



By Dan Packel

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Pa. PUC Approves Penalty After Power Line Death

Law360, Philadelphia (January 09, 2014, 4:40 PM ET) -- The Pennsylvania Public Utility Commission approved a settlement with West Penn Power Co. on Thursday that includes an \$86,000 penalty stemming from a power line accident that caused a woman's death, after the victim's family advocated public safety modifications to an earlier plan.

The family of a western Pennsylvania woman who was electrocuted in 2009, Carrie Goretzka, pushed the PUC both to begin the investigation and to improve the settlement. The commission ultimately specified that refresher training for the utility's linemen should take place annually. But it did not heed a request by the Goretzka family to require annual infrared inspections of automatic splices on the power lines.

West Penn, a subsidiary of FirstEnergy Corp., had contended that the family's request — which extended to all power companies in the state — was too onerous. The five-member commission concurred.

"We agree with West Penn that it may be premature to consider a second infrared inspection or an annual inspection of all of West Penn's primary distribution system automatic splices, when the results of the initial infrared inspection are unknown and have not yet been considered," the commission said in its order.

If both the utility and the PUC's Bureau of Investigation and Enforcement agree to accept the terms of the modified settlement, it will likely mark an end to the legal issues stemming from the 2009 accident, which has already led to a separate \$105 million civil settlement for the family.

Carrie Goretzka's husband, Michael Goretzka, sued West Penn after his wife was struck by a fallen power line in the family's yard in June 2009, was electrocuted for 20 minutes during which she caught on fire, and died three days later of severe burns covering 85 percent of her body, according to his 2011 complaint.

In December 2012, an Allegheny County jury awarded the family \$109 million after determining that West Penn was negligent and that its negligence caused the injuries and death. The company initially sought post-trial relief to chop \$61 million in punitive damages from the verdict, before reaching the slightly reduced settlement.

The family also filed a formal complaint with the PUC as a result of its own investigation connected to the civil litigation.

"We deposed linemen and found a pervasive systemwide problem with training and inspections," Shanin Specter, a founding partner of Kline & Specter PC, told Law360.

West Penn announced an initial settlement with the PUC in February 2013, just before the company said that it would be settling the civil suit with the family.

The Goretzka family filed objections to the proposed PUC settlement in September, calling the remedial measures imposed on the utility "good and constructive" but not sufficient.

West Penn then filed a motion opposing those objections, arguing that they were supported by an inadmissible confidential document and aimed to place mis-

guided burdens on the company and other electricity providers in the state.

Although it agreed with West Penn that there was no evidence that annual inspections would be cost-effective, the PUC did conclude that it was worth considering whether more frequent inspections would have benefits. Consequently, it ordered its Law Bureau to start an inquiry.

“A determination regarding whether a new inspection requirement should be enacted and, if so, what inspection method should be used would be more appropriately addressed in a separate proceeding that provides interested parties with notice and the opportunity to be heard,” the commission said.

Specter told Law360 that he was very satisfied with the outcome of the process.

“Not everything that we asked for was done, but the vast majority was done,” he said, “That’s going to make the people of southwestern Pennsylvania safer.”

He added that he was proud of his firm’s effort in launching the investigation.

“This is part of the role of what a trial lawyer should do: bring it to the attention of the appropriate authorities,” he said.

West Penn and the BIE have 10 days to register objections to the modifications.

“FirstEnergy will review the modified settlement and will respond within the 10-day period provided for in that settlement,” a company spokesman told Law360. “We look forward to putting this tragic matter behind us and moving forward.”

West Penn is represented by John Povilaitis and Alan Seltzer of Buchanan Ingersoll & Rooney PC.

The family is represented by Shanin Specter and Kila Baldwin of Kline & Specter PC.

The case is Pennsylvania Public Utility Commission, Bureau of Investigation and Enforcement v. West Penn Power Co., docket number C-2012-2307244, before the Pennsylvania Public Utility Commission.