

August 18, 2016

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

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

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Dear Secretary Chiavetta:

Enclosed, please find an original copy of Citizens for Pennsylvania's Future and Environmental Defense Fund's Motion to Compel Discovery in the above-captioned matter.

Copies are being served in accordance with the attached Certificate of Service.

Sincerely,

*/s/ John Finnigan*

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

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**PENNSYLVANIA PUBLIC UTILITY COMMISSION** :  
 :  
 : **R-2016-2537349**  
 v. :  
 :  
**METROPOLITAN EDISON COMPANY** :

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**MOTION TO COMPEL OF  
CITIZENS FOR PENNSYLVANIA’S FUTURE AND  
ENVIRONMENTAL DEFENSE FUND  
AGAINST METROPOLITAN EDISON COMPANY**

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Pursuant to 66 Pa.C.S. § 333(d) and 52 Pa. Code § 5.342, Citizens for Pennsylvania’s Future and Environmental Defense Fund (collectively, “Intervenors”) move to dismiss the objections and compel answers to the interrogatories that Intervenors propounded on Metropolitan Edison Company (“FirstEnergy” or “Met Ed” or “Company”). A copy of the Intervenors’ interrogatories is at Appendix A. A copy of the Company’s objections to the interrogatories is at Appendix B.

The Company objects to Intervenors’ interrogatories, claiming the interrogatories are not relevant to this proceeding. These objections are without merit. The Commission therefore should dismiss the Company’s objections and compel it to answer Intervenors’ interrogatories.

**I. Voltage Optimization**

The interrogatories are directed to the Company’s use of voltage optimization, also known as Volt/VAR Control. Voltage optimization is a proven, cost-effective technology where the utility installs sensors along the grid to monitor voltage, and capacitors to boost voltage, and operate the grid within a lower voltage range. Voltage optimization provides energy within an

acceptable voltage range, but uses lower voltage, resulting in reduced energy usage and also reduced peak demand. Many utilities, including some Pennsylvania utilities, have deployed this technology. FirstEnergy, however, has not fully deployed voltage optimization because it erodes its revenues and profits.

Voltage optimization was explained in a Massachusetts grid optimization case as follows:

In addition to opportunities at customers' premises, there are also technology-based demand optimization opportunities on the distribution grid itself. A primary example of this is volt-VAR optimization ("VVO"), which increases grid efficiency and reliability, reduces distribution losses, and reduces the amount of energy demand and consumption by regulating the flow of power in the distribution system. VVO has the potential to provide significant benefits for customers by reducing the need for generation and, therefore, lowering costs and reducing pollution. Therefore, we expect VVO technologies to be a critical part of the distribution Company' plans for grid modernization.<sup>1</sup>

Voltage optimization delivers significant customer benefits. The primary benefits are reduced line losses on the distribution grid, reduced energy usage on the customers' side of the meter and reduced peak demand.

FirstEnergy argues that IVVC is outside the scope of this case because IVVC should be considered as part of FirstEnergy's Energy Efficiency and Conservation plan ("EEC"). IVVC can be used as a tool for peak demand and, when used in this limited context, should properly be considered in an EEC plan. However, EDF and PennFuture are recommending that FirstEnergy should implement IVVC *at all times, not just during peak demand periods*. The Smart Grid Consumer Collaborative explains the difference in using IVVC for peak demand only versus using it on a continuous basis:

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<sup>1</sup> *Investigation by the Department of Public Utilities on its Own Motion into Modernization of the Electric Grid*, (Mass DPU) (Opinion at 18-19 ) (June 12, 2014)

## **Economic Benefits of Integrated Volt/VAr Control**

IVVC can help utilities reduce required capacity during peak demand periods *and, if used on a continual basis, reduce overall energy use*. We find the economic benefits range from \$11.24 to \$32.01 per customer per year, depending on how a utility uses IVVC.

The typical IVVC implementation is used by utilities during periods of peak demand. An Xcel Energy Smart Grid study found that IVVC helped reduce distribution line voltage from an average of 121 volts to 116 volts, yielding a 3.25 percent reduction in peak demand.

Utilities can also use IVVC on a continuous basis to reduce the energy used by customer loads throughout the year. A study by Ameren Illinois of its continuous voltage reduction test on two distribution lines found reduced energy use in all seasons of the year regardless of distribution line characteristics. (Emphasis added).<sup>2</sup>

In Pennsylvania, FirstEnergy represented to the Commission that it would do a voltage optimization pilot, and if successful, FirstEnergy would deploy the technology throughout its service territory. FirstEnergy received taxpayer and customer funding to install the equipment, the pilot was successful, but now FirstEnergy has failed to fully deploy this equipment and use it continuously because it would reduce its revenues and profits.

FirstEnergy applied to the Department of Energy to fund the pilot program in various service territories, including its Met Ed service area in Pennsylvania. FirstEnergy provided a copy of this application to Ohio regulators.<sup>3</sup> The application describes in detail FirstEnergy's

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<sup>2</sup> Smart Grid Consumer Collaborative, *Smart Grid Economic and Environmental Benefits: A Review and Synthesis of Research on Smart Grid Benefits and Costs* at 16 (October 8, 2013), available at: <http://smartgridcc.org/wp-content/uploads/2013/10/SGCC-Econ-and-Environ-Benefits-Full-Report.pdf> (last viewed April 12, 2016).

<sup>3</sup> *In the matter of the application of Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company for approval of Ohio Site Deployment of the Smart Grid Modernization Initiative and*

expectations for this technology, and FirstEnergy committed to deploy the technology throughout its service territory if the pilot would be successful. FirstEnergy made the following commitments regarding the pilot program:

- The purpose of FirstEnergy’s Smart Grid Modernization Initiative is to ‘firmly establish the utility and regulatory business case for integrating cross-cutting smart grid technologies with existing distribution system infrastructure.’ (Application at 1).
- ‘Full system life cycle costs and benefit will be analyzed to justify recovery of investments, which is pivotal to ensuring expanded deployment across FirstEnergy and supporting deep-market penetration across the U.S.’ (Application at 1).
- FirstEnergy stated that Volt/VAR Control would lead to improved system power factor, reduced voltage variation in the distribution feeders and reduced peak loads. (Application at 16).
- FirstEnergy stated that another goal of Volt/VAR Control is to reduce feeder losses. (Application at 17).
- FirstEnergy stated that the Volt/VAR Control system would provide targeted load control capability, permitting Met Ed to reduce load on feeders or transformers. System capability would be leveraged to provide operational and programmatic benefits, such as participation in PJM conservation programs. In addition, having the ability to reduce loads within specific areas would enable utility operators to manage power flow. (Application at 21).
- FirstEnergy stated that it planned to expand installations and operation across FirstEnergy’s territories, if the pilot program was successful. (Application at 23).
- FirstEnergy stated that the benefits of Voltage Optimization includes reduced customer demand and energy consumption, reduced line losses, peak load reductions, reduced greenhouse gas emissions and lower operating costs. (Application at 33, 36).

FirstEnergy completed the voltage optimization pilot program in the Met Ed service territory. The project was successful, and FirstEnergy issued a final report to the Department of Energy detailing these successful results. FirstEnergy has not, however, fully implemented this technology, violating the commitments it made to Pennsylvania and Ohio regulators and the Department of Energy.

FirstEnergy also argues that IVVC is outside the scope of this case because nothing in FirstEnergy's terms of service relates to IVVC. This argument 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.

To the extent applicable under the Uniform Commercial Code or on any theory of contract or products liability, the Company disclaims and shall not be liable to any Customer or third party for any claims involving and including, but not limited to, strict products liability, breach of contract, and breach of actual or implied warranties of merchantability or fitness for an intended purpose.

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.

## **II. The Just and Reasonable Test Requires the Use of Voltage Optimization**

Intervenors can properly oppose the rate increase that the Company seeks in this proceeding because the Commission cannot approve the rate increase unless it is just and reasonable. This 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.*,

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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.<sup>4</sup>

FirstEnergy 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. The rate increase that FirstEnergy seeks would not be just and reasonable unless FirstEnergy commits to using IVVC. This proceeding is the only opportunity customers have to obtain this commitment from FirstEnergy. The Commission can strike the proper balance between customer and utility interests by requiring FirstEnergy to fully implement IVVC and use it continuously.

WHEREFORE, PennFuture and EDF respectfully request that the Commission dismiss the Company’s objections and order the Company to answer Intervenors’ interrogatories.

Respectfully Submitted,

*/s/ George Jugovic, Jr.*

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Counsel for Joint Petitioners  
PennFuture and EDF

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<sup>4</sup> *Popowsky v. Pennsylvania PUC*, 665 A.2d 808, 812 (Pennsylvania 1995) (citations omitted).



*/s/ John Finnigan*

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John Finnigan  
Lead Attorney  
Environmental Defense Fund  
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Counsel for Joint Petitioner EDF  
(motion for *pro hac vice*  
admission pending)

DATED: August 18, 2016

### 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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| Darryl A. Lawrence<br>Lauren M. Burge<br>David T. Evrard<br>Candis A. Tunilo<br>Office of Customer Advocate<br>555 Walnut Street<br>Forum Place, 5th Floor<br>Harrisburg, PA 17101-1923<br><i>Counsel for Office of<br/>Customer Advocate</i><br><a href="mailto:dlawrence@paoca.org">dlawrence@paoca.org</a><br><a href="mailto:lburge@paoca.org">lburge@paoca.org</a><br><a href="mailto:devrard@paoca.org">devrard@paoca.org</a><br><a href="mailto:ctunilo@paoca.org">ctunilo@paoca.org</a> | Allison C. Kaster<br>Gina Lauffer<br>Bureau of Investigation & Enforcement<br>PO Box 3265<br>Commonwealth Keystone Building<br>400 North Street, 2nd Floor West<br>Harrisburg, PA 17105-3265<br><i>Counsel for Bureau of Investigation &amp;<br/>Enforcement</i><br><a href="mailto:akaster@pa.gov">akaster@pa.gov</a><br><a href="mailto:ginlauffer@pa.gov">ginlauffer@pa.gov</a> |
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| <p>Mary Ellen McConnell<br/> 2278 Ragged Mountain Road<br/> Clearville, PA 15535</p>   | <p>Daniel G. Asmus<br/> Office of Small Business Advocate<br/> 300 North Second Street, Suite 202<br/> Harrisburg, PA 17101<br/> <a href="mailto:dasmus@pa.gov">dasmus@pa.gov</a></p>  |
| <p>Thomas T. Niesen<br/> Thomas, Niesen &amp; Thomas, LLC<br/> 212 Locust Street, Suite 600<br/> Harrisburg, PA 17101<br/> <i>Counsel for Pennsylvania Rural Electric<br/> Association and Allegheny Electric<br/> Cooperative, Inc.</i><br/> <a href="mailto:ttniesen@hmslegal.com">ttniesen@hmslegal.com</a></p>                     | <p>David F. Boehm<br/> Boehm, Kurtz &amp; Lowrey<br/> 36 East Seventh Street, Suite 1510<br/> Cincinnati, OH 45202<br/> <i>Counsel for AK Steel Corp.</i><br/> <a href="mailto:dboehm@bkllawfirm.com">dboehm@bkllawfirm.com</a></p>  |
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| <p>Honorable Mary D. Long<br/> Administrative Law Judge<br/> Office of Administrative Law Judge<br/> Pennsylvania Public Utility Commission<br/> Pittsburgh District Office, Piatt Place<br/> 301 Fifth Avenue, Suite 220<br/> Pittsburgh, PA 15222<br/> <a href="mailto:malong@pa.gov">malong@pa.gov</a></p>  | <p>Anthony C. DeCusatis<br/> Thomas P. Gadsden<br/> Catherine G. Vasudevan<br/> Brooke E. McGlenn<br/> Morgan, Lewis &amp; Bockius, LLP<br/> 1701 Market Street<br/> Philadelphia, PA 19103-2921<br/> <a href="mailto:Anthony.decusatis@morganlewis.com">Anthony.decusatis@morganlewis.com</a><br/> <a href="mailto:Thomas.gadsden@morganlewis.com">Thomas.gadsden@morganlewis.com</a><br/> <a href="mailto:Catherine.vasudevan@morganlewis.com">Catherine.vasudevan@morganlewis.com</a><br/> <a href="mailto:bmcglenn@morganlewis.com">bmcglenn@morganlewis.com</a><br/> <i>Counsel for Metropolitan Edison Company</i></p> |

*/s/ John Finnigan*

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John Finnigan

Date: August 18, 2016

# Morgan Lewis

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August 15, 2016

**VIA eFILING**

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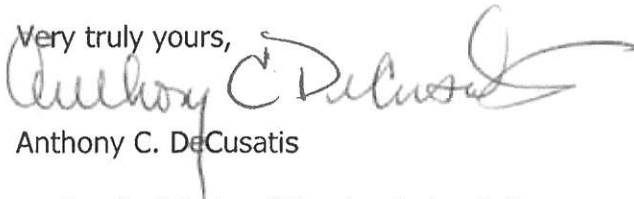
**Re: Pennsylvania Public Utility Commission  
v.  
Metropolitan Edison Company  
Docket No. R-2016-2537349**

Dear Secretary Chiavetta:

Enclosed for filing in the above-captioned matter is the Certificate of Service evidencing service of the **Objections of Metropolitan Edison Company to the First Set of Interrogatories of the Environmental Defense Fund**.

As indicated on the attached Certificate of Service, copies of the Objections will be served on all parties.

Very truly yours,



Anthony C. DeCusatis

c: Per Certificate of Service (w/encls.)

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**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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|---|---|----------------------------------|
| <b>PENNSYLVANIA PUBLIC UTILITY<br/>COMMISSION</b> | : |                                  |
|   | : |                                  |
|   | : |                                  |
| v.  | : | <b>Docket No. R-2016-2537349</b> |
|   | : |                                  |
| <b>METROPOLITAN EDISON COMPANY</b>                | : |                                  |

**CERTIFICATE OF SERVICE**

I hereby certify and affirm that I have this day served a copy of the **Objections of Metropolitan Edison Company to the First Set of Interrogatories of the Environmental Defense Fund**, on the following persons, in the manner specified below, in accordance with the requirements of 52 Pa. Code § 1.54.

**VIA ELECTRONIC AND FIRST CLASS MAIL**

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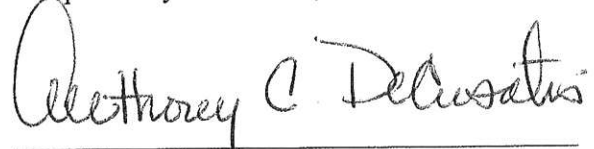
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Respectfully submitted,



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*Counsel for Metropolitan Edison Company*

Dated: August 15, 2016

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

|  |   |                |
|--|---|----------------|
| Pennsylvania Public Utility Commission | : |                |
|  | : | R-2016-2537349 |
| v.                                     | : |                |
|  | : |                |
| Metropolitan Edison Company            | : |                |

**Interrogatories of  
Environmental Defense Fund to  
Metropolitan Edison Company, First Set**

Environmental Defense Fund (“EDF”) hereby propounds these Interrogatories (First Set) to Metropolitan Edison Company to be answered by such person or persons capable of responding to these Interrogatories and authorized to do so. Telephone or other contact concerning availability and timing of formal responses is encouraged. The answer to each interrogatory should be started on a new page. The answers should restate the question asked and indicate the person(s) supplying the information.

Dated: August 10, 2016



## INSTRUCTIONS

A. In answering these Interrogatories, please furnish all information available to you, including any such information in possession of your attorneys or anyone acting on your behalf, and not merely such information known of your own personal knowledge. If you cannot answer the Interrogatories in full after exercising due diligence to secure the information to do so, so state and answer to the extent possible.

B. If the answer to any of the Interrogatories is that you lack knowledge of some or all of the requested information, describe all efforts made by you to obtain the information necessary to answer that Interrogatory.

C. If any matter responsive to any of the Interrogatories is withheld based on any claim of privilege, describe generally the matter withheld, state the privilege being relied upon, and identify all persons or entities who have or have had access to said matters. If you refuse to describe and/or produce any document on the basis of a claim of privilege or protection from discovery of any kind, with respect to each such document, set forth the following information:

- (i) the date of the document;
- (ii) its authors;
- (iii) all recipients of the document;
- (iv) the present location and custodian of the document; and
- (v) the basis of the claim of privilege or protection from discovery.

In addition, if you refuse to produce information based on the grounds that such information is preliminary and/or still in draft form, set forth the following information:

- 
- (vi) the date the information was first created or recorded;

- (vii) the last date on which the information was changed or altered in any manner; and
- (viii) the expected date that the information will be finalized.

D. Each lettered sub-part of a numbered Interrogatory is to be considered a separate Interrogatory for the purpose of your answers and objections. You must object separately to each sub-part and must answer any other sub-parts.

E. These Interrogatories are to be deemed continuing in nature, and you shall promptly supply, by way of supplemental response, any additional responsive information that may become known to you or anyone acting on your behalf after your answers have been prepared or served.

F. For all documents produced, identify by Bates number (or other method of equal precision) which document or documents are responsive to each separate Interrogatory. If you respond by stating that the requested documents already have been produced in response to prior discovery requests, identify the responsive documents previously produced either by Bates number or other method of equal precision that, at a minimum, identifies the author(s), recipients(s) and date of creation and provides a general description of the document.

### **DEFINITIONS**

- a. “You” refers to any agent, agency, representative or affiliate thereof.
- b. “Company,” or “Respondent” refer to any agent, agency, or affiliate thereof.
- c. “Assumption” refers to any predictions, projections, assumptions, or other estimates.
- d. “Proceeding” refers to the investigation of the Pennsylvania Public Utility Commission at Docket No. R-2016-2537349.

e. "Person" or "persons" means all individuals and entities, including natural persons, representative persons, public or private corporations, companies, unincorporated associations, partnerships, organizations, government entities or groups, plus any divisions, departments, or units thereof.

f. "Document" or "documents" means any written, printed, typed, recorded, or graphic matter, whether produced or reproduced or stored on paper, cards, tapes, film, electronic facsimile, computer storage devices or any other devices or media, including, but not limited to papers; books; letters; photographs; objects; tangible things; correspondence; telegrams; cables; telex messages; memoranda; notes; notations; records; work papers; transcripts; minutes; reports and recordings of telephone or other conversations, or of interviews, or of conferences, or of other meetings; affidavits; statements; opinions; proposals; reports; studies; analyses; audits; evaluations; contracts; agreements; journals; statistical records; ledgers; books of account; bookkeeping entries; financial statements; tax returns; vouchers; checks; check stubs; invoices; receipts; desk calendars; appointment books; diaries; lists; tabulations; summaries; sound recordings; computer printouts; data processing input and output; microfilms; all records kept by electronic, photographic, or mechanical means; and things similar to any of the foregoing, however denominated. When one or more of the foregoing documents is requested or referred to, the request or reference shall include, but is not limited to, the original and each and every copy and draft thereof having writings, notations, corrections, or markings unique to such copy or draft.

g. "Oral communication" means any and all non-written forms of expression or communication, whether face-to-face or by telephone, in a conference or otherwise.

h. "Identify" or "identification", when used in reference to a document, means to:

1. state the type of document (e.g., letter, log, report, etc.);
2. state its date;
3. state its title, heading or other designation and any other information (e.g., index or file number) which would facilitate the identification thereof;
4. identify the person(s) who prepared and/or signed the document;
5. identify the persons (or if widely distributed, the organization or classes of persons) to whom it was sent;
6. identify the last known location of the document and of each copy thereof having notations or markings unique to such copy;
7. if the document was, but no longer is, in your possession or subject to your control, identify its last known custodian, describe the circumstances

under which it passed from your control to that person, and identify each person having knowledge of such circumstances;

8. describe its general subject matter and contents; and

9. if the document exceeds one page in length, or is contained in a series of documents or a larger portion, identify the specific document by appropriately identifying name or symbol, the number of the particular page or pages (or other descriptive aid) and of the line or lines thereof upon which the information referred to in the Interrogatory or your response appears.

i. “Identify” or “identification”, when used in reference to a natural person, means to provide the following information:

1. his or her full name;

2. his or her business affiliation(s), position(s), title(s), and job description(s) during the period delineated in the Interrogatory (and the dates during which each affiliation, position, title, and job description applied to him or her);

3. his or her present or last known business address (and the date of that last knowledge); and

4. his or her present or last known residence address (and the date of that last knowledge).

j. “Identify” or “identification”, when used in reference to an oral communication or statement, means to:

1. state the date of the oral communication or statement;

2. state the place where it occurred;

3. identify the persons(s) making and listening to the oral communication or statement;

4. identify all other persons present at the time it was made;

5. if by telephone, identify the persons participating in the conversation and where each was located at the time of the call; and

6. describe the substance of the oral communication or statement.

k. “Date” means the exact day, month, and year if ascertainable, or, if not, the best approximation thereof or best approximation in relation to other events.

l. “Describe” means to set forth fully and clearly every relevant fact and/or event, including particulars of time, place and manner.

m. “Set forth the factual basis” for a particular assumption means: (a) describe in detail the facts underlying the assumption; (b) identify each and every document which constitutes, evidences, refers, or relates in any way to the assumption; (c) identify each and every person who knows or believes to have knowledge or information concerning the assumption; and (d) describe in detail the nature of each such person’s knowledge or information.

n. Where the context so requires:

1. the terms “and” and “or” mean “and/or”;
2. the plural of a word includes the singular, and the singular includes the plural;
3. the past tense of verb includes the present, and the present tense includes the past;
4. the masculine gender includes feminine and neuter genders, and the neuter gender include the masculine and feminine.

o. All other words are to be given their ordinary and usual meanings, according to a current edition of Webster’s Dictionary.

## INTERROGATORIES

1. Did the Company apply to the Department of Energy to fund a pilot program in various service territories, including its Metropolitan Edison service area, for various smart grid technologies, including Volt/VAR control or Voltage Optimization?
  2. Produce a copy of all documents sent to or received from the Department of Energy related to this pilot program.
  3. Produce a copy of all documents relating to the voltage reductions, energy savings, peak demand reductions, operating cost savings or greenhouse gas emission reductions from this pilot program.
  4. Was the pilot program successful?
  5. Has the Company continued to operate the Volt/VAR control equipment for this pilot program continuously, from the date the equipment initially became operational, through the present date?
  6. If the answer to the preceding interrogatory is in the negative, please list any time periods during which the equipment was not in operation, and the reason the equipment was not in operation.
  7. Does the Company currently use integrated Volt/VAR management for any of its distribution feeders or substations?
  8. If the answer to the preceding interrogatory is in the affirmative, please state how many distribution feeders and how many substations (including the total number of distribution feeders and substations) where the Company uses integrated Volt/VAR management.
-

9. Please describe the Company's management process, policy, objectives and procedure for practicing integrated Volt/VAR management.
10. Please provide any documents created during the past five years reflecting the Company's planning or decision-making, including cost/benefit analysis, for installing integrated Volt/VAR equipment.
11. How much in energy usage reductions has the Company received on the distribution grid to date from integrated Volt/VAR management?
12. How much energy usage savings has been achieved by customers to date from integrated Volt/VAR management?
13. as the Company's Volt/VAR management led to improved system power factor and, if so, how much has the system power factor improved due to Volt/VAR management?
14. Has the Company's Volt/VAR management reduced voltage variation in the distribution feeders and, if so, how much has the voltage variation been reduced due to Volt/VAR management?
15. Has the Company's Volt/VAR management reduced peak load and, if so, how much has the peak load been reduced due to Volt/VAR management?
16. Has the Company's Volt/VAR management reduced feeder losses and, if so, how much have feeder losses been reduced due to Volt/VAR management?
17. Has the Company's Volt/VAR management improved the Company's reliability scores and, if so, by how much?

18. Has the Company used the load reductions resulting from Volt/VAR management to participate in any PJM conservation programs and, if so, how much revenue has the Company earned from the PJM conservation programs?
19. Has the Company's Volt/VAR management reduced greenhouse gas emissions and, if so, how much?
20. Has the Company's Volt/VAR management reduced operating costs and, if so, how much?



BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PENNSYLVANIA PUBLIC UTILITY :  
COMMISSION :  
 :  
v. : Docket No. R-2016-2537349  
 :  
METROPOLITAN EDISON COMPANY :

OBJECTIONS OF METROPOLITAN EDISON COMPANY TO  
THE FIRST SET OF INTERROGATORIES OF  
THE ENVIRONMENTAL DEFENSE FUND

I. INTRODUCTION AND OVERVIEW

Pursuant to 52 Pa. Code § 333(d), 52 Pa. Code § 5.342, and the Prehearing Order entered on June 22, 2016, Metropolitan Edison Company (“Met-Ed” or the “Company”) objects to the First Set of Interrogatories propounded by the Environmental Defense Fund (“EDF”) on August 10, 2016 (“EDF Interrogatories”). A copy of the EDF Interrogatories is attached as Appendix A to these Objections and incorporated herein by reference.

Met-Ed objects to the EDF Interrogatories on the same basis set forth in its Motion to Strike the Direct Testimony of EDF witness Paul Alvarez, which is being filed contemporaneously with these Objections. In summary, the Company is moving to strike Mr. Alvarez’s direct testimony because it attempts to interject issues related to *inter alia* “Integrated Volt/VAR Controls” (“IVVC”) that are entirely outside the scope of a base rate proceeding. Notably, Mr. Alvarez concedes that the Pennsylvania Public Utility Commission (“PUC” or the “Commission”) has only considered such issues in proceedings to approve the Energy Efficiency and Conservation (“EE&C”) Plans of electric distribution companies pursuant to 66 Pa.C.S. §

2806.1 – not in any base rate case.<sup>1</sup> EDF had ample opportunity to raise IVVC issues in connection with Met-Ed’s most recent EE&C Plan filing made in November 2015 and, in fact, filed comments in that case, but did not raise any IVVC issues at that time. By that time, EDF had been put on notice that IVVC-related issues are not properly raised in a base rate case because its attempt to interject the same subject in the 2015 distribution base rate case of PPL Electric Utilities Corporation (“PPL”) generated a Motion to Strike its testimony. As explained fully in Met-Ed’s Motion to Strike, in July 2015, Administrative Law Judge Susan D. Colwell granted PPL’s Motion and held that IVVC and related subjects are not “a legitimate issue for further scrutiny” in a base rate proceeding.<sup>2</sup>

The EDF Interrogatories seek detailed information about IVVC-related matters and, therefore, are objectionable for all the same reasons Mr. Alvarez’s direct testimony should be stricken. The EDF Interrogatories are also objectionable because they inquire into matters that are outside the scope of Mr. Alvarez’s direct testimony. Because the time for filing direct testimony has come and gone, the new issues that EDF is trying to probe in its Interrogatories could not lawfully be interjected in this proceeding at this time, even if Mr. Alvarez’s direct testimony were admissible.<sup>3</sup> As a consequence, the EDF Interrogatories are not material to any issue that could properly be raise in this case at this time.

## II. RELEVANT BACKGROUND

1. On April 28, 2016, Met-Ed filed Supplement No. 23 to Met-Ed’s Tariff Electric – Pa. P.U.C. No. 52 (“Supplement No. 23”) which reflects an increase in annual distribution

<sup>1</sup> Direct Testimony of Paul Alvarez, p. 5.

<sup>2</sup> *Pa. P.U.C. v. PPL Elec. Utilities Corp.*, Docket No. R-2015-2469275 et al. (Sixth Prehearing Order issued July 15, 2015) (hereafter, the “PPL Order”). A copy of the PPL Order is provided as Appendix A to Met-Ed’s Motion to Strike.

<sup>3</sup> 52 Pa. Code § 5.243(e)(2) (“A party will not be permitted to introduce evidence during a rebuttal phase which: . . . (2) Should have been included in the party’s case-in-chief.”)

revenues of \$140.2 million, or 9.53% of its total electric operating revenues. By Order issued June 9, 2016, the Commission instituted a formal investigation to determine the lawfulness, justness and reasonableness of Met-Ed's existing and proposed rates, rules and regulations. Accordingly, Supplement No. 23 was suspended by operation of law until January 27, 2017.

2. In accordance with the litigation schedule adopted by Administrative Law Judge Mary D. Long (the "ALJ") in her June 22, 2016 Prehearing Order (Revised Litigation Schedule), on July 21, 2016, EDF served the direct testimony of Mr. Alvarez.<sup>4</sup>

3. Mr. Alvarez asks the Commission to require the Company to submit a report describing: (1) IVVC costs to date and resulting "deferred capital investments" as well as reductions in energy, peak demand, and greenhouse gas emissions; and (2) a "cost/benefit analysis" and "implementation plan" for installing IVVC on remaining circuits and substations. He further proposes that Met-Ed report average voltage and power factor, by treated circuit, annually.

4. As previously explained, Met-Ed is filing a Motion to Strike all of EDF's direct testimony, including Mr. Alvarez's statement.

5. On August 10, 2016 – only seven calendar days before rebuttal testimony is due to be filed in this case – EDF served its Interrogatories attached as Appendix A. Met-Ed objects to the EDF Interrogatories for the reasons summarized above and set forth below.

### **III. OBJECTIONS TO THE EDF INTERROGATORIES**

6. The EDF Interrogatories consist of twenty questions that seek information about the Company's installation and operation of "Volt/VAR control equipment" (No. 5), including, among other things, the "management process, policy, objectives and procedures for . . .

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<sup>4</sup> Mr. Alvarez states (p. 1) he is testifying only on behalf of EDF. EDF and Citizens for Pennsylvania's Future ("Penn Future") also jointly served the direct testimony of Michael Murray. Met-Ed's Motion to Strike covers both Mr. Alvarez's and Mr. Murray's direct testimony.

Volt/VAR management” (No. 9); the number of “distribution feeders” and “substations” where “Volt/VAR management” is used (No. 8); “documents” reflecting the “planning or decision-making for installing integrated Volt/VAR equipment” (No. 10); voltage “variation” (No. 14) and “feeder losses” (No. 16) affected by “Volt/VAR management”; and reductions in “greenhouse gas emissions” that may result from deploying Volt/VAR equipment (No. 19).

7. All of the EDF Interrogatories are improper and objectionable because they seek to inquire into matters that are not within the scope of a distribution base rate proceeding. In that regard, the bases for the Company’s objections to the EDF Interrogatories are fundamentally the same as those set forth in its Motion to Strike Mr. Alvarez’s direct testimony and consist of the following:

(a) There is nothing in Met-Ed’s proposed or existing rates, rules or terms of service that pertain to subjects and issues into which the EDF Interrogatories inquire. As a distribution base rate proceeding, the scope of this case principally encompasses revenue requirement, rate structure and rate design and is subject to the statutory timeline imposed by 66 Pa.C.S. § 1308(d). The challenges of creating a well-developed evidentiary record on issues properly within the scope of a base rate case should not be heightened by interjecting factually complex but extraneous issues like those embedded in Mr. Alvarez’s direct testimony and the EDF Interrogatories. This factor played an important part in Judge Colwell’s decision to strike EDF’s direct testimony addressing, among other things, IVVC issues in PPL’s 2015 case.<sup>5</sup> As Judge Colwell determined, EDF “fail[ed] to establish” that its recommendations regarding IVVC are “a legitimate issue for further scrutiny” in a base rate case.<sup>6</sup> Judge Colwell’s findings

<sup>5</sup> See PPL Order, p. 5.

<sup>6</sup> *Id.*

highlight all of the sound and valid reasons to grant both the Company's objections and its Motion to Strike in this case.

(b) Mr. Alvarez's direct testimony provides no valid reason for IVVC issues to be considered in a distribution base rate case like this one. Whether IVVC constitutes a sound and cost-effective measure for reducing electric usage or peak demand involves a complex cluster of issues that should be properly be raised in proceedings conducted under Section 2806.1 in connection with electric utilities' proposed EE&C Plans.<sup>7</sup> Those proceedings are held pursuant to express statutory authority for the specific purpose of addressing the kinds of issues that are the focus of the EDF Interrogatories. As a consequence, proceedings held pursuant to Section 2806.1 are initiated only after adequate notice and opportunity to participate have been assured for all of the stakeholders that may have an interest in the adoption of cost-effective measures for reducing electric usage and peak demand. The same cannot be said about a base rate case like this one when IVVC issues are interjected without prior notice to all potentially interested parties.

(c) Dismissing the EDF Interrogatories – and striking Mr. Alvarez's direct testimony – does not foreclose EDF from raising IVVC issues in a proper proceeding. EDF had ample opportunity to raise IVVC issues in connection with Met-Ed's Phase III EE&C Plan, which was filed on November 23, 2015. In fact, EDF filed joint comments with Penn Future on Met-Ed's Phase III EE&C Plan in that proceeding but did not propose additional IVVC measures or raise any other issues related to IVVC in those comments. On March 10, 2016, the

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<sup>7</sup> As noted previously, Mr. Alvarez's own testimony correctly states that the only time the Commission considered IVVC-related issues was in proceedings conducted under Section 2806.1 in connection with the EE&C Plans of two other utilities.

Commission approved a final Phase III Plan for Met-Ed.<sup>8</sup> Under these circumstances, EDF's attempt to interject IVVC issues into this proceeding – where they do not belong – constitutes an unlawful collateral attack on the Commission's Order approving Met-Ed's EE&C Plan. EDF's bold attempt to “forum shop” should be rejected. Furthermore, it would be highly improper to, in effect, modify the content of Met-Ed's approved EE&C Plan as part of a base rate proceeding and, in fact, there is no authority to do so.

8. The EDF Interrogatories are also improper because they seek to probe new factual matters that are outside the scope of Mr. Alvarez's direct testimony (*e.g.*, Met-Ed's “management process, policy, objectives and procedures” pertaining to “Volt/VAR management” and operational information about the facilities of Met-Ed “Volt/VAR management” is used). In short, EDF is attempting to expand the scope of its already improper direct testimony in violation of the previously established litigation schedule, which required all direct testimony to be served by July 22, 2016. In addition, allowing EDF to broaden the scope of its case in chief in this manner is contrary to the Commission regulations for the presentation of evidence. Specifically, 52 Pa. Code § 5.243(e)(2) provides that “[a] party will not be permitted to introduce evidence during a rebuttal phase which: . . . [s]hould have been included in the party's case-in-chief.” EDF could not introduce into the record the new information sought in its Interrogatories without running afoul of that regulation. Simply stated, the fact that EDF has belatedly decided that it did not cover all the subjects it would have liked to in its case in chief does not give it authority to augment its direct testimony at this stage of the proceeding. Doing so would violate Met-Ed's due process rights to adequate notice and a reasonable

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<sup>8</sup> *Joint Petition of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company for Consolidation of Proceedings and Approval of Act 129 Phase III Energy Efficiency and Conservation Plans*, Docket No. M-2015-2514767, M-2015-2514768, M-2015-2514769 and M-2015-2514772 (Order entered March 10, 2016).

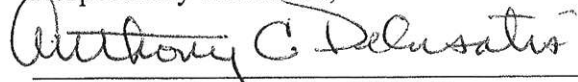
opportunity to respond in addition to contravening the Commission's regulations, which are designed to avoid just such due process transgressions.

9. The scope of permissible discovery in a proceeding before the Commission is limited to subjects that are relevant to matters properly at issue in such proceeding, as provided in Section 333(d) of the Public Utility Code and the Commission's regulations. Accordingly, for the reasons set forth above, the EDF Interrogatories inquiry into matters that are entirely outside the scope of Met-Ed's distribution base rate proceeding and, therefore, are improper and should be stricken. *See, e.g., Re Structural Separation of Bell Atlantic-Pennsylvania, Inc. Retail and Wholesale Operations*, Docket No. M-00001353, 2000 Pa. PUC LEXIS 59 at \*7-9 (Order entered Sept. 28, 2000) (affirming the Administrative Law Judge's decision to reject evidence as "beyond the scope of the proceeding."); *Pa. P.U.C. v. Pennsylvania-American Water Co.*, Docket Nos. R-00932670, *et al.*, 1994 Pa. PUC LEXIS 120 at \*158 (Order entered July 26, 1994) ("The ALJ concluded as follows: 'I agree with OTS that the issues raised by OCA are outside the scope of this investigation. . . .'"); *Re Gas Cost Rate No. 5*, 57 Pa. P.U.C. 158, 160 (1983) ("The testimony stricken by the ALJ addresses, in part, matters broader than the scope of the instant proceeding.").

#### IV. CONCLUSION

WHEREFORE, the Objections of Metropolitan Edison Company should be granted and the EDF Interrogatories should be stricken.

Respectfully submitted,



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*Counsel for Metropolitan Edison Company*

Dated: August 15, 2016



**APPENDIX A**  
**EDF FIRST SET OF INTERROGATORIES**