



COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA PUBLIC UTILITY COMMISSION  
COMMONWEALTH KEYSTONE BUILDING  
400 NORTH STREET, HARRISBURG, PA 17120

BUREAU OF  
INVESTIGATION  
&  
ENFORCEMENT

June 5, 2020

**VIA ELECTRONIC FILING**

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120

Re: Pennsylvania Public Utility Commission,  
Bureau of Investigation and Enforcement v.  
Metropolitan Edison Company  
Docket No. C-2019-3011675  
**I&E Prehearing Conference Memorandum**

Dear Secretary Chiavetta:

Enclosed for electronic filing is the Bureau of Investigation and Enforcement's ("I&E") **Prehearing Conference Memorandum** in the above-referenced matter.

Copies have been served on the parties of record in accordance with the Certificate of Service.

Should you have any questions, please do not hesitate to contact me.

Sincerely,

Kourtney L. Myers  
Prosecutor

Bureau of Investigation & Enforcement  
PA Attorney ID No. 316494

[komyers@pa.gov](mailto:komyers@pa.gov)

Enclosures

cc: Honorable Mary D. Long  
Kayla L. Rost, Prosecutor, I&E  
As per Certificate of Service

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement,	:	
Complainant	:	
	:	
v.	:	Docket No. C-2019-3011675
	:	
Metropolitan Edison Company,	:	
Respondent	:	

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**PREHEARING CONFERENCE MEMORANDUM  
OF THE  
BUREAU OF INVESTIGATION AND ENFORCEMENT**

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**TO ADMINISTRATIVE LAW JUDGE MARY D. LONG:**

The Bureau of Investigation and Enforcement (“I&E”) of the Pennsylvania Public Utility Commission (“Commission”) respectfully submits the following Prehearing Conference Memorandum in the above-captioned proceeding pursuant to the Prehearing Conference Order dated January 16, 2020 and the Interim Order dated February 27, 2020 of the presiding Administrative Law Judge (“ALJ”).

**I. BACKGROUND**

On July 22, 2019, I&E filed a Formal Complaint against Metropolitan Edison Company (“Respondent” or “Met-Ed”) at Docket No. C-2019-3011675, alleging that Respondent violated the National Electric Safety Code (the “NESC”), Pennsylvania Code and Public Utility Code in connection with three, BH4 6 SOL-400 STR.CU bronze hot

line clamps (“Clamps A, B, and C”) that Met-Ed improperly installed on aluminum conductors steel-reinforced (“Phases A, B, and C”) in Easton, Pennsylvania. On July 26, 2016, Phase C fell to the ground, resulting in a fatal electrocution and property damage. I&E initiated an informal investigation of Met-Ed as a result of the fatal electrocution and property damage. I&E avers that its investigation determined that Met-Ed did not follow its own material specifications by installing Clamps A, B, and C on Phases A, B, and C and that Respondent failed to identify and correct the improperly installed equipment during visual inspections. I&E alleges that Met-Ed failed to create and implement installation procedures related to BH4 6 SOL-400 STR.CU clamps and that Respondent failed to properly train its employees and contractors in proper installation, inspection, and maintenance of such clamps. I&E avers that Met-Ed did not maintain records related to the installation of Clamps A, B, and C or to the locations of other BH4 6 SOL-400 STR.CU clamps on Met-Ed’s facilities. I&E further alleges that Met-Ed failed to timely de-energize its facilities, including Phase C, on the day of the fatal electrocution.

I&E seeks appropriate relief, including that the Commission: (1) find Respondent to be in violation of the National Electric Safety Code, Pennsylvania Code, and Public Utility Code for each of the counts set forth in I&E’s Complaint; (2) impose a cumulative civil penalty upon Respondent in the amount of Four Million Five Hundred Thirty-Three Thousand Dollars (\$4,533,000); (3) direct Respondent to perform each of the corrective actions detailed in I&E’s Complaint; and (4) order such other remedies as the Commission may deem appropriate.

On October 31, 2019, Respondent, through counsel, filed an Answer with New

Matter and Preliminary Objections to I&E's Complaint at the above docket.<sup>1</sup> In its Answer, Met-Ed admits that Phases A, B, and C were aluminum conductors steel-reinforced and that individually attached to each Phase A, B, and C were bronze, hot line clamps marked "BH4 6 SOL-400 STR.CU" (Clamps A, B, and C). Met-Ed also admits that it has no installation records related to Clamps A, B, and C or installation procedures for BH4 6 SOL-400 STR.CU clamps. Met-Ed also raised in its Answer the locations of other BH4 6 SOL-400 STR.CU clamps on its facilities, which is information that Met-Ed failed to furnish to I&E during the course of I&E's informal investigation. In its Preliminary Objections, Respondent asserts that some of the averments of I&E's Complaint are barred by the statute of limitations at 66 Pa. C.S. § 3314. Respondent disagrees with the civil penalty that I&E seeks to impose. On November 20, 2019, I&E replied to Met-Ed's Preliminary Objections asserting that the relief sought in I&E's Complaint is not barred by the statute of limitations and New Matter denying the material averments made therein.<sup>2</sup>

By notice dated January 9, 2020, this matter was scheduled for a Prehearing Conference on March 3, 2020 before ALJ Mary D. Long. By Interim Order dated January 16, 2020, Met-Ed's Preliminary Objections were dismissed. A Prehearing Conference Order dated January 16, 2020 was also issued.

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<sup>1</sup> By Secretarial Letter dated August 16, 2019, Respondent was granted an extension of time until October 31, 2019 to respond to I&E's Complaint.

<sup>2</sup> By Secretarial Letter dated November 12, 2019, I&E was granted an extension of time until November 20, 2019 to file an Answer to Met-Ed's Preliminary Objections and New Matter.

By letter dated February 26, 2020, Met-Ed requested a 60-day continuance of the March 3, 2020 Prehearing Conference. By Interim Order dated February 27, 2020, Met-Ed's request for a continuance of the Prehearing Conference was granted and the Prehearing Conference was rescheduled for May 4, 2020.

On April 27, 2020, via electronic mail, Met-Ed and I&E requested that the Prehearing Conference be rescheduled for the week of June 8, 2020. By notice dated April 27, 2020, the Prehearing Conference was rescheduled for June 10, 2020.

## **II. I&E PREHEARING CONFERENCE MEMORANDUM**

### **A. Service List and Distribution List**

The following prosecutors should be entered on the service list for I&E:

Kourtney L. Myers  
Prosecutor  
Pennsylvania Public Utility Commission  
Bureau of Investigation and Enforcement  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120  
(717) 705-4366  
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Kayla L. Rost  
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Pennsylvania Public Utility Commission  
Bureau of Investigation and Enforcement  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120  
(717) 787-1888  
[karost@pa.gov](mailto:karost@pa.gov)

B. Statement Regarding Possible Settlement Of Case

The parties conducted an initial in-person meeting on February 26, 2020 to discuss the possibility of a settlement. At the meeting, Met-Ed agreed to prepare and present a settlement offer to I&E. Settlement negotiations have been delayed due to the current COVID-19 emergency. I&E awaits Met-Ed's settlement proposal and is of course willing to discuss an amicable resolution that would be subject to the approval of the Commission. In the event that such a resolution cannot be reached, I&E is prepared to fully litigate this matter.

C. Proposed Modifications to the Commission's Discovery Regulations

I&E does not propose any modifications to the Commission's regulations pertaining to discovery at 52 Pa. Code §§ 5.321 *et seq.*

D. Proposed Schedule for Litigation

In order to facilitate the efficient and timely resolution of this matter, I&E proposes the following litigation schedule:

Discovery (concluded by)	September 11, 2020
Direct Testimony	October 2, 2020
Rebuttal Testimony	October 16, 2020
Evidentiary Hearing (2-3 days)	Week of November 2, 2020 or November 9, 2020
Main Briefs	December 18, 2020
Reply Briefs	January 4, 2021

I&E is amenable to working with counsel for Met-Ed to develop a schedule for this proceeding.

E. I&E Witnesses

I&E expects to present the testimony of the following witness:

Glenn Weaver  
Electric Safety Engineer  
Pennsylvania Public Utility Commission  
Bureau of Investigation and Enforcement  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120  
(717) 433-0883  
[glweaver@pa.gov](mailto:glweaver@pa.gov)

Mr. Weaver is expected to testify about I&E's informal investigation, including the documents and records provided by Met-Ed in response to I&E's Data Requests that demonstrates Met-Ed's failure to identify and correct the improperly installed clamps during visual inspections, the lack of installation, inspection, maintenance, and training procedures related to BH4 6 SOL-400 STR.CU clamps, the absence of records related to the installation of Clamps A, B, and C and the locations of other BH4 6 SOL-400 STR.CU clamps, and Met-Ed's failure to follow its material specifications for BH4 6 SOL-400 STR.CU clamps, like Clamps A, B, and C. Mr. Weaver will also testify about Met-Ed's failure to furnish to I&E the installation dates of Clamps A, B, and C and the locations of other BH4 6 SOL-400 STR.CU clamps that were installed on Met-Ed's facilities. It is expected that Mr. Weaver's testimony will support the relief that I&E seeks. I&E reserves the right to call additional witnesses and will advise accordingly.

F. Issues

The following is a list of issues that I&E intends to address in this proceeding.

I&E reserves the right to address other issues, as it deems appropriate, if any such relevant issues arise.

1. Met-Ed's alleged failure to identify and correct improperly installed and defective equipment during its visual inspections of its equipment and facilities, including Phases A, B, and C, in 2008, 2011, 2013, and 2014, thereby placing the public safety in danger, which constitutes a violation of NESC § 121(A), 52 Pa. Code § 57.193(a), and 66 Pa.C.S. § 1501.
2. Met-Ed's alleged violation of NESC § 171, 52 Pa. Code § 57.193(a), and 66 Pa.C.S. § 1501 by failing to utilize Glendon Breaker 3032 with due regard to its assigned ratings of voltage and continuous momentary currents in that when Phase C made contact with the ground, Glendon Breaker 3032 tripped, but then auto-reclosed, ultimately failing to interrupt the electric current to Phase C, thereby placing the public safety in danger.
3. Met-Ed's alleged failure to create and implement installation procedures related to BH4 6 SOL-400 STR.CU clamps, like Clamps A, B, and C, thereby placing the public safety in danger, which constitutes a violation of 66 Pa.C.S. § 1501.
4. Met-Ed's alleged failure to properly train, equip, monitor, and supervise its employees and contractors in the proper installation, inspection, and maintenance of BH4 6 SOL-400 STR.CU clamps, like Clamps A, B, and C,



thereby placing the public safety in danger, which constitutes a violation of NESC § 420(B)(1), 52 Pa. Code § 57.193(a), and 66 Pa.C.S. § 1501.

5. Met-Ed's alleged failure to maintain records regarding the installation of Clamps A, B, and C on Phases A, B, and C, thereby placing the public safety in danger, which constitutes a violation of 66 Pa.C.S. § 1501.
6. Met-Ed's alleged failure to maintain records regarding the locations of other BH4 6 SOL-400 STR.CU clamps that were installed on its equipment and facilities, thereby placing the public safety in danger, which constitutes a violation of 66 Pa.C.S. § 1501.
7. Met-Ed's alleged continuing violation of 66 Pa.C.S. § 1501 by installing BH4 6 SOL-400 STR.CU clamps (Clamps A, B, and C) on three (3) aluminum conductors steel-reinforced (Phases A, B, and C) inconsistent with FirstEnergy Material Specification No. 02-455 FE, thereby creating an ongoing, unsafe, and hazardous condition, which placed the public safety in danger.
8. Met-Ed's alleged violation of 66 Pa.C.S. § 1501 by failing to timely de-energize Glendon Circuit 3032 on July 26, 2016, which enabled the continuation of an unsafe and hazardous condition and prevented first responders from providing aid and resuscitative measures to Thomas Poynton and fire suppression to the Poynton's residence.
9. Met-Ed's failure to furnish I&E with information regarding the installation date of Clamps A, B, and C and the locations of other BH4 6 SOL-400

STR.CU clamps that were installed on Met-Ed's facilities, which constitutes a violation of 66 Pa.C.S. § 505.

10. I&E's requested relief in the form of a civil penalty of Four Million Five Hundred Thirty-Three Thousand Dollars (\$4,533,000) and the numerous corrective actions detailed in I&E's Complaint.

Respectfully submitted,



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Kourtney L. Myers

Prosecutor

PA Attorney ID No. 316494

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Bureau of Investigation and Enforcement  
Commonwealth Keystone Building  
400 North Street  
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Date: June 5, 2020

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement,	:	
Complainant	:	
	:	
v.	:	Docket No. C-2019-3011675
	:	
Metropolitan Edison Company,	:	
Respondent	:	

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a true copy of the foregoing document upon the parties, listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).


**Notification by Electronic Mail:**

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Date: June 5, 2020