



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

BUREAU OF
INVESTIGATION
&
ENFORCEMENT

December 20, 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
Docket No. C-2024-
Formal Complaint

Dear Secretary Chiavetta:

Enclosed for electronic filing is the **Formal Complaint** of the Bureau of Investigation and Enforcement ("I&E") of the Pennsylvania Public Utility Commission in the above-referenced matter.

Copies have been served on the parties 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 that reads 'Lindsay Dearing Szymanski'.

Lindsay Dearing Szymanski
Prosecutor
Bureau of Investigation & Enforcement
PA Attorney ID No. 317073
(717) 787-3663
liszymansk@pa.gov

LDS/ac
Enclosures

cc: Per Certificate of Service
Michael L. Swindler, Deputy Chief Prosecutor (via email - mwindler@pa.gov)
Rob Horensky, Manager, Safety Division (via email - rhorensky@pa.gov)

NOTICE

A. **You must file an Answer within 20 days of the date of service of this Complaint.** The date of service is the date as indicated at the top of the Secretarial Letter. *See* 52 Pa. Code §1.56(a). The Answer must raise all factual and legal arguments that you wish to claim in your defense, include the docket number of this Complaint, and be verified. The Answer must be submitted by efilings with the Secretary of the Commission by opening an efilings account through the Commission's website and accepting eservice at <http://www.puc.state.pa.us/efiling/default.aspx>. If your filing contains confidential material, you are required to file by overnight delivery to ensure the timely filing of your submission to:

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

If your Answer is 250 pages or less, you are not required to file a paper copy. If your Answer exceeds 250 pages, you must file a paper copy with the Secretary's Bureau.

Additionally, please serve a copy on:

Lindsay D. Szymanski, Prosecutor
Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
liszymansk@pa.gov

B. If you fail to answer this Complaint within 20 days, the Bureau of Investigation and Enforcement will request that the Commission issue an Order imposing the requested relief.

C. You may elect not to contest this Complaint by paying the civil penalty and performing the requested relief within 20 days. Send only a certified check or money order made payable to the "Commonwealth of Pennsylvania," with the docket number indicated, and mail to:

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

D. If you file an Answer which either admits or fails to deny the allegations of the Complaint, the Bureau of Investigation and Enforcement will request that the Commission issue an Order imposing the requested relief set forth in this Complaint.

E. If you file an Answer which contests the Complaint, the matter will be assigned to an Administrative Law Judge for hearing and decision. The Judge is not bound by the penalty set forth in the Complaint and may impose additional and/or alternative penalties as appropriate.

F. If you are a corporation, you must be represented by legal counsel. 52 Pa. Code § 1.21.

G. Alternative formats of this material are available for persons with disabilities by contacting the Commission's ADA Coordinator at 717-787-8714.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement	:	
	:	
v.	:	Docket No. C-2024-
	:	
West Penn Power	:	

FORMAL COMPLAINT

NOW COMES the Bureau of Investigation and Enforcement (“I&E”) of the Pennsylvania Public Utility Commission by its prosecuting attorneys, pursuant to Section 701 of the Public Utility Code, 66 Pa.C.S. § 701, and files this Formal Complaint (“Complaint”) against West Penn Power (“WPP” or “Respondent”) alleging violations of the Public Utility Code and the Public Utility Commission’s Regulations in connection with an event that occurred in December 2021, in Vandergrift, Pennsylvania, that included a fatality. In support of its Complaint, I&E respectfully represents the following:

I. COMMISSION JURISDICTION AND AUTHORITY

1. The Pennsylvania Public Utility Commission (“Commission” or “PUC”), with a mailing address of 400 North Street, Harrisburg, PA 17120, is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth pursuant to the Public Utility Code, 66 Pa.C.S. §§ 101, *et seq.*

2. Complainant is the Commission’s Bureau of Investigation and Enforcement, which 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 (Order entered August 11, 2011) (delegating authority to initiate proceedings that are prosecutory in nature to I&E).

3. Complainant is represented by:

Lindsay Dearing Szymanski
Prosecutor
Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120
liszymansk@pa.gov
(717) 787-3663

Michael L. Swindler
Deputy Chief Prosecutor
Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120
mwindler@pa.gov

4. Respondent is West Penn Power,¹ an electric distribution company (“EDC”) with a main mailing address of 800 Cabin Hill Drive, Greensburg, PA 15601.

5. West Penn Power is a “public utility” as that term is defined at 66 Pa.C.S. § 102,² as it is engaged in providing public utility service as an EDC in the Commonwealth of Pennsylvania to the public for compensation with a utility code number of 111250.

6. Section 501(a) of the Public Utility Code, 66 Pa.C.S. § 501(a), authorizes and obligates the Commission to execute and enforce the provisions of the Public Utility Code.

¹ West Penn Power is a subsidiary of FirstEnergy Corporation.

² At 66 Pa.C.S. § 102, “Public utility” is defined under that term at subsection (l)(i) as:

(1) Any person or corporations now or hereafter owning or operating in this Commonwealth equipment or facilities for:

(i) Producing, generating, transmitting, distributing or furnishing natural or artificial gas, electricity, or steam for the production of light, heat, or power to or for the public for compensation.

7. Section 701 of the Public Utility Code, 66 Pa.C.S. § 701, authorizes the Commission, *inter alia*, to hear and determine complaints against public utilities for violations of any law or regulation that the Commission has jurisdiction to administer or enforce.

8. Section 2804(l)(ii) of the Public Utility Code, 66 Pa.C.S. § 2804(l)(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.

9. Section 3301 of the Public Utility Code, 66 Pa.C.S. § 3301, authorizes the Commission to impose civil penalties on any public utility or any other person or corporation subject to the Commission's authority for violation(s) of the Public Utility Code and/or Commission regulations. Section 3301(a)-(b) of the Public Utility Code, 66 Pa.C.S. § 3301(a)-(b), allows for the imposition of a separate civil penalty for each violation and each day’s continuance of such violation(s).

10. West Penn Power, in providing electric distribution service to the public for compensation, is subject to the power and authority of this Commission pursuant to Section 501(c) of the Public Utility Code, 66 Pa.C.S. § 501(c), which requires a public utility to comply with Commission regulations and orders.

11. Pursuant to the provisions of the applicable Commonwealth statutes and regulations, the Commission has jurisdiction over the subject matter of this Complaint and the actions of West Penn Power related thereto.

II. FACTUAL BACKGROUND

A. SERVICE TERMINATION DURING WINTER MORATORIUM³

12. Thomas Gourley, Sr. was the customer of West Penn Power at 157 Jefferson Avenue, Vandergrift, PA 15690.

13. On November 1, 2021, West Penn Power issued Mr. Gourley a ten (10) day termination notice for the past due balance of two thousand, six hundred and thirteen dollars and thirty-one cents (\$2,613.31).

14. Prior to the issuance of the ten (10) day termination notice, West Penn Power had tried to contact Mr. Gourley via telephone on November 8, 9, and 10, 2021, without success.

15. On November 15, 2021, Melissa Gourley, daughter of Thomas Gourley, Sr., contacted West Penn Power to be listed as an authorized representative to the account at 157 Jefferson Avenue, Vandergrift, PA 15690. Services had previously been in Ms. Gourley's name at this location from February 15, 2017 through March 2, 2020, and, at the time of the call, Ms. Gourley was listed on the account along with her father, Thomas Gourley, Sr.

16. On November 15, 2021, Ms. Gourley was transferred to West Penn Power's Advanced Move-In Department within Customer Service. Ms. Gourley advised the customer service representative that she was attempting to get assistance with payment of the past due balance on the account.

17. On November 15, 2021, the customer service representative advised Ms. Gourley that she could apply for assistance and further advised that the assistance agency would make the determination on her eligibility for assistance.

³ The "Winter Moratorium" is the period of December 1 through March 31, where, unless otherwise authorized by the Commission, an electric distribution utility may not terminate service to customers with household incomes at or below 250% of the Federal poverty level except as provided in 52 Pa. Code § 56.100 (Winter termination procedures) or in § 56.98 (Immediate termination for unauthorized use, fraud, tampering or tariff violations). 52 Pa. Code § 56.100(b).

18. During the November 15, 2021, call, Ms. Gourley advised the customer service representative that she had zero income and was experiencing medical issues.

19. During the November 15, 2021, phone call, West Penn Power representatives failed to:

- a. Fully explain the reasons for the proposed termination;
- b. Fully explain all available methods for avoiding a termination;
- c. Fully explain information about the public utility's universal service programs, including the customer assistance program; and
- d. Fully explain the medical emergency procedures.

20. On November 18, 2021, an automated outbound phone call was made to the service location at 157 Jefferson Avenue, Vandergrift, PA 15690, stating that West Penn Power would like to discuss the household income and occupant information to determine eligibility for assistance programs. The automated outbound phone call also stated that if income information was not provided, the account could be at risk of termination during the Winter Moratorium period.

21. On December 8, 2021, a West Penn Power representative attempted in-person contact with the account holder at 157 Jefferson Avenue, Vandergrift, PA 15690, to no avail. The West Penn Power employee posted a forty-eight (48) hour termination notice on the front door of the service location.

22. On December 14, 2021, a West Penn Power representative attempted in-person contact with the account holder at 157 Jefferson Avenue, Vandergrift, PA 15690, prior to terminating service; however, no contact was made, and service was terminated. A post-termination notice was left at the residence.

23. On December 20, 2021, Thomas Gourley, Jr., son of Thomas Gourley, Sr., contacted West Penn Power to notify them that Melissa Gourley had passed away in the residence at 157 Jefferson Avenue, Vandergrift, PA 15690 on December 17, 2021.

24. On December 21, 2021, Tori Geisler, Supervising Counsel for West Penn Power, e-mailed Alexis Bechtel, Bureau Director of the Pennsylvania Public Utility Commission's Bureau of Consumer Services, to report the death of a customer at a location where the service had been recently terminated, in accordance with 52 Pa. Code § 56.100(j).

B. WEST PENN'S FAILURE TO RESPOND TO I&E DATA REQUEST – SET II

25. On December 21, 2021, Tori Geisler, Supervising Counsel for West Penn, e-mailed Alexis Bechtel, Bureau Director of the Pennsylvania Public Utility Commission's Bureau of Consumer Services ("BCS"), to report the death of a customer at a location where the service had been recently termination, in accordance with 52 Pa. Code § 56.100(j).

26. On or about December 12, 2022, BCS referred the matter to I&E for further investigation.

27. On or about November 15, 2023, I&E issued Data Request – Set I to West Penn informing West Penn of the scope of its investigation and requesting response to I&E's data requests.

28. On or about December 5, 2023, counsel for West Penn provided responses to I&E's November 15, 2023, Data Request – Set I.

29. Based on the information provided in the responses to I&E Data Request – Set I, I&E sent Data Request – Set II to the company's counsel for West Penn on July 16, 2024, giving West Penn until July 29, 2024, to respond.

30. On or about August 22, 2024, and again on October 2, 2024, the undersigned attorney reached out to counsel for West Penn to inquire about the status of the Data Request – Set II responses.

31. To date, the undersigned attorney has not received West Penn’s responses to Data Request – Set II.

III. VIOLATIONS

32. The foregoing paragraphs are incorporated herein.

33. Section 56.100 (Winter termination procedures) of the Commission’s regulations provides:

- (b) Electric distribution and natural gas distribution utilities. Unless otherwise authorized by the Commission, during the period of December 1 through March 31, an electric distribution utility or natural gas distribution utility may not terminate service to customers with household incomes at or below 250% of the Federal poverty level except as provided in this section or in § 56.98. The Commission will not prohibit an electric distribution utility or natural gas distribution utility from terminating service in accordance with this section to customers with household incomes exceeding 250% of the Federal poverty level.

52 Pa. Code § 56.100(b).

34. Section 56.97 (Procedures upon customer or occupant contact prior to termination) of the Commission’s regulations provides:

- (a) If, after the issuance of the initial termination notice and prior to the actual termination of service, a customer or occupant contacts the public utility concerning a proposed termination, a public utility shall fully explain:
 - (1) The reasons for the proposed termination.
 - (2) All available methods for avoiding a termination, including the following:

- (i) Tendering payment in full or otherwise eliminating the grounds for termination.
 - (ii) Entering a payment arrangement.
 - (iii) Paying what is past-due on the most recent previous company negotiated or Commission payment arrangement.
 - (3) Information about the public utility's universal service programs, including the customer assistance program. Refer the customer or applicant to the universal service program of the public utility to determine eligibility for a program and to apply for enrollment in a program.
 - (4) The medical emergency procedures.
- (b) The public utility shall exercise good faith and fair judgment in attempting to enter a reasonable payment arrangement or otherwise equitably resolve the matter. Factors to be taken into account when attempting to enter into a reasonable payment arrangement include the size of the unpaid balance, the ability of the customer to pay, the payment history of the customer and the length of time over which the bill accumulated. Payment arrangements for heating customers shall be based upon budget billing as determined under § 56.12(8) (relating to meter reading; estimated billing; customer readings). If a payment arrangement is not established, the company shall further explain the following:
- (1) The right of the customer to file a dispute with the public utility and, thereafter, an informal complaint with the Commission.
 - (2) The procedures for resolving disputes and informal complaints, including the address and telephone number of the Commission: Public Utility Commission, Box 3265, Harrisburg, Pennsylvania 17105-3265, (800) 692-7380.
 - (3) The duty of the customer to pay any portion of the bill which the customer does not dispute.

52 Pa. Code § 56.97.

35. Section 505 (Duty to furnish information to commission; cooperation in valuing property) of the Public Utility Code provides:

Every public utility shall furnish to the commission, from time to time, and as the commission may require, all accounts, inventories, appraisals, valuations, maps, profiles, reports of engineers, books, papers, records, and other documents or memoranda, or copies of any and all of them, in aid of any inspection, examination, inquiry, *investigation*, or hearing, or in aid of any determination of the value of its property, or any portion thereof, *and shall furnish any and all other information to the commission, as the commission may require, in any* inspection, examination, inquiry, *investigation*, hearing, or determination of such value of its property, or any portion thereof.

66 Pa.C.S. § 505 (emphasis added).

36. Section 506 (Inspection of facilities and records) of the Public Utility Code provides:

The Commission shall have full power and authority, either by or through its members, or duly authorized representatives, whenever it shall deem it necessary or proper in carrying out any of the provisions of, or its duties under this part, to enter upon the premises, buildings, machinery, system, plant, and equipment, and may any inspection, valuation, physical examination, inquiry, or *investigation* of any and all plant and equipment, facilities, property, and *pertinent records*, books, papers, accounts, maps, inventories, appraisals, valuations, *memoranda, documents*, or effects whatsoever, of any public utility, or prepared or kept for it by others, and to hold any hearing for such purposes. In the performance of such duties, the commission may have access to, and use any books, records, or documents in the possession of, any department, board, or commission of the Commonwealth, or any political subdivision thereof.

66 Pa.C.S. § 506 (emphasis added).

37. West Penn Power terminated service to a customer during the period between December 1 through March 31, known as the “Winter Moratorium,” without first determining whether the customer had a household income at or below 250% of the Federal poverty level. If

proven, this is a violation of 52 Pa. Code § 56.100(b). I&E proposes a civil penalty of \$25,000.00.

38. West Penn Power failed to fully explain information about the public utility's universal service program, including the customer assistance program. West Penn Power failed to refer the customer to the universal service program of the public utility to determine eligibility for a program and to apply for enrollment in a program. West Penn Power failed to fully explain the medical emergency procedures. If proven, these are violations of 52 Pa. Code § 56.97. I&E proposes a civil penalty of \$25,000.00.

39. West Penn failed to respond to I&E's request for information and documentation in its Data Request – Set II. If proven, this is a violation of violated Sections 505 and 506 of the Public Utility Code by failing to respond to I&E's request for information and documentation. 66 Pa.C.S. §§ 505, 506. I&E proposes a civil penalty of \$10,000.00.

IV. REQUESTED RELIEF

40. Due to the termination of service to a customer by West Penn during the Winter Moratorium without first establishing household income, as well as West Penn Power's failure to fully explain the public utility's universal service program, refer the customer to the universal service program, and fully explain the medical emergency procedures, I&E proposes that West Penn Power pay a cumulative civil penalty of \$50,000.00.

41. In addition, I&E seeks a civil penalty of \$10,000.00 for West Penn's failure to provide responses to I&E's Data Request – Set II, in violation of Sections 505 and 506 of the Public Utility Code. 66 Pa.C.S. §§ 505, 506.

42. In addition to this monetary civil penalty, I&E requests that West Penn be ordered to provide to I&E its responses to I&E's Data Request – Set II within ten (10) days of a Final Order.

WHEREFORE, the Pennsylvania Public Utility Commission's Bureau of Investigation and Enforcement hereby requests that the Commission: (1) find West Penn Power to be in violation of the Public Utility Code and the Commission's Regulations for each of the counts set forth herein; (2) impose a cumulative civil penalty upon West Penn Power in the amount of \$60,000.00; (3) order West Penn Power to provide to I&E its responses to I&E's Data Request – Set II within ten (10) days of a Final Order; and (4) order such other remedies as the Commission may deem appropriate.

Respectfully submitted,



Lindsay Dearing Szymanski
Prosecutor
PA Attorney ID No. 317073

Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120
(717) 787-3663
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Date: December 20, 2024

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement	:	
	:	
v.	:	Docket No. C-2024-
	:	
West Penn Power	:	

VERIFICATION

I, Matthew Hrivnak, Supervisor, Chief, Policy Division, Bureau of Consumer Services, hereby state that the facts above set forth are true and correct to the best of my knowledge, information, and belief and that I expect the Bureau will be able to prove the same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: December 20, 2024

/s/ Matthew Hrivnak
Matthew Hrivnak
Chief, Policy Division
Bureau of Consumer Services
Pennsylvania Public Utility Commission
400 North Street
Harrisburg, PA 17120

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

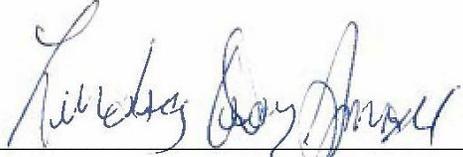
Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement	:	
	:	
v.	:	Docket No. C-2024-
	:	
West Penn Power	:	

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing **Formal Complaint** dated December 20, 2024 in the manner and 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 and Certified Mail

Tori Giesler, Esquire
Angelina Umstead, Esquire
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2800 Pottsville Pike
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Lindsay Dearing Szymanski
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