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June 8, 2020

VIA ELECTRONIC FILING

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor North
P.O. Box 3265
Harrisburg, PA 17105-3265

**Re: PA Public Utility Commission Bureau of Investigation & Enforcement v.
Metropolitan Edison Company - Docket No. C-2019-3011675**

Dear Secretary Chiavetta:

Enclosed please find the Prehearing Memorandum of Metropolitan Edison Company for filing in the above-referenced proceeding. Copies will be provided as indicated on the Certificate of Service.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Garrett P. Lent', is written over a light blue horizontal line.

Garrett P. Lent

GPL/kl
Enclosures

cc: Honorable Mary D. Long
Certificate of Service

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served upon the following persons, in the manner indicated, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

VIA E-MAIL

Kourtney L. Myers, Prosecutor
Kayla L. Rost, Prosecutor
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Date: June 8, 2020

Garrett P. Lent

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

**PREHEARING CONFERENCE MEMORANDUM OF
METROPOLITAN EDISON COMPANY**

TO THE ADMINISTRATIVE LAW JUDGE MARY D. LONG:

Pursuant to 52 Pa. Code § 5.224(c), the January 16, 2020 Prehearing Conference Order and the Prehearing Conference Notice dated April 27, 2020, Metropolitan Edison Company (“Met-Ed” or the “Company”) hereby submits this Prehearing Conference Memorandum.

I. SERVICE OF DOCUMENTS

1. Met-Ed requests that all documents be served on:

Tori L. Giesler (ID # 207742)
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Reading, PA 19612-6001
Phone: 610-921-6658
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2. Met-Ed agrees to receive service of documents electronically in this proceeding. Further, to the extent that materials are available electronically, it is requested that copies be served upon Met-Ed further requests that electronic copies of all documents served in this proceeding be sent to David B. MacGregor (dmacgregor@postschell.com) and Devyn T. Ryan (dryan@postschell.com).

II. PROCEDURAL HISTORY

3. This proceeding was initiated on July 22, 2019, when the Bureau of Investigation and Enforcement (“I&E”) of the Pennsylvania Public Utility Commission’s (“Commission”) filed the above-captioned Formal Complaint against Met-Ed. The Formal Complaint, among other things, seeks a finding by the Commission that Met-Ed violated the National Electrical Safety Code (“NESC”), the Commission’s regulations and Section 1501 of the Public Utility Code, 66 Pa.C.S. § 1501, when a 34.5 kilovolt (“kV”) sub-transmission line owned and operated by Met-Ed contacted the ground behind the house located at 250 Royal Manor Road, Easton, Pennsylvania 18042 on July 26, 2016, resulting in a fatal electrocution and property investigation.

4. Met-Ed filed its Answer and New Matter responding to the Formal Complaint on October 31, 2019, and also filed Preliminary Objections to the Formal Complaint that same day. Met-Ed denied the materials allegations of the Formal Complaint, and argued that: (a) a number of I&E’s allegations and requests for relief were time-barred and/or limited under Section 3314(a) of the Public Utility Code, 66 Pa.C.S. § 3314(a); (b) the civil penalty proposed by I&E violated the Excessive Fines clauses of the Pennsylvania Constitution and the United States

Constitutes; (c) a number of I&E's claims and requests for relief are barred and/or limited by the doctrine of laches; and (d) I&E's alleged violations of Section 57.193(a) of the Commission's regulations, 52 Pa. Codd § 57.193(a), did not apply to the alleged 34.5kV sub-transmission lines at issues owned by Met-Ed.

5. I&E filed an Answer to Met-Ed's New Matter and an Answer to Met-Ed's Preliminary Objections on November 11, 2019. Therein, I&E indicated that it intended to file an Amended Complaint; to date, no Amended Complaint has been filed.

6. On January 9, 2020, the Commission issued a Call-In Telephone Pre-Hearing Conference Notice, which scheduled a telephonic Prehearing Conference for March 3, 2020, and assigned the Administrative Law Judge Mary D. Long (the "ALJ") to this proceeding.

7. On January 16, 2020, the ALJ issued an Interim Order Dismissing Preliminary Objections. Also on January 16, 2020, the ALJ issued a Prehearing Conference Order.

8. On February 26, 2020, the Commission issued a Call-In Telephone Pre-Hearing Conference Cancellation/Reschedule Notice, which cancelled the March 3, 2020 Prehearing Conference and rescheduled it for May 4, 2020.

9. On February 27, 2020, the ALJ issued an Interim Order Continuing Prehearing Conference, which reflected the change of dates set forth in the February 26, 2020 Call-In Telephone Pre-Hearing Conference Cancellation/Reschedule Notice.

10. On April 27, 2020, the Commission issued a second Call-In Telephone Pre-Hearing Conference Cancellation/Reschedule Notice, which cancelled the prehearing conference scheduled for May 4, 2020, and rescheduled it for June 10, 2020, due to the COVID-19 pandemic.

11. Pursuant to 52 Pa. Code § 5.224(c), the January 16, 2020 Prehearing Conference Order and the Prehearing Conference Notice dated April 27, 2020, Met-Ed hereby submits this

III. ISSUES

12. Met-Ed intends to demonstrate that I&E has failed to carry its burden of proof that Met-Ed has violated applicable NESC standards, Section 1501 of the Public Utility Code, the Commission's regulations, and/or any Commission order. While Met-Ed has preliminarily identified the following issues, it reserves the right to raise and/or respond to further issues asserted by I&E in any testimony presented in this proceeding.

13. Importantly, Met-Ed intends to demonstrate that I&E's Formal Complaint should be dismissed as a matter of law for several reasons, including that: (a) a number of I&E's allegations and requests for relief were time-barred and/or limited under Section 3314(a) of the Public Utility Code, 66 Pa.C.S. § 3314(a); (b) the civil penalty proposed by I&E violated the Excessive Fines clauses of the Pennsylvania Constitution and the United States Constitutes; (c) a number of I&E's claims and requests for relief are barred and/or limited by the doctrine of laches; and (d) I&E's alleged violations of Section 57.193(a) of the Commission's regulations, 52 Pa. Code § 57.193(a), did not apply to the alleged 34.5kV sub-transmission lines at issues owned by Met-Ed.

14. Met-Ed also intends to prove that its installation, operation, maintenance and inspection of the Phases A, B and C clamps at issue in this proceeding were not inconsistent with the manufacturer's guidance, and did not unreasonably place the public safety in danger in violation of NESC § 121(A), 52 Pa. Code § 57.193(a), and/or 66 Pa.C.S. § 1501.

15. Met-Ed further intends to prove that its installation, operation, maintenance and inspection of the Phases A, B and C clamps at issue in this proceeding were not inconsistent with FirstEnergy Material Specification No. 02-455 FE, and did not unreasonably place the public

safety in danger in 66 Pa.C.S. § 1501.

16. Met-Ed also plans to demonstrate that it operated the Glendon Breaker 3032 in a reasonable manner and did not following NESC § 171, 52 Pa. Code § 57.193(a), and/or 66 Pa.C.S. § 1501. Relatedly, Met-Ed expects to rebut I&E’s claim that it did not “timely de-energize” the Glendon Circuit 3032 on July 26, 2016, in violation of 66 Pa.C.S. § 1501.

17. Met-Ed also expects so show that its employees are properly trained, equipped, monitored and supervised with respect to the proper installation, inspection, and maintenance of clamps throughout its electric distribution system and, therefore, Met-Ed has not violated NESC § 420(B)(1), 52 Pa. Code § 57.193(a), and 66 Pa.C.S. § 1501.

18. Met-Ed also plans to demonstrate that it reasonably furnished I&E with information regarding the installation date of Clamps A, B and C and the other locations of other BH4 6 SOL-400 STR.CU clamps that were installed on Met-Ed’s facilities consistent with 66 Pa.C.S. § 505.

19. Finally, Met-Ed intends to show that I&E’s requested relief in the form of a civil penalty of \$4,533,000 should be denied.

IV. WITNESSES

20. Met-Ed is still evaluating the witnesses it intends to call in order to rebut I&E’s allegations and intends to preliminarily identify its witness(es) by no later than August 30, 2020.

21. Met-Ed also reserves the right to call and present additional witnesses to address any issues that may arise during the course of the proceeding.

V. DISCOVERY

22. Met-Ed does not propose any modifications to the Commission’s discovery

regulations, at this time. Met-Ed reserves its rights to propose modifications if the schedule adopted in this proceeding contains abbreviated periods between rounds of testimony.

VI. LITIGATION SCHEDULE

23. At this time, the parties have not been able to agree upon a joint schedule. As such, Met-Ed proposes that the following schedule be adopted for resolution of this matter:

Filing	July 22, 2019
Prehearing Conference	June 10, 2020
Status Report 1	July 6, 2020
Status Report 2	August 3, 2020
Discovery (concluded by)	September 11, 2020
I&E Direct Testimony	October 2, 2020
Met-Ed Rebuttal Testimony	January 15, 2021
Evidentiary Hearings (2-3 days)	Week of January 25, 2021
Main Briefs	February 19, 2021
Reply Briefs	March 12, 2021

Met-Ed remains willing to work with I&E to jointly develop a schedule in this proceeding.

VII. SETTLEMENT

24. To date, Met-Ed and I&E have begun settlement discussions and remain in the early stages of that effort. Although delays in that effort have resulted from recent unforeseen events, Met-Ed continues to actively work towards possible resolution and remains committed to moving settlement discussions forward.

Respectfully submitted,



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Dated: June 8, 2020

Attorneys for Metropolitan Edison Company