are already interconnected with West Penn's distribution system and West Penn's service territory is presently contiguous with LIDA's service area.

50. By permanently integrating these facilities with West Penn's electric distribution system, LIDA's customers will be able to continue receiving high quality electric distribution service. Indeed, West Penn has extensive experience in this general geographical area, has received high marks for customer service, and continues to make significant investments to improve its electric distribution system.

51. In addition, the existing interconnection of LIDA's facilities will allow for a near seamless transition between service provided by LIDA and that provided by West Penn.

52. The proposed transaction also will benefit West Penn and its customers because West Penn will realize certain operational and administrative savings by integrating the subject customers into its customer base.

53. Moreover, there will be no negative impact on West Penn's service to its existing customers resulting from the proposed transaction.

54. As explained previously, West Penn’s existing facilities are already relied upon by LIDA to provide electric service to LIDA’s customers in Letterkenny, Greene, and Hamilton Townships.

55. West Penn is also well-equipped and staffed to continue providing service to these customers.

56. Further, West Penn currently provides electric service to other customers in Franklin County and, therefore, is familiar with the community and service area.

57. West Penn also will make system improvements, as needed, to ensure that the customers continue to receive reasonable, adequate, safe, and reliable electric service after Closing.

58. Lastly, LIDA wants to exit the business of providing utility service to customers, having already sold its water and wastewater system assets.²

59. Through the proposed transaction, LIDA will no longer provide any utility service to customers, and those affected customers will receive reasonable, adequate, safe, and reliable electric service from West Penn.

60. Thus, the proposed transaction will result in substantial public benefits and is in the public interest.

² See *Application of The York Water Company for approval of the rights to: (1) acquire certain water system assets from Franklin County General Authority and the Letterkenny Industrial Development Authority; and (2) offer, render, furnish and supply water service to the public in portions of Letterkenny, Greene, and Hamilton Townships, Franklin County, Pennsylvania*, Docket No. A-2021-3029704 (Order entered June 16, 2022) (approving sale of water assets); *Application of The York Water Company – Wastewater for approval of the rights to: (1) acquire certain wastewater system assets from Franklin County General Authority and the Letterkenny Industrial Development Authority; and (2) offer, render, furnish and supply wastewater service to the public in portions of Letterkenny, Greene, and Hamilton Townships, Franklin County, Pennsylvania*, Docket No. A-2021-3029945 (Order entered July 14, 2022) (approving sale of wastewater assets).

B. FITNESS TO PROVIDE ELECTRIC DISTRIBUTION SERVICE

61. West Penn is technically, financially, and legally fit to provide electric distribution service to the portions of Letterkenny, Greene, and Hamilton Townships currently served by LIDA.

62. Unlike a new utility seeking Commission certification for the first time, West Penn is presumed to be technically, financially, and legally fit to provide electric distribution services by virtue of its long-standing existence and service as a regulated and certificated electric utility in Pennsylvania. *See South Hills Movers, Inc. v. Pa. PUC*, 601 A.2d 1308 (Pa. Cmwlth. 1992); *Re Blue Bird Coach Lines, Inc.*, 72 PA PUC 262, 285-286 (1990); *Re V.I.P. Travel Servs., Inc.*, 56 PA PUC 625, 631 (1982).

63. Notwithstanding, as mentioned above, West Penn has more than sufficient staff, experience, and resources to provide reasonable, adequate, safe, and reliable service to these customers in Letterkenny, Greene, and Hamilton Townships.

64. Further, West Penn has extensive experience in providing high quality electric distribution service to customers in Pennsylvania.

65. West Penn furnishes electric distribution, transmission and default supply services to approximately 746,000 electric utility customers within 10,400 square miles in central and southwestern Pennsylvania.

66. Moreover, West Penn continues to make significant investments to improve its electric distribution system.

C. EFFECT OF THE PROPOSED TRANSACTION ON CUSTOMERS' RATES

63. As noted previously, West Penn has explained the proposed transaction's effect on customer's rates. West Penn is proposing to integrate LIDA's customers into three existing West

Penn rate schedules: Schedule 20 – General Service; Schedule 30 – General Power Service for loads up to 400 kW; and Schedule 35 – General Power Service for loads over 400kW. Schedules 20 and 30 are included in West Penn’s commercial customer class while Schedule 35 is included in West Penn’s industrial customer class.

67. The Company cannot adopt LIDA’s existing rates primarily because LIDA’s rates, which have been in place since 2007, are fully bundled declining block rates. Pursuant to 66 Pa.C.S. § 2804(3), West Penn unbundled electric utility services, tariffs, and customer bills to separate the charges for generation, transmission and distribution. Additionally, the Commission’s regulations at 52 Pa. Code § 54.187(d) state that default service rates may not use a declining block structure. Since LIDA is unable to unbundle their existing rates, West Penn cannot determine if the generation portion of the rate is a flat rate or declining block rate.

68. Additionally, West Penn cannot adopt LIDA’s existing rates due to the deductive billing methodology used for LIDA’s Schedule I customer. The Schedule I customer’s billing determinants are derived by subtracting the usage and demand from the monthly meter reads of the Schedule II and III customers from the monthly meter read of LIDA’s primary meter at the Letterkenny substation. The Schedule I customer has 101 individual electric meters installed on its various buildings. Therefore, West Penn is proposing to bill the Schedule I customer based on its individual meter reads at the appropriate existing West Penn rate schedule for each meter.

69. The table below shows the breakdown of LIDA’s customers by rate schedule and their proposed West Penn rate schedule.

LIDA	Customers	West Penn	Meters
I - Primary Power Service	1	Schedule 35	7
		Schedule 30	60
		Schedule 20	34
II – General Power Service	3	Schedule 35	3
	16	Schedule 30	16
III – General Service	72	Schedule 30	72
	40	Schedule 20	40
Total	132		232

70. West Penn calculated bills for LIDA’s customers using 2022 average billing determinants and average applicable rider rates for LIDA’s customers. The calculated West Penn average bills were compared to calculated LIDA bills which used the same billing determinants and LIDA’s tariff rate schedules. Since LIDA’s rates are fully bundled, West Penn assumed all customers receive default service from the Company based on the commercial customer class rate of the Price-To-Compare Default Service (“PTC”) Rider. The commercial PTC rate was used as a proxy for the Hourly Pricing Default Service Rider rates for those customers with demands greater than 100 kW. LIDA’s customers currently cannot shop for competitive electric generation supply service. Therefore, through this acquisition, the customers will now have access to the competitive retail market for electric supply. If any of these customers shop for such supply service, the post-acquisition bill impacts discussed below could be higher or lower depending on their agreed-upon rate with their selected electric generation supplier.

71. Of the 131 LIDA customers on Schedule II and Schedule III, 118 customer bills from West Penn are 0.3% to 44.6% lower than bills from LIDA, with an average savings of 13.8%. With similar usage and demand in the future, 108 LIDA customers are expected to see bill savings greater than \$10 per month on an annualized basis, 74 customers are expected to see bill savings

greater than \$50 per month on an annualized basis and 48 customers are expected to see bill savings greater than \$100 per month on an annualized basis.

72. Twelve LIDA Schedule III customers transferring to West Penn Schedule 20 with usage less than 100 kilowatt hours per month are expected to have bill increases primarily attributable to West Penn's flat monthly customer charge of \$9.52 per month. One LIDA Schedule II customer transferring to West Penn Schedule 35 is expected to have a bill increase of less than 5.0% on an annualized basis.

73. The LIDA customer on Schedule I is expected to have a bill increase of 27.5% on an annualized basis. This increase is primarily due to the deductive billing methodology currently used for LIDA's Schedule I customer. As noted previously, this customer, and all customers, will have access to the competitive generation market as customers of West Penn, which may provide savings as compared to the commercial PTC Rider rate included in the bill increases discussed above.

74. West Penn projects additional annual total revenues of approximately \$5.4 million,³ of which \$0.7 million relates to base distribution revenue. West Penn currently operates and maintains LIDA's EDS and provides meter readings to LIDA for a fee. As a result of the transaction, the Company will lose about \$0.2 million of other operating revenue annually related to those fees and other supporting facilities fees.

75. In sum, most customers in LIDA will see a bill decrease while only a handful of customers will see a bill increase when receiving service from West Penn.

³ The remaining \$4.7 million of revenue is comprised of \$0.3 million related to non-by passable riders and \$4.4 million related to the assumption that all customers receive default service from the Company, both of which are offset by expenses.

76. To the extent that any customer's bills would increase, increases could be offset by the fact that the customers can access and shop the competitive electric generation market, which they currently are unable to do with LIDA.

D. EFFECT OF THE PROPOSED TRANSACTION ON COMPETITION

77. The proposed transaction will not result in anticompetitive or discriminatory conduct.

78. No electric distribution company is currently certificated to provide electric service to the area served by LIDA.

79. Likewise, no municipal entity, aside from LIDA, is currently authorized to provide electric service in the area served by LIDA.

80. Therefore, the expansion of West Penn's certificated service territory to include LIDA's service area will not result in competition between fixed electric distribution utilities.

81. In addition, the proposed transaction will provide benefits to the competitive market for retail electric supply service.

82. After the proposed transaction, the affected customers will now have the ability to choose their own electric generation supplier.

83. None of LIDA's customers in Letterkenny, Greene, and Hamilton Townships can currently shop for competitive electric generation supply service.

84. By expanding the number of potential shopping customers in Pennsylvania, the proposed transaction will enhance competition in the Commonwealth's retail electric supply market.

85. Further, West Penn and LIDA are not electric generation suppliers in Pennsylvania, nor do they have any affiliates who are electric generation suppliers.

86. Thus, the proposed transaction will have no adverse effect on the retail electric supply market in Pennsylvania.

VI. APPROVAL OF MUNICIPAL AGREEMENTS

87. As noted above, the Agreement must be filed with the Commission pursuant to Section 507 of the Public Utility Code because it is a contract between a public utility (*i.e.*, West Penn) and a municipal corporation (*i.e.*, LIDA) that is not “to furnish service at the regularly filed and published tariff rates.” 66 Pa.C.S. § 507.

88. Moreover, through the proposed transaction, West Penn would assume LIDA’s pole attachment agreement with Franklin County, another municipal corporation. A copy of the pole attachment agreement is attached hereto as **CONFIDENTIAL Appendix D**.

89. Thus, both the Agreement and the pole attachment must be filed with the Commission pursuant to Section 507 of the Public Utility Code.

90. As part of this Application, West Penn respectfully requests such Commission approval, as doing so will permit the proposed transaction to be consummated, which will produce the substantial affirmative public benefits outlined previously.

VII. NOTICE

91. A copy of this Application is being served on the Commission’s Bureau of Investigation and Enforcement, the Office of Consumer Advocate, the Office of Small Business Advocate, and on LIDA.

92. West Penn respectfully requests that the Commission publish notice of this Application in the Pennsylvania Bulletin pursuant to 52 Pa. Code § 5.14(a).

93. Further, on October 4, 2023, West Penn sent a notice to all of LIDA's customers in Letterkenny, Greene, and Hamilton Townships about the forthcoming filing of this Application and West Penn's proposed rates for electric service. A copy of the notice is attached hereto as **Appendix E**.

94. Pursuant to 52 Pa. Code § 5.14(b), West Penn will provide additional notice or service of this Application as directed by the Commission's Secretary Bureau.

VIII. CONCLUSION

WHEREFORE, West Penn respectfully requests that the Commission grant all necessary authority, approvals, and certificates of public convenience under the Public Utility Code authorizing the sale of equipment, tangible personal property, and easements relating to LIDA’s electric distribution service to its customers in portions of Letterkenny, Greene, and Hamilton Townships, including both the Cumberland Valley Business Park and the Letterkenny Army Depot, in Franklin County, Pennsylvania to West Penn, as set forth in the Asset Purchase Agreement, and the requested expansion of West Penn’s certificated service territory to include LIDA’s current service area, on or before January 18, 2024.

Respectfully submitted,



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Dated: October 5, 2023

Attorneys for West Penn Power Company

Appendix A

(CONFIDENTIAL)

Appendix B

RESOLUTION # 23 - 7 - 10

AUTHORIZATION TO EXECUTE ASSET PURCHASE AGREEMENT
AND OTHER NECESSARY DOCUMENTS
RELATIVE TO THE SALE OF THE ELECTRICAL DISTRIBUTION SYSTEM
TO WEST PENN POWER COMPANY

RESOLVED: The Board of Directors of Letterkenny Industrial Development Authority (“LIDA”) hereby approves the Asset Purchase Agreement with West Penn Power Company for the sale of the electrical distribution system. The assets will be sold at an approximate purchase price of Five Million Six Hundred Thousand Dollars (\$5,600,000) based on a formula of the Net Asset Value minus Fifteen (15%) percent, substantially in accordance with the terms of the Asset Purchase Agreement and related documents, copies of which have been submitted to and negotiated by LIDA, which documents are subject to further review and approval by LIDA staff and the LIDA legal counsel, including non-material changes recommended and approved by LIDA staff and legal counsel; and

RESOLVED FURTHER: Upon final review and approval by LIDA staff and the LIDA legal counsel, the Chairman or Vice Chairman and any Secretary or any Treasurer of the LIDA are hereby authorized and empowered to execute said Asset Purchase Agreement on behalf of LIDA, to execute, acknowledge and deliver such other documents and instruments as may be necessary to carry out said agreements in accordance with their terms, and to take such other action in connection with the sale of said electrical distribution system as they determine to be necessary or appropriate.

Resolved this 10th day of July, 2023

Appendix C

RATE SCHEDULES

SCHEDULE 20
GENERAL SERVICE

AVAILABILITY

Available for service through a single metering installation for secondary light and power service for loads up to 1,500 kWh.

MONTHLY RATE

DISTRIBUTION CHARGES

\$9.52 per month (Customer Charge), plus

3.529 cents per kWh for all kWh

RIDERS

Bills rendered under this schedule are subject to the following applicable Rider Charges:

Rider A – Tax Adjustment Surcharge

Rider B – Tax Cuts and Jobs Act Voluntary Surcharge

Rider F – Energy Efficiency and Conservation Charge (C)

Rider G – Smart Meter Technologies Surcharge

Rider J – Default Service Support Charge

Rider N – Distribution System Improvement Charge

DEFAULT SERVICE CHARGES

For Customers receiving Default Service from the Company, Rider H – Price To Compare Default Service Rate Rider, Commercial Customer Class rate applies unless the Customer elects to receive Default Service from the Company under Rider I - Hourly Pricing Default Service Rider.

(C) Change

RATE SCHEDULES

Schedule 20 (continued)

Minimum Charge

\$9.52 per month plus distribution energy charges plus any charges related to applicable riders. (I)

PAYMENT TERMS

As per Rule 11, Payment of Bills

GENERAL

When Company installs local transformer capacity to supply a highly fluctuating load, a facility charge of 2.1% net per month of the cost of additional transformer capacity required by the highly fluctuating load shall be made.

A single family residence located within an establishment used also for other purposes may be separated electrically and billed as a separate connection under the appropriate residential rate schedule if Customer so desires.

TERM

Customer may leave the firm service provision of this schedule once in a twelve (12) month period. Service other than firm service will be provided as described below under MONTHLY SERVICE.

MONTHLY SERVICE

Monthly Service is supplied under this Schedule when Customer advances the net cost of connection and disconnection under the provisions of the applicable financing plan. Charges will be increased 10%. (C)

(I) Increase

(C) Change

RATE SCHEDULES

Schedule 20 (continued)

Monthly Service shall not be available for standby or maintenance service such as that required for alternative generation facilities.

SPECIAL PROVISION

In accordance with Pennsylvania Act 103 of 1985, volunteer fire company service and non-profit senior citizen center service may, upon application, be billed at the pricing of Domestic Service, Schedule 10. This provision is also available to non-profit rescue squad service and non-profit ambulance service in accordance with Act 203 of 2002. The execution of a contract for a minimum term of one year is required.

Rules and Regulations:

The Company's Standard Rules and Regulations shall apply to the installation and use of electric service. Motors and equipment served under this rate schedule shall have electrical characteristics so as not to interfere with service supplied to other customers of the Company.

RATE SCHEDULES

SCHEDULE 30

GENERAL POWER SERVICE

Available for secondary light and power service for loads of up to 400 kW. Secondary voltage shall be supplied to Customers at a single transformer location when load does not require transformer capacity in excess of 2,500 kVA. Upon a Customer's request, the Company may, at its option, provide transformers having a capacity of greater than 2,500 kVA.

New Customers requiring transformer capacity in excess 2,500 kVA and existing Customers whose load increases such that a transformer change is required (over 2,500 kVA) shall be required to take untransformed service.

If an existing Customer's total consumption is less than 1,500 kWh per month for twelve (1) consecutive months, the Customer may no longer be eligible for service under this Rate Schedule 30. Based upon the Company's then estimate of the Customer's usage, the Customer shall be placed on Rate Schedule 20 or such other Rate Schedule for which such Customer most qualifies. (C)

If an existing Customer's billing demand exceeds 400 kW for two (2) consecutive months in the most recent twelve-month period, then the Customer may no longer be eligible for service under this Rate Schedule 30 and shall be placed on Rate Schedule 35 or such other Rate Schedule for which such Customer most qualifies. (C)

All of the following general monthly charges are applicable to Delivery Service

MONTHLY RATE

DISTRIBUTION CHARGES

\$18.91 per month (Customer Charge), plus (I)

Demand

\$2.81 per kW for all billing kW (I)

\$0.18 for each rkVA of reactive billing demand

Energy

0.400 cents per kWh for all kWh

RIDERS

Bills rendered under this schedule are subject to the following applicable Rider Charges:

(C) Change

(I) Increase

RATE SCHEDULES

Schedule 30 (continued)

Rider A – Tax Adjustment Surcharge

Rider B – Tax Cuts and Jobs Act Voluntary Surcharge

Rider F – Energy Efficiency and Conservation Charge

Rider G – Smart Meter Technologies Surcharge

Rider J – Default Service Support Charge

Rider N – Distribution System Improvement Charge

(C)

DEFAULT SERVICE CHARGES

For Rate Schedule 30 (PTC) Customers receiving Default Service from the Company, Rider H-Price to Compare Default Service Rate Rider, Commercial Customer Class rate applies unless the Customer elects to receive Default Service from the Company under Rider I-Hourly Pricing Default Service Rider. For Rate Schedule 30 (HP) Customers receiving Default Service from the Company, Rider I - Hourly Pricing Default Service Rider rates apply.

DETERMINATION OF RATE SCHEDULE 30 (PTC) AND 30 (HP)

Rate Schedule 30 (PTC): Customers receiving service under this Rate Schedule with a kW Demand less than 100 kW.

Rate Schedule 30 (HP): Customers receiving service under this Rate Schedule with a kW demand equal to or greater than 100 kW.

The Customer's demand used for the determination of the Default Service rider that the customer should be billed under if receiving Default Service from the Company shall be determined as follows: Effective June 1st of each year, a review of the measured demand for the period April 1st of the preceding year to March 31st of the current year will be conducted. Based on that review, if the measured demand in any twelve months is less than 100 kW, then the Customer shall receive Default Service under the provisions of Rider H – Price to Compare Default Service Rate Rider. Otherwise, the Customer will receive Default Service under the provisions of Rider I – Hourly Pricing Default Service Rider.

Minimum Charge:

No bill shall be rendered by the Company for less than:

\$18.91 per month, plus

The demand charge at current rate levels times the Billing Demand, plus Distribution Charges plus any charges stated in or calculated by any applicable Rider.

(C) Change

RATE SCHEDULES

Schedule 30 (continued)

(C)

Determination of Billing Demand:

A Customer's demand shall be measured by indicating or recording instruments. Demands shall be integrated over fifteen (15)-minute intervals. The billing demand in the current month shall be the greatest of: (i) the maximum measured demand established in the month during On-Peak Hours, as stated herein, (ii) forty percent (40%) of the maximum measured demand established in the month during off-peak hours, (iii) contract demand, or (iv) fifty percent (50%) of the highest billing demand established during the preceding eleven (11) months. The on-peak and off-peak hour provisions of this definition are only applicable for those customers who have installations of Time-of-Use demand meters.

Pending the installation of a demand meter, Customer's Demand shall be a formula demand determined by dividing the kilowatt-hour consumption by 200.

Reactive Billing Demand:

For installations metered with reactive energy metering, the reactive billing demand in rkVA for the month shall be determined by multiplying the Billing Demand by the ratio of the measured lagging reactive kilovoltamperes hours to the measured kWh by the following formula: $rkVA = \text{Billing Demand} \times (\text{measured lagging reactive kilovoltampere hours} \div \text{rate measured kWh})$. For all other installations, the Reactive Billing Demand shall be the integrated reactive demand occurring coincident with the Billing Demand.

PAYMENT TERMS

As per Rule 11, Payment of Bills

GENERAL

When Company installs local transformer capacity to supply a highly fluctuating load, a facility charge of 2.1% net per month of the cost of additional transformer capacity required by the highly fluctuating load shall be made.

TERM

Minimum of one year, except as provided below under Monthly Service.

(C) Change

RATE SCHEDULES

Schedule 30 (continued)

(C)

MONTHLY SERVICE

Monthly Service is supplied under this Schedule when Customer advances the net cost of connection and disconnection under the provisions of the applicable financing plan. Charges shall be increased 10% and the Minimum Charge based on 100% of the Agreement Capacity shall be waived.

Monthly Service shall not be available for standby or maintenance service such as that required for alternative generation facilities.

SERVICE AT PRIMARY VOLTAGE

Customers serviced at Primary Voltage shall have the option to be billed under this Rate Schedule 30 if the Customer's maximum billing demand does not exceed 400 kW for two (2) consecutive months and service is supplied through a Customer-owned transformer at the available Primary Voltage.

Rules and Regulations:

The Company's Standard Rules and Regulations shall apply to the installation and use of electric service. Motors and equipment served under this rate schedule shall have electrical characteristics so as not to interfere with service supplied to other customers of the Company.

(C) Change

RATE SCHEDULES
SCHEDULE 35

GENERAL POWER SERVICE

Available for light and power service for loads over 400 kW. Secondary voltage shall be supplied to Customers at a single transformer location when load does not require transformer capacity in excess of 2,500 kVA. Upon a Customer's request, the Company may, at its option, provide transformers having a capacity of greater than 2,500 kVA.

New Customers requiring transformer capacity in excess 2,500 kVA and existing Customers whose load increases such that a transformer change is required (over 2,500 kVA) shall be required to take untransformed service.

All of the following general monthly charges are applicable to Delivery Service

MONTHLY RATE

DISTRIBUTION CHARGES

\$145.82 per month (Customer Charge), plus

Demand

\$3.99 per kW for all billing kW

\$0.18 for each rkVA of reactive billing demand

RIDERS

Bills rendered under this schedule are subject to the following applicable Rider Charges:

Rider A – Tax Adjustment Surcharge

Rider B – Tax Cuts and Jobs Act Voluntary Surcharge

Rider F – Energy Efficiency and Conservation Charge (C)

Rider G – Smart Meter Technologies Charge

Rider J – Default Service Support Charge

Rider N – Distribution System Improvement Charge

(C) Change

RATE SCHEDULES

Schedule 35 (continued)

DEFAULT SERVICE CHARGES

For Customers receiving Default Service from the Company, Rider I – Hourly Pricing Default Service Rider rates apply.

Minimum Charge:

No bill shall be rendered by the Company for less than:

\$145.82 per month, plus

(I)

The demand charge at current rate levels times the Billing Demand plus Distribution Energy Charges plus charges stated in or calculated by any applicable Rider.

Determination of Billing Demand:

(C)

A Customer's demand shall be measured by indicating or recording instruments. Demands shall be integrated over fifteen (15)-minute intervals. The billing demand in the current month shall be the greatest of: (i) the maximum measured demand established in the month during On-Peak Hours, as stated herein, (ii) forty percent (40%) of the maximum measured demand established in the month during off-peak hours, (iii) contract demand, or (iv) fifty percent (50%) of the highest billing demand established during the preceding eleven (11) months. The on-peak and off-peak hour provisions of this definition are only applicable for those customers who have installations of Time-of-Use demand meters.

Pending the installation of a demand meter, Customer's Demand shall be a formula demand determined by dividing the kilowatt-hour consumption by 200.

Reactive Billing Demand:

For installations metered with reactive energy metering, the reactive billing demand in rkVA for the month shall be determined by multiplying the Billing Demand by the ratio of the measured lagging reactive kilovoltamperes hours to the measured kWh by the following formula: $rkVA = \text{Billing Demand} \times (\text{measured lagging reactive kilovoltampere hours} \div \text{rate measured kWh})$. For all other installations, the Reactive Billing Demand shall be the integrated reactive demand occurring coincident with the Billing Demand.

(C) Change

(I) Increase

RATE SCHEDULES

Schedule 35 (continued)

SERVICE AT PRIMARY VOLTAGE

Customers served at voltages greater than 1,000 volts under this Rate Schedule qualify for the following discount.

(C)

VOLTAGE DISCOUNT

\$1.23 per for all billing kW

(D)

PAYMENT OF TERMS

As per Rule 11, Payment of Bills

GENERAL

When Company installs local transformer capacity to supply a highly fluctuating load, a facility charge of 2.1% net per month of the cost of additional transformer capacity required by the highly fluctuating load shall be made.

TERM

Minimum of one year.

(C)

MONTHLY SERVICE

Monthly Service is supplied under this Schedule when Customer advances the net cost of connection and disconnection under the provisions of the applicable financing plan. Charges shall be increased 10% and Minimum Charge based on 100% of the Agreement Capacity shall be waived.

(C) Change

(D) Decrease

Appendix D

(CONFIDENTIAL)

Appendix E

October 4, 2023

Dear Letterkenny Industrial Development Authority Customer:

West Penn Power Company (West Penn) recently agreed to purchase Letterkenny Industrial Development Authority's (LIDA) electric distribution system. West Penn has applied to the Pennsylvania Public Utility Commission (PUC) to serve the electric needs of your community. Once approved, our goal is to provide a smooth transition to West Penn for LIDA's electric customers.

West Penn will acquire and continue to operate and maintain LIDA's electric distribution system. We have been performing maintenance on this system for more than 20 years and are very familiar with LIDA's electric facilities. The field work needed to transition LIDA customers to West Penn will be minimal, and we will work to ensure you do not experience a service disruption during the transition. Also, we do not expect that any electric meters will need to be replaced to as part of this process. We expect approval from the PUC and the transition to West Penn service to be completed in 2024.

You do not need to take any action to initiate electric service, nor will you incur any additional costs. Once the transition is approved by the PUC, you will receive a follow-up letter informing you of the transition date. Until then, you will remain a LIDA customer and should continue to contact their office for any electric service-related questions.

Once you become a West Penn customer, you will be charged for electricity based on your corresponding West Penn rate schedule. Rate schedules are determined based on load size. Specifically, we propose integrating LIDA's customers into three existing rate schedules: Schedule 20 – General Service; Schedule 30 – General Power Service for loads up to 400 kilowatts (kW); and Schedule 35 – General Power Service for loads over 400 kW. Each rate schedule includes a customer charge, billing demand charges, energy consumption charges and rider charges. Attached is an extract from the tariff for your convenience. The entire tariff containing West Penn's rates can be found at www.firstenergycorp.com/patariffs.

If you have any questions, please contact us at 1-800-686-0021 Monday - Friday, 8:00 a.m. - 6:00 p.m.

We look forward to serving you!

Sincerely,



Scott R. Wyman
President, Pennsylvania Operations

**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 : Docket No. A-2023-
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 :**

VERIFICATION

I, Scott R. Wyman, hereby state that the facts set forth in the application are true and correct to the best of my knowledge, information, and belief. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).

October 5, 2023

Date



Scott R. Wyman