

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement	:	
	:	C-2024-3052650
v.	:	
	:	
FirstEnergy Pennsylvania Electric Company	:	

**SCHEDULING ORDER**

This order memorializes the agreements and litigation schedule discussed at the prehearing conference held on February 25, 2025 and, additionally, provides directives for testimony, evidentiary hearings, briefs and settlement.

**Procedural Background**

On December 20, 2024, the Bureau of Investigation and Enforcement (I&E) of the Pennsylvania Public Utility Commission filed a Formal Complaint (Complaint) against West Penn Power Company (West Penn) which was an operating electric distribution company at the time the alleged violations occurred but has since merged into FirstEnergy Pennsylvania Electric Company (FirstEnergy or Respondent).

In the Complaint, I&E alleges that West Penn violated winter termination procedures and procedures for customer contact prior to termination. According to I&E, if proven, this conduct would constitute violations of 52 Pa. Code §§ 56.100(b) and 56.97. I&E proposed a cumulative administrative penalty of \$50,000.00 for the violations.

I&E also alleged that West Penn failed to respond to I&E’s request for information and documentation in its Data Request – Set II. I&E stated that, if proven, this conduct would violate 66 Pa.C.S. §§ 505 and 506 and proposed a civil penalty of \$10,000.

On January 13, 2025, FirstEnergy filed an answer responding to the Complaint. The answer denied the violations and requested that I&E's request for relief be denied.

On January 24, 2025, an Initial Telephonic Prehearing Conference Notice was issued, which scheduled a telephonic prehearing conference for February 25, 2025.

On February 10, 2025, Administrative Law Judge Gannon issued a Prehearing Conference Order, directing the parties to file a Prehearing Memorandum by noon on February 21, 2025.

The prehearing conference was convened as scheduled at 1:30 p.m. on Tuesday, February 25, 2025. Lindsay Dearing Szymanski, Esquire, appeared for I&E. Angelina Umstead, Esquire and Timothy K. McHugh, Esquire, appeared for FirstEnergy.

### Issues

As discussed above, initially, I&E pleaded a violation of 66 Pa.C.S. §§ 505 and 506 for West Penn's failure to respond to I&E's Data Request – Set II with a civil penalty request of \$10,000. During the prehearing conference, counsel for I&E stated that I&E received the Respondent's Responses to Data Request – Set II on February 19, 2025 and will not pursue that alleged violation in this proceeding.

Thus, I&E's total proposed administrative penalty is \$50,000, for West Penn's alleged violations of 52 Pa. Code §§ 56.100(b) and 56.97.

Additional issues may arise as the discovery process advances.

Service and Service List

Service by email, sent by **4:30 p.m.** on the due date, will satisfy the in-hand requirement and no follow-up hard copy is required.

A service list of the parties is attached to this order.

Discovery

The parties shall engage in informal discovery whenever and wherever possible in an attempt to resolve any discovery disputes amicably. 52 Pa. Code § 5.322. If this process fails, the parties have recourse to the Commission’s procedures for formal discovery. 52 Pa. Code §§ 5.321, *et seq.* The parties must not send the Administrative Law Judge discovery material or cover letters, unless attached to a motion to compel. **All motions to compel must contain a certification of counsel of the informal discovery undertaken and their efforts to resolve their discovery disputes informally.** If a motion to compel fails to contain such certification, I will contact the parties and direct them to pursue informal discovery.

Litigation Schedule

I approve the litigation schedule agreed to by the parties, as follows:

Direct Testimony	May 21, 2025
Rebuttal Testimony	June 20, 2025
Surrebuttal Testimony	July 18, 2025
Oral Rejoinder Testimony	August 6, 2025
Evidentiary Hearings	August 6-7, 2025

The foregoing testimony dates are for in-hand service.

*Pre-served testimony and exhibits*

The parties are reminded of the Commission's requirements for the preparation, service, and filing of written testimony. 52 Pa. Code § 5.412. Written testimony must be marked with numerical, sequential statement numbers. Written testimony must be accompanied by all exhibits to which it relates.

No written testimony will be admitted into evidence unless accompanied by a verification of affidavit of the witness. This requirement applies, even if a sponsoring witness appears at the hearing.

Testimony and exhibits must be emailed to the presiding officer on the due date, in both PDF and native format, i.e. Word or Excel.

All parties are directed to comply with the provisions of 52 Pa. Code § 5.243(e) which prohibits the introduction of evidence during rebuttal or surrebuttal which should have been included in the case-in-chief or which substantially varies from the case-in-chief, unless the evidence is introduced in support of a proposed settlement.

*Evidentiary hearings*

I adopt the parties' proposed dates for evidentiary hearings and direct that evidentiary hearings will be held telephonically and will begin promptly at **10:00 a.m.** each date.

The parties must confer before commencement of the hearing to schedule their witnesses to avoid "dead time." No later than **August 1, 2025**, the parties shall email me their agreed-upon witness schedule.

Any motions with respect to, or objections to, written testimony must be presented in writing no later than **three business days prior** to the day that the witness sponsoring that testimony is scheduled to testify. Answers to such motions or objections may be

filed within three business days or sooner if circumstances warrant. Oral motions, other than for good cause, shall not be accepted.

Friendly cross-examination or cumulative cross-examination during hearings will not be permitted. 52 Pa. Code §§ 5.76; 5.243.

After the hearing, it is the responsibility of the parties to, in a timely manner, provide their admitted testimony and exhibits to the court reporter for addition to the record. Questions regarding how to submit public versions of your testimony and exhibits should be directed to the court reporter. All materials must be clearly marked as public or confidential. All written testimony provided to the court reporter must be accompanied by a verification from the sponsoring witness(es).

Failure to timely submit admitted testimony, exhibits and verifications to the court reporter may result in those testimonies and exhibits being excluded from the record. Exclusion from the record will preclude the presiding officers from relying on the testimony and exhibits as part of their determination on the merits.

### Briefs and Reply Briefs

The parties must comply with 52 Pa. Code §§ 5.501 and 5.502, regarding the preparation and filing of briefs, except as otherwise directed by the presiding officer. In addition to the mandatory contents set forth in 52 Pa. Code § 5.501(a) and regardless of the total pages, briefs must include a table of contents, table of authorities, history of the proceeding, and proposed findings of fact, conclusions of law and ordering paragraphs.

52 Pa. Code § 5.501(e) requires that “Briefs shall be as concise as possible.” Page limitations on briefs and the briefing schedule will be discussed on or before the last day of hearing.

The parties are directed to e-mail me a copy of their as-filed briefs in PDF and Word format.

Settlement and Stipulations

The parties are reminded it is the Commission’s policy to encourage settlements. 52 Pa. Code § 5.231(a). The parties are strongly urged to seriously explore this possibility.

If a settlement is reached, statements in support from all parties must be filed with the settlement and emailed to me. Statements in support should be specific and explain the benefit of the settlement terms to your client beyond the savings of litigation time and expense.

If settlement is not feasible, the parties are encouraged to stipulate to any matters they reasonably can to expedite this proceeding, lessen the burden of time and expenses in litigation on all parties and conserve administrative hearing resources. 52 Pa. Code §§ 5.232 and 5.234. All stipulations entered into by the parties must be reduced to writing, signed by the parties to be bound thereby, and moved into the record during the hearing in this case. An exception to this requirement may occur when circumstances of time and expediency warrant. If so, an oral presentation of a stipulation is permissible, if it is followed by a reduction to writing.

Modification

Any of the provisions of this Scheduling Order may be modified upon motion and good cause shown by any party in interest.

Date: February 27, 2025

\_\_\_\_\_/s/  
Erin L. Gannon  
Administrative Law Judge

**C-2024-3052650 - PENNSYLVANIA PUBLIC UTILITY COMMISSION BUREAU OF INVESTIGATION & ENFORCEMENT v. FIRSTENERGY PENNSYLVANIA ELECTRIC COMPANY - WEST PENN POWER RATE DISTRICT**

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Served via eService on February 27, 2025

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