

200 Brook Hollow Road  
Mount Pleasant, PA 15666

April 11, 2024

**VIA ELECTRONIC FILING**

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2<sup>nd</sup> Floor  
Harrisburg, PA 17120

Re: Michael T. Jennings v. West Penn Power Company  
Docket No. C-2018-3006031

Dear Secretary Chiavetta,

Attached please find my **Status Report Following Post Evidentiary Hearing Conference** in the above-referenced matter. This document has been served on West Penn Power as shown in the Certificate of Service.

Please contact me if you have any questions.

Respectfully Submitted,



Michael T. Jennings, Complainant  
724-613-4262  
Lilmac2@zoominternet.net

ssj  
Enclosures

CC: ALJ Gail M. Chiodo  
West Penn Power, as per Certificate of Service  
Watson & Renner, as per Certificate of Service

200 Brook Hollow Road  
Mount Pleasant, PA 15666

April 11, 2024

**VIA E-FILING AND ELECTRONIC MAIL**

Administrative Law Judge Gail Chiodo  
Pennsylvania Public Utility Commission  
400 North Street  
Harrisburg, PA 17120

**Re: Michael T. Jennings v. West Penn Power Company  
Docket No. C-2018-3006031**

Dear Honorable Chiodo,

Enclosed please find my **Status Report Following Post Evidentiary Hearing Conference**.  
This document has been served on West Penn Power as shown in the Certificate of Service.

Please contact me if you have any questions.

Respectfully,



Michael T. Jennings  
724-613-4262  
Lilmac2@zoominternet.net

ssj  
Enclosures

cc: Rosemary Chiavetta, Esq. Public Utility Commission  
As Per Certificate of Service

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**MICHAEL T. JENNINGS,**  
**Complainant**

**v.**

**WEST PENN POWER COMPANY,**  
**Defendant**

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**Docket No. C-2018-3006031**

**STATUS REPORT  
FOLLOWING POST EVIDENTIARY HEARING CONFERENCE**

**Background**

On March 20, 2024, a post-evidentiary hearing conference was held as scheduled pursuant to Order dated December 12, 2023.

On March 21, 2024, an Order Following Post Evidentiary Hearing Conference was filed in the case listed above.

This submission is in fulfillment of Complainant's requirements to submit a Status Report which will also be e-filed with the PUC.

**Update Since the Post-Evidentiary Hearing Conference**

An Application for Reconsideration has been filed in the Commonwealth Court in the case of *Alexia and Lawrence McKnight v. PA PUC*, 1253 C.D. 2019.

**The Order**

3. That, on or before three weeks, or twenty-one (21) days, following the date of this Order, which would be April 11, 2024, the Complainant Mr. Michael T. Jennings, shall submit a Status Report, indicating whether he wishes to pursue reopening the evidentiary record for the purpose of presenting expert testimony to support his claim of a Section 1501 violation of the Code, 66 PA.C.S. § 1501, in light of the decision of the Pennsylvania Supreme Court in *Povacz II*, as discussed at the conference. This Status Report does not need to include the actual proposed written testimony of any expert witness, but should include the name(s), title(s), and brief summary of any proposed expert witness. If no expert testimony will be pursued, the Complainant shall indicate such in his Status Report.

## Status Report

The Complainant will not be pursuing expert testimony.

### 1. Regardless of Proof of Harm

The Supreme Court decision concurs with the Commonwealth Court's decision in *Povacz v. PUC* that Act 129 does not preclude accommodations of disabilities, "...**regardless of proof of harm.**"<sup>1</sup> The Supreme Court decision, October 8, 2020, in the case of *Maria Povacz, Laura Sunstein Murphy, Cynthia Randall and Paul Albrecht vs. PA PUC, No. 492 CD 2019, No. 616 CD 2019, No. 607 CD 2019*, states, "**This holding does not preclude an electric utility from providing a reasonable accommodation to an electric customer in the absence of a Section 1501 violation pursuant to a customer service policy. [J-77A-L-2021]-7**"<sup>2</sup>

In other words, WPP is allowed to make a reasonable accommodation for Complainant by simply creating a customer service policy. So far, WPP has not created a policy pursuant to a "reasonable accommodation." Leaving the analog meter on Complainants property as an accommodation is the most reasonable option for all parties as there is no cost involved. This is not a foreign concept to FirstEnergy or to West Penn Power. FirstEnergy has customer service policies in Ohio and New Jersey which provide all customers the choice to opt-in or to opt-out, thereby providing an inherently reasonable accommodation.

### 2. No Need for Complainant to Prove Harm - Harm and Liability Already Acknowledged

FirstEnergy and WPP know harm and liability are associated with the "smart" meter technology which is admitted in FirstEnergy's *Customer Guide for Electric Service in PA.*<sup>3</sup> There are many mechanisms of harm with the wireless "smart" utility meters as is evidenced by the "Interruption and Liability" clause within the *Customer Guide*. "**Damage to any customer or third persons**" equates to harm.

#### 3.6 Interruption & Liability\*

The Company will endeavor, but does not guarantee, to furnish a continuous supply of electric energy and to maintain voltage and frequency within reasonable limits.

**The Company shall not be liable for any loss, cost, damage or expense that the customer may sustain by reason of damage to or destruction of any property, including the loss of use thereof, arising out of, or in any manner connected with, interruptions in service, variations in service characteristics, high or low voltage, phase failure, phase reversal, the use of electrical appliances, or the presence of the Company's property on the customer's premises, whether such damages are**

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<sup>1</sup> *Povacz et al v. PUC*, No. 492, C.D. 2019, October 8, 2020, p. 21.

<sup>2</sup> PA Supreme Court Dockets *Povacz, M v. PUC*, No. 34-45 MAP 2001, p. 7, footnote 5.

<sup>3</sup> First Energy Customer Guide for Electric Service - PA, September 2021,

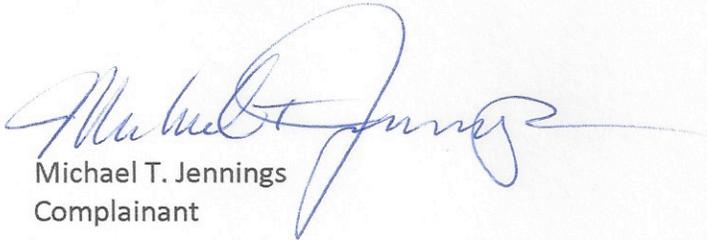
<https://www.firstenergycorp.com/content/dam/customer/service%20requests/files/Customer-Guide-for-Electric-Service-PA.pdf>

caused by or involve any fault or failure of the Company or otherwise except such damages that are caused by or due to the willful and wanton misconduct of the Company. The Company shall not be liable for damage to any customer or to third persons resulting from the use of the service on the customer's premises or from the presence of the Company's appliances or equipment on the customer's premises. [Emphasis added]

\* To the extent this provision contradicts any terms in the Company's current applicable Tariff, the Tariff provision shall govern. P. 15

Complainant's Certificate of Service has been filed with the Commission's Secretary, in accordance with Commission Regulations.

Respectfully Submitted,



Michael T. Jennings  
Complainant

Date: April 11, 2024

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**MICHAEL T. JENNINGS,**  
Complainant

v.

**WEST PENN POWER COMPANY**  
Defendant

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**Docket No. C-2018-3006031**

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a true copy of the **Status Report Following Post Evidentiary Hearing Conference** upon the individuals listed below, in accordance with the requirement of 52 Pa. Code § 1.54 (relating to service by a participant.)

**Service by e-filing and e-mail:**

Administrative Law Judge Gail Chiodo  
Pennsylvania Public Utility Commission  
400 North Street  
Harrisburg, PA 17120  
[gchiodo@pa.gov](mailto:gchiodo@pa.gov)

Lauren M. Lepkoski Esquire  
Tori Giesler Esquire  
James Meehan Esquire\*  
FirstEnergy Services Company  
2800 Pottsville Pike, PO Box 16001  
Reading, PA 19612-6001  
[llepkoski@firstenergycorp.com](mailto:llepkoski@firstenergycorp.com)  
[tgiesler@firstenergycorp.com](mailto:tgiesler@firstenergycorp.com)  
[jameehan@firstenergycorp.com](mailto:jameehan@firstenergycorp.com)  
Accepts eService  
*\*Served via email and first-class mail*

Curtis S. Renner  
Watson & Renner  
1901 Pennsylvania Ave. NW  
Suite 1005-ENS  
Washington, DC 20006  
[crenner@w-r.com](mailto:crenner@w-r.com)  
Accepts eService

Daniel A. Garcia  
FirstEnergy  
800 Cabin Hill Drive  
Greensburg, PA 15601  
[dagarcia@firstenergycorp.com](mailto:dagarcia@firstenergycorp.com)  
Accepts eService

Dated: April 11, 2024

  
Michael T. Jennings, Complainant  
200 Brook Hollow Road, Mount Pleasant, PA 15666  
724-613-4262 [Lilmac2@zoominternet.net](mailto:Lilmac2@zoominternet.net)