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February 26, 2020

**VIA ELECTRONIC FILING**

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2<sup>nd</sup> Floor  
Harrisburg, PA 17120

**Re: Noreen McCarthy v. Metropolitan Edison Company**  
**Docket No. C-2019-3006923**

Dear Secretary Chiavetta:

Enclosed please find the answer of Metropolitan Edison Company to the Motion for Stay of Noreen McCarthy with regard to the above-captioned matter.

Please contact me if you have any questions regarding this matter.

Very truly yours,



Tori L. Giesler

Enclosures

c: As Per Certificate of Service

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Noreen McCarthy,	:	
	:	
Complainant,	:	
	:	
v.	:	Docket No. C-2019-3006923
	:	
Metropolitan Edison Company,	:	
	:	
Respondent.	:	

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**ANSWER OF METROPOLITAN EDISON COMPANY TO THE  
MOTION FOR STAY FILED BY  
NOREEN MCCARTHY ON FEBRUARY 18, 2020**

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**TO ADMINISTRATIVE LAW JUDGE JEFFREY A. WATSON:**

Pursuant to 52 Pa. Code § 5.61, Metropolitan Edison Company (“Met-Ed” or the “Company”) hereby files this Answer to Noreen McCarthy’s Motion for Stay (“Motion for Stay” or “Motion”), which was filed on February 18, 2020, in the above-captioned proceeding. This Motion for Stay is the latest in a series of requests by the Complainant to delay these proceedings.

As explained herein, Met-Ed opposes the Complainant’s most recent Motion and respectfully requests that the litigation schedule set forth in the Interim Order Granting Complainant’s Third Request to Revise the Litigation Schedule, issued by Your Honor on October 3, 2019 (“*Third Extension Order*”). This proceeding was initiated over one year ago in January 2019. As noted in the *Third Extension Order*, Complainant has sought and received three separate requests to revise the litigation schedule. The instant Motion is the Complainant’s latest attempt to delay these proceedings.

Nothing presented in the Complainant's Motion warrants any further delays of the hearings. In addition, Complainant's reliance on smart meter appeals being stayed pending the Commonwealth Court's disposition of *Povacz v. PUC*<sup>1</sup> lacks merit.

For these reasons, and as explained in more detail below, the litigation schedule established by the *Third Extension Order* should remain in place and the Complainant's request for a stay of this schedule should be denied.

In support of its Answer, Met-Ed states as follows:

**I. INTRODUCTION**

1. Met-Ed was originally served on January 7, 2019, with the Complainant's Formal Complaint.

2. On March 7, 2019, Your Honor issued a Prehearing Order. Therein, it was noted that a Prehearing Conference was requested by Met-Ed, but that the Complainant had objected to the scheduling a Prehearing Conference. As such, the March 7, 2019 Prehearing Order established a litigation schedule, among other things.

3. On April 8, 2019, the Complainant filed a "Motion to Revising the Litigation Schedule."

4. On April 24, 2019, Your Honor issued the Interim Order Revising Litigation Schedule and Deadline to Respond to Discovery Requests ("*First Extension Order*").

5. On July 8, 2019, Complainant sought an additional extension of the litigation schedule from Your Honor.

6. On April 24, 2019, a second Interim Order Revising Litigation Schedule and Deadline to Respond to Discovery Requests ("*Second Extension Order*").

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<sup>1</sup> The *Povacz v. PUC* matter consists of three consolidated appeals. They are: (1) *Povacz v. PUC*, No. 492 C.D. 2019; (2) *Murphy v. PUC*, No. 606 C.D. 2019; and (3) *Randall, et al. v. PUC*, No. 607 C.D. 2019.

7. On September 30, 2019, Complainant sought a third extension of the litigation schedule from Your Honor.

8. The *Third Extension Order* was issued on October 3, 2019. Among other things, the *Third Extension Order* set forth the following deadlines and dates for the proceeding.

- November 15, 2019 – Deadline for notification of the ALJ by the parties to have an evidentiary hearing.
- January 30, 2020 – Deadline for parties' identification of fact witnesses and service of written summary of fact witness testimony.
- January 30, 2020 – Deadline for parties' identification of expert witnesses and service of written summary of expert witness testimony.
- February 28, 2020 – Conclusion of discovery by the parties.
- March 25, 2020 – Deadline for the filing of any dispositive motions.
- April 30, 2020 – Deadline for the filing of a status report.
- May 5-6, 2020 – Scheduled dates for evidentiary hearings.

9. A Hearing Notice scheduling the dates for a telephonic evidentiary hearing was subsequently issued on October 4, 2019.

10. On February 18, 2020, the Complainant filed the instant Motion to Stay.

11. Met-Ed herein submits this Answer in opposition to the Complainant's February 18, 2020 Motion for Stay.

**II. ANSWER TO THE COMPLAINANT'S FEBRUARY 18, 2020 MOTION FOR STAY**

12. The Complainant's latest Motion should be denied.

13. Nothing in the Complainant's latest Motion warrants any further delays of the schedule in this matter.

14. Complainant's assertion that a stay is necessary to save the time and resources of the parties to this proceeding is misplaced. The parties have already expended substantial time and resources in following the schedule established by the *Third Extension Order*.

15. For instance, the deadlines for the identification of factual and expert witnesses have passed. Met-Ed originally submitted its witness list on June 28, 2019, and then submitted its witness list a second time on September 12, 2019, in accordance with the amended litigation schedule. Complainant has also already identified both fact and expert witnesses, by an e-mail dated July 1, 2019. In addition, the deadline for the conclusion of discovery will conclude on February 28, 2020. Met-Ed has propounded discovery requests and served responses to Complainant's discovery requests in order to meet this deadline. As such, Complainant's assertion that the parties will save time and resources by continuing the proceeding is incorrect.

16. In addition, the Complainant's reliance on smart meter appeals being stayed pending the Commonwealth Court's disposition of *Povacz v. PUC* is misplaced.

17. By the time the Court issues its decision in *Povacz*, it is unlikely that the Commission will have issued its final order in this case and there is no guarantee that the Court's decision in *Povacz* will be controlling of some or all of the issues in this case. Moreover, the factual record in those consolidated appeals has already been established before the Commission. In the instant proceeding, on the other hand, the Complainant is attempting to delay the establishment of a complete factual record. The parties in this case are not parties to the proceedings on appeal, and there is no reason to postpone establishing a factual record in this case. As such, judicial economy in this case is best served by proceeding under the currently effective litigation schedule, pursuant to which the parties have already been preparing their respective cases.

18. Finally, Met-Ed notes that the Complainant's February 18, 2020 Motion for Stay is the most recent in a series of requests to extend or amend the litigation schedule made by the Complainant.

19. Thus, the litigation in this proceeding, which was initiated over a year ago, should not be further delayed.

20. Based on the foregoing, the Complainant's latest Motion for Stay should be denied.

### III. CONCLUSION

For the reasons set forth above, Noreen McCarthy's latest Motion for Stay should be denied, and the litigation schedule adopted in the *Third Extension Order* should be maintained without modification.

Respectfully submitted,



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Date: February 26, 2020

Attorneys for Metropolitan Edison Company

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Noreen McCarthy,	:	
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Complainant,	:	
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v.	:	Docket No. C-2019-3006923
	:	
Metropolitan Edison Company,	:	
	:	
Respondent.	:	

**CERTIFICATE OF SERVICE**

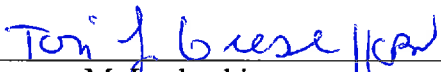
I hereby certify that I have this day served a true copy of the answer of Metropolitan Edison Company to the Motion for Stay of Noreen McCarthy upon the individuals listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

Service by electronic and First Class Mail, postage prepaid, as follows:

Noreen McCarthy  
18 Millstone Lane  
Pottstown, PA 19465  
[contactnoreen1@gmail.com](mailto:contactnoreen1@gmail.com)

Administrative Law Judge Jeffrey A. Watson  
Pennsylvania Public Utility Commission  
301 5<sup>th</sup> Avenue, Suite 220  
Pittsburgh, PA 15222  
[Jeffwatson@pagov.com](mailto:Jeffwatson@pagov.com)

Dated: February 26, 2020

  
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