

128 Winding Brook Lane
Terrace Park, Ohio 45174

August 18, 2016

Secretary Rosemary Chiavetta
Pennsylvania Public Utility Commission
400 North Street, 2nd Floor North
P.O. Box 3265
Harrisburg, PA 17015-3265

**Re: Pennsylvania Public Utility Commission v. Metropolitan Edison Company,
Docket No. R-2016-2537349**

Dear Secretary Chiavetta:

Enclosed for filing, please find Environmental Defense Fund and Citizens for Pennsylvania's Future's Response to Metropolitan Edison Company's Motion to Strike. Copies are being served in accordance with the Certificate of Service.

Sincerely,

/s/ John Finnigan

John Finnigan
(Motion for *pro hac vice*
admission pending)

customers in part because it would reduce Met Ed's cost of service. EDF and PennFuture contend that, due to Met Ed's failure to implement these recommendations, Met Ed is seeking a higher rate increase than it deserves. As such, EDF and PennFuture's recommendations are clearly relevant to the present case and should be considered by the Commission.

Met Ed has mischaracterized EDF and PennFuture's recommendations regarding IVVC. Met Ed incorrectly characterizes these recommendations as: (1) new reliability reporting requirements; or (2) changes to the Commission's rules for demand-side management programs and integrated resource planning. This mischaracterizes Mr. Alvarez's testimony because IVVC is not merely a tool for demand-side management or integrated resource planning. Instead, IVVC goes to the essence of how the Company delivers electricity to customers. IVVC is the use of sensors and controls to regulate the voltage delivered to customers at a level needed to operate customers' appliances and machinery, and avoiding waste that results from delivering excessive voltage.

Met Ed claims "First, there is nothing in Met Ed's proposed or existing rates, rules or terms of service that pertain to the proposals advanced by EDF in Mr. Alvarez's testimony" (Motion to Strike at p. 10). Met Ed's statement is incorrect. The Company's tariff goes into extensive detail regarding the voltage level at which it provides service. Original Page 56 of the Company's tariff states as follows:

21. Service Continuity: Limitation on Liability for Service Interruptions and Variations

* * *

The Company does not guarantee a continuous, uninterrupted, or regular supply of electric service. The Company may, without liability, interrupt or limit the supply of electric service for the purpose of making repairs, changes, or improvements in any part of its system for the general good of the service or the safety of the public or for the purpose of preventing or limiting any actual or

threatened instability or disturbance of the system. The Company shall not be liable for any damages due to accident, strike, storm, lightning, riot, fire, flood, legal process, state or municipal interference, or any other cause beyond the Company's control.

In all other circumstances, unless caused by the willful and/or wanton misconduct of the Company, the liability of the Company to Customers or third parties for all injuries and damages, direct or consequential, including damage to computers and other electronic equipment and appliances, or loss of business, profit or production caused by variations or interruptions in electric supply, high or low voltage, spikes, surges, single phasing, phase failure or reversal, stray voltage, neutral to earth voltage, equipment failure or malfunction, response time to electric outages or emergencies, or the non-functioning or malfunctioning of street lights or traffic control signals and devices shall be limited to Five Hundred Dollars (\$500) for residential customers and Two Thousand Dollars (\$2,000) for commercial and industrial customers. In no case shall the Company's aggregate liability for multiple claims arising from a single alleged negligent act, incident, event, or omission exceed Two Hundred Thousand (\$200,000). The Company's actions that are in conformance with electric system design, the National Electrical Safety Code, or electric industry operation practices shall be conclusively deemed not to be negligent. A variety of protective devices and alternate power supply equipment that may prevent or limit such damages are available. Due to the sensitive nature of computers and other electronically controlled equipment, the Customer, especially three-phase Customers, should provide protection against variations in supply.

IVVC would allow Met Ed to better regulate electricity voltage, and reduce the "high or low voltage, spikes, surges" as described in Met Ed's tariff. More importantly, IVVC would allow Met Ed to reduce the overall voltage level on a continuous basis, saving customers 2% on their overall electricity bills. This is not merely a tool that can be used to reduce usage during times of peak demand, for demand-side management or integrated resource planning, as Met Ed attempts to argue. True, IVVC can be used as a demand-side management tool and can be used in integrated resource planning. But IVVC can also be used in a much broader way by operating it at all times (not just during peak demand periods) and therefore reducing the overall level of

electricity usage at all times. By reducing electricity usage, this also reduces Met Ed's cost of service for which it seeks a rate increase in this case. So IVVC is squarely at issue in this case. Met Ed is simply trying to dodge the issue because it would reduce its revenues.

The same analysis applies to the testimony of Mr. Murray, dealing with customer access to energy usage data. Met Ed's tariff covers the types of usage data it provides to customers, at Original Page 41, entitled "Meter Reading and Rendering of Bills." As Mr. Murray explains, providing customers with energy usage data will result in lower overall energy usage. As discussed above regarding IVVC, this would reduce Met Ed's cost of service for which it seeks a rate increase in the present case. So access to data is also squarely at issue in this case. Met Ed argues that the Commission has already dealt with this issue in a statewide proceeding. However, that case dealt with the issue of providing customer usage data to third parties, such as competitive electricity generation suppliers. In the present case, EDF and PennFuture's recommendations primarily go to providing customers with access to their own energy usage data.

Met Ed points out that in 2015, EDF submitted similar testimony in a distribution base rate proceeding of PPL Electric Utilities Corporation ("PPL") at Docket No. R-2015-2469275 et al and that Administrative Law Judge Susan D. Colwell granted PPL's request. Judge Coldwell granted PPL's motion to strike this testimony. Her reasoning for striking the testimony relating to IVVC (referred to in that cases as "Volt/VAR") was as follows:

The third stated issue - that PPL Electric be required to report on its Integrated Volt/VAR control projects - has not been developed or supported sufficiently for even a superficial introduction of it, let alone a meaningful evaluation. There is not so much as an explanation of what a Volt/VAR control project is, let alone whether it could possibly be relevant to this proceeding. The

abbreviated direct testimony fails to establish this recommendation as a legitimate issue for further scrutiny in this case.¹

In response to Judge Coldwell's Order, EDF has taken a completely different approach in this case compared to its approach in the PPL case. In the PPL case, EDF presented the testimony of Dick Munson, an EDF staff member without extensive experience dealing with IVVC. Moreover, his testimony did not go into great detail regarding EDF's recommendations regarding IVVC. To address Judge Coldwell's concerns, EDF in the present case hired Mr. Alvarez to present testimony on IVVC. Mr. Alvarez is a nationally known expert in grid modernization, including IVVC, and has testified before other state public utility commissions on this issue, as well as teaching and publishing a book on grid modernization. Mr. Alvarez's testimony goes into great detail explaining what IVVC is and EDF's recommendations in this area. The fact that Mr. Alvarez has testified before other state public utility commissions on this topic shows that it is a relevant issue.

Mr. Munson's testimony also addressed the issue of access to energy usage data. This topic is addressed by Mr. Murray's testimony in the present case. Judge Coldwell's rationale for striking Mr. Munson's testimony on this topic was that the topic was addressed in another case, and therefore should not be re-litigated in the PPL rate case. Judge Coldwell explained the other proceeding as follows:

On February 17, 2015, a final version of the document titled 'Pennsylvania Web Portal Working Group Solutions Framework' was filed, which purportedly outlines the portal solution that would permit third parties such as EGSs and Conservation Service Providers (CSPs) to acquire data within 48 hours of daily meter reads.²

¹ PPL Order at 10.

² *Id.* at 9.

The issue presented in Mr. Murray's testimony is different than the issue involved in the other proceeding that Judge Coldwell addressed in her order. As she explains, the other proceeding dealt with access to energy usage data *by third parties such as EGSs and Conservation Service Providers*. In the present case, Mr. Murray's testimony deals with how Met Ed's customers access their own energy usage data. This was not the topic of the other proceeding referenced by Judge Coldwell, and this topic was not addressed in that proceeding.

At the end of the day, EDF and PennFuture's recommendations go to whether the rate increase Met Ed seeks in this case is just and reasonable. These recommendations would lower Met Ed's cost of service and would therefore lower the rate increase that Met Ed seeks. This just and reasonable standard gives the Commission broad discretion to balance the interests of ratepayers and utilities. The Pennsylvania Supreme Court has explained this standard as follows:

In determining just and reasonable rates, the PUC has discretion to determine the proper balance between interests of ratepayers and utilities. As this Court stated in *Pennsylvania PUC v. Pennsylvania Gas and Water Co.*,

There is ample authority for the proposition that the power to fix 'just and reasonable' rates imports a flexibility in the exercise of a complicated regulatory function by a specialized decision-making body and that the term 'just and reasonable' was not intended to confine the ambit of regulatory discretion to an absolute or mathematical formulation but rather to confer upon the regulatory body the power to make and apply policy concerning the appropriate balance between prices charged to utility customers and returns on capital to utility investors consonant with constitutional protections applicable to both.

Further, the PUC is obliged to consider broad public interests in the rate-making process.³

³ *Popowsky v. Pennsylvania PUC*, 665 A.2d 808, 812 (Pennsylvania 1995) (citations omitted).

Met Ed seeks to impose higher rates on customers, but has failed to protect customers by committing to use IVVC, a proven and cost-effective technology, to reduce the customers' costs and also reduce harmful air emissions, and by providing customers access to their energy usage data. The rate increase that FirstEnergy seeks would not be just and reasonable unless Met Ed commits to using adopting these recommendations. This type of proceeding is the only opportunity customers have to obtain these types of commitments from the Company. The Commission can strike the proper balance between customer and utility interests by considering the recommendations that EDF and PennFuture are making.

Based on the foregoing, EDF and PennFuture respectfully submit that Met Ed's motion to strike is not well-taken and should be overruled.

Respectfully Submitted,

/s/ George Jugovic, Jr.

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), via email and first class mail, upon the persons listed below:

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/s/ John Finnigan

John Finnigan

Date: August 18, 2016