



COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA PUBLIC UTILITY COMMISSION  
COMMONWEALTH KEYSTONE BUILDING  
400 NORTH STREET, HARRISBURG, PA 17120

BUREAU OF  
INVESTIGATION  
&  
ENFORCEMENT

March 22, 2024

**Via Electronic Filing**

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120

Re: Pennsylvania Public Utility Commission,  
Bureau of Investigation and Enforcement v.  
West Penn Power Company  
Docket No. C-2023-3042656  
**Joint Stipulation of Facts**

Dear Secretary Chiavetta:

Enclosed for electronic filing is the Bureau of Investigation and Enforcement and West Penn Power Company Joint Stipulation of Facts in the above-captioned proceeding.

Copies are being served on parties of record in accordance with the Certificate of Service. Should you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in blue ink, appearing to read 'G. Rosul', is written over a light blue horizontal line.

Grant Rosul  
Prosecutor  
Bureau of Investigation and Enforcement  
PA Attorney ID No. 318204  
(717) 783-5243  
[grosul@pa.gov](mailto:grosul@pa.gov)

GR/ac  
Enclosures

cc: As per Certificate of Service  
Michael L. Swindler, Deputy Chief Prosecutor, Enforcement (*via email* - [mwindler@pa.gov](mailto:mwindler@pa.gov))  
Administrative Law Judge Alphonso Arnold III (*via email* - [alphonarno@pa.gov](mailto:alphonarno@pa.gov))

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement,	:	
Complainant	:	
	:	
v.	:	Docket No. C-2023-3042656
	:	
West Penn Power Company,	:	
Respondent	:	

---

**BUREAU OF INVESTIGATION AND ENFORCEMENT  
AND WEST PENN POWER COMPANY JOINT  
STIPULATION OF FACTS**

---

Pursuant to the direction of the Honorable Alphonso Arnold III, Administrative Law Judge, the Pennsylvania Public Utility Commission's ("Commission") Bureau of Investigation and Enforcement ("I&E" or "Complainant") and West Penn Power Company<sup>1</sup> ("West Penn," "Company," or "Respondent") hereby submit this Joint Stipulation of Facts, and state that the agreed-upon facts of the case are as follows<sup>2</sup>:

1. The Pennsylvania Public Utility Commission is a duly constituted agency of the Commonwealth of Pennsylvania authorized and obligated by Section 501(a) of the Pennsylvania Public Utility Code, ("the Code"), 66 Pa.C.S. § 501(a), to execute and enforce the provisions of the Code.

---

<sup>1</sup> West Penn has since merged into FirstEnergy Pennsylvania Electric Company pursuant to Commission Order at A-2023-30338771. When the incident that is the subject of this Joint Petition occurred, the merger had not yet taken place and West Penn Power Company was the responsible utility. Accordingly, FirstEnergy Pennsylvania Electric Company is referred to herein as "West Penn."

<sup>2</sup> West Penn has authorized I&E to state that it approves the Joint Stipulation of Facts.

2. I&E is the bureau established to take enforcement actions against public utilities and other entities subject to the Commission’s jurisdiction pursuant to 66 Pa.C.S. § 308.2(a)(11); see also Implementation of Act 129 of 2008; Organization of Bureaus and Offices, Docket No. M-2008-2071852 (August 11, 2011) (delegating authority to initiate proceedings that are prosecutory in nature to I&E).

3. Section 2804(1)(ii) of the Code, 66 Pa.C.S. § 2804(1)(ii), requires the Commission “to ensure the continuation of safe and reliable electric service to all consumers in the Commonwealth, including . . . [t]he installation and maintenance of transmission and distribution facilities in conformity with established industry standards and practices, including the standards set forth in the National Electric Safety Code [(“NESC”).” See also 52 Pa. Code §§ 57.193-194.

4. West Penn is a “public utility” as that term is defined at 66 Pa. C.S. § 102 as it is engaged in providing public utility service as an electric distribution company (“EDC”) in the Commonwealth of Pennsylvania to the public for compensation.

5. West Penn, as an EDC, is subject to the power and authority of the Commission pursuant to Section 501(c) of the Code, 66 Pa.C.S § 501(c), which requires a public utility to comply with Commission regulations and orders.

6. Pursuant to the provisions of the applicable Commonwealth statutes and regulations, the Commission has jurisdiction over the subject matter and the actions of West Penn in its capacity as an EDC.

7. On August 2, 2021, the Commission’s Bureau of Consumer Services (“BCS”) referred a complaint to I&E’s Electric Safety Division (“ESD”) regarding a

storm incident where a West Penn primary distribution line, attached between West Penn Pole Nos. 18660 and 154287, made contact with a light pole causing damage (hereinafter referred to as “incident”).

8. The 7,200-volt phase-to-ground primary line is near the public parking lot of the Hyatt Place Hotel.

9. I&E’s ESD initiated an investigation. The following background consists of a summary of the findings of ESD’s investigation:

- a. On or about November 15, 2020, a windstorm hit the Washington, Pennsylvania area displacing an energized primary distribution line of West Penn, located on the property of Meadows Racetrack and Casino at 212 Racetrack Road in Washington, Pennsylvania.
- b. The energized primary line came into contact with one of the light poles located in the parking lot of Meadows Racetrack and Casino.
- c. The cause of the extended primary line displacement was due to excessive sag.
- d. The high voltage from this primary line burned the light pole and sent high voltage through the grounding system of the property’s inter-connected exterior lighting circuits, causing extensive over voltage damages to the lighting system lines and electrical protection equipment.
- e. On November 15, 2020, Meadows Hotel Associates LLC reported a power outage to West Penn.
- f. The following day, on November 16, 2020, a West Penn hazard responder arrived at the scene of the incident and noted that the customer still had power.
- g. On November 25, 2020, West Penn removed the excessive sag from all three primary line(s) that had allowed the field-side line to blow into the light pole and cause damage.

- h. Upon further inspection by an electrical contractor, Rozzo Electric, it was determined that West Penn's line made contact with the pole twice, created burn marks on the pole and the primary conductor, and the high voltage travelling through the pole while trying to find ground damaged grounding conductors on two poles and the hotel lighting panel.
- i. The horizontal clearance of the primary line in question was measured by West Penn to be eight (8) feet to the light pole under ordinary conditions.
- j. The absence of West Penn oversight contributed to the creation of an unsafe condition/environment which allowed the primary distribution line to be displaced during a windstorm and cause damage to the parking lot lighting system.
- k. I&E determined that West Penn failed to maintain adequate horizontal (wind displacement) clearance to the light pole and that West Penn failed to recognize the compliance issue during their overhead circuit inspections.

10. Based on the findings of the investigation, I&E filed a Complaint with the Commission on September 1, 2023, at Docket No. C-2023-3042656.

11. West Penn filed an Answer and New Matter on September 21, 2023.

12. I&E filed its reply to New Matter on October 5, 2023.

13. Subsequent to these filings, the Parties entered into settlement negotiations.

As a result of successful negotiations between I&E and West Penn, the Parties reached an agreement on an appropriate resolution to the Complaint.

14. On December 18, 2023, the Parties filed a Joint Petition for Approval of Settlement with proposed ordering paragraphs. Additionally, the Parties each filed their own Statement in Support.

The undersigned state that these facts, which are derived from the Joint Petition for Approval of Settlement, are the Joint Stipulation of Facts upon which the Settlement now before the Court is based.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "G. Rosul", with a long horizontal flourish extending to the right.

Grant Rosul

Prosecutor

PA Attorney ID No. 318204

Pennsylvania Public Utility Commission  
Bureau of Investigation and Enforcement  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120  
[grosul@pa.gov](mailto:grosul@pa.gov)

Date: March 22, 2024

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement,	:	
Complainant	:	
	:	
v.	:	Docket No. C-2023-3042656
	:	
West Penn Power Company,	:	
Respondent	:	

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a true copy of the foregoing **Joint Stipulation of Facts** dated March 22, 2024, upon the parties listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

**Served via Electronic Mail:**

Tori L. Giesler  
FirstEnergy Service Company  
2800 Pottsville Pike  
P.O. Box 16001  
Reading, PA 19612-6658  
[tgiesler@firstenergycorp.com](mailto:tgiesler@firstenergycorp.com)



---

Grant Rosul  
Prosecutor  
Bureau of Investigation and Enforcement  
PA Attorney ID No. 318204  
(717) 783-5243  
[grosul@pa.gov](mailto:grosul@pa.gov)