

By *Corina Rivera-Linares*
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West Penn Power to pay \$86,000 civil penalty in case of woman's death by fallen power line

West Penn Power is to pay an \$86,000 civil penalty and provide annual refresher training for linemen and supervisors in a case related to the death of a woman involving a fallen power line, Pennsylvania state regulators said on Jan. 9.

The state Public Utility Commission (PUC) in 2012 filed a complaint against West Penn Power formerly d/b/a Allegheny Energy alleging violations of the public utility code stemming from the death of Carrie Goretzka.

According to the PUC's May 30, 2012, complaint, on June 2, 2009, West Penn Power's 7,200-volt power line fell from its pole into the yard of Goretzka in Irwin, Pa. Goretzka came into contact with the live wire in her yard, the PUC said, adding that she suffered burns on 85% of her body and died from her injuries on June 5, 2009.

The PUC voted 5-0 on Jan. 9 to approve a modified settlement between West Penn Power and the PUC's independent Bureau of Investigation & Enforcement (I&E), the PUC said, adding that it will further examine inspection requirements for automatic splices in a separate proceeding that provides interested parties the opportunity to file comments.

An attorney representing Goretzka's family lauded the PUC for its decision.

"I am gratified that the PUC took strong remedial action in response to our law firm's complaint, which

will make the citizens of southwestern Pennsylvania safer," Shanin Specter told TransmissionHub Jan. 13.

The company and I&E have 10 days to agree to the modifications to the settlement that includes annual refresher training for West Penn Power employees. If either party does not agree to the modifications, the issue will be referred to the PUC's Office of Administrative Law Judge for hearings.

"FirstEnergy will review the modified settlement and will respond within the 10-day period provided for in that settlement," a FirstEnergy spokesperson told TransmissionHub on Jan. 13. "We look forward to putting this tragic matter behind us and moving forward."

FirstEnergy (NYSE:FE) completed its merger with Allegheny Energy in February 2011.

The PUC noted that under its order, the company is to also modify its training program to ensure that linemen and line supervisors address splice installations and other issues; inspect the automatic splices on its primary distribution system using infrared technology; spot check 5% of the installations a year; and track automatic splice failures and report the information as part of its annual report to the PUC.

According to the Jan. 9 opinion and order, the PUC has promulgated a policy statement that sets forth 10 factors that it may consider in evaluating whether a civil penalty for violating a PUC order, regulation or statute is appropriate, as well as if a proposed settle-

ment for a violation is reasonable and approval of the settlement agreement is in the public interest.

One factor is whether the regulated entity made efforts to modify internal practices and procedures to address the conduct at issue and prevent similar conduct in the future.

West Penn Power estimates that the education, training, inspection and review protocols in the settlement will cost more than \$2.5m.

“We find that these actions, as a whole, demonstrate that West Penn is taking appropriate actions to enhance its installation and inspection practices regarding automatic splices in order to prevent similar occurrences in the future,” the PUC said.

Another factor is the number of customers affected and the duration of the violation. In this case, the PUC added, in addition to the Goretzkas, 70 customers experienced an outage that lasted about 4.5 hours. “This factor lends support to a higher civil penalty amount,” the PUC said.

Among other things, the PUC added that while it finds that the agreed-upon civil penalty is a sufficient deterrent, it is imperative that it makes one clarification with regard to the civil penalty amount.

In its statement in support of the settlement, West Penn Power indicated that the civil penalty may not be recovered through rates regulated by the PUC, but that information is not contained in the settlement. Accordingly, the PUC said, it will modify the settlement to state that West Penn Power will not seek to recover any portion of the \$86,000 civil penalty through rates regulated by the PUC.