

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Larry R. Kramer and
Ellen M. Kramer**

v.

Metropolitan Edison Company

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Docket No. C-2017-2630621

MOTION IN THE CASE OF DOCKET NO. C-2017-2630621

TO ADMINISTRATIVE LAW JUDGE JEFFREY A. WATSON:

I. We move the Court to provide us the following points:

A. We move the Court to direct Met-Ed to follow the ordered non-adversarial Resolution Conference as ordered on January 12, 2018 by Chief Administrative Law Judge Rainey which has not been done. That such Resolution Conference occur after August 15, 2020 when our unusual and serious immediate family medical issues are under better control.

1. In their June 11, 2020, in an unnumbered paragraph on page 2 and again in their #47 of their “Answer of Metropolitan Edison Company to the June 5, 2020 ‘Response to Interim Order’ Filed by Larry R. and Ellen M. Kramer”, Met-Ed stated that they did reach out to us “to try to set a resolution conference”. However, they infer that they did not return our voicemail response to set an actual conference date as ordered. They state, “it became plainly evident that the Complainants and Met-Ed will be unable to reach a settlement in this case because the Complainants refuse the smart meter’s installation under any

circumstances.” In #47 they added, Accordingly, a resolution conference would be a fruitless exercise.” Complainants do not believe Met-Ed can justify setting aside an Order by the Chief Administrative Law Judge for any reason.

2. Within the same document, Met-Ed stated in paragraph 9 that “On February 26, 2018, the Complainants called back and left a voicemail for Met-Ed in response to Met-Ed’s call on February 16, 2018 [7 days after the ordered Resolution Conference was to have occurred].” However, in this part of the same document, they state that a follow-up call occurred. No date for such alleged follow up call is noted with other dates in their background. No voicemail was received by Complainants on their answering machine or in person although it was expected.
3. In an email on June 1, 2018, the Commission’s mediator Cindy Lehman asked Met-Ed for a status on the Resolution Conference. The Commission contacted Met-Ed because **Met-Ed failed to give such a report as ordered by the Chief Administrative Law Judge Rainey. This ordered Resolution Conference and report was almost four (4) months late.**
4. In the email, Met-Ed stated, “We contacted Mr. and Mrs. Kramer back in February and left a message [actually they spoke with Mrs. Kramer]. Ms. Kramer contacted us back and left a message.” Then they continued incorrectly, “We since have tried calling and leaving messages and have not heard back from her. At this point, we may want to have a prehearing conference with the ALJ and see if there is a possibility to settle.” This “calling and leaving messages” indicates more than one voicemail in contrast to the statement in their most recent response

as noted in point #2 above. Having “a prehearing conference with the ALJ to settle” is not the non-adversarial atmosphere that the Chief Judge ordered.

5. Complainants believe that this communication was *ex parte* because:
 - a. Complainants were not included in the email.
 - b. Complainants were denied the right to express their desire to follow Chief Judge Rainey’s Order.
 - c. Met-Ed influenced the Commission to ignore an Order.
 - d. Met-Ed influenced the Commission to avoid a non-adversarial order in favor a more adversarial one.
 - e. Met-Ed portrayed the Complainants as disobedient, unresponsive, and not desiring to fulfill an order rather than patiently waiting for Met-Ed to respond to their voicemail. This communication could prejudice the Commission against us.
 - f. Both Met-Ed and the Commission denied the Complainants the opportunity to correct that record.
 - g. Complainants do not feel assured that additional *ex parte* communications have not occurred.
6. Chief Judge Rainey’s January 12, 2018 Order stated that the Resolution Conference could be followed by mediation both of which are not adversarial. Those events would then be followed by a hearing which may be adversarial. Therefore, Met-Ed’s proposed prehearing conference does not appear to fulfill the ordered Resolution Conference/Mediation provisions.

7. Chief Judge Rainey explained that the Resolution Conference process would not be adversarial. However, Met-Ed responded to the order with an intimidating 163-question Interrogatory which they wanted us to respond to on the phone or in person. Their instructions that accompanied the Interrogatories made it sound as though this would be the Resolution Conference that the Chief Judge ordered. Being people of normal intelligence, we clearly understood their instructions would not result in the “non-adversarial” Conference as Chief Administrative Law Judge Rainey ordered. We believe that this shows Met-Ed’s aggressiveness and unwillingness to cooperate professionally in the instant case.
8. Met-Ed claims that “Complainants’ issues regarding the scheduling of a resolution conference are without merit.” However, Complainants do not believe that following Orders of the Chief Administrative Law Judge are without merit.
9. In their paragraph 38, Met-Ed stated that in our March 18, 2020 Second Status Report that we “failed to provide the dates and proposed locations for an evidentiary hearing.” However, they failed to mention that part of the status at the time was the yet unfulfilled Resolution Conference and lack of explanation why such Order should be ignored.

B. That the volumes of documents and exhibits for any hearing in our case would be due in a more reasonable time on or after September 20, 2020.

10. Anyone who is familiar with our Formal Complaint would realize that three (3) weeks to prepare and label the volume of documents and exhibits would not be enough let alone with such unusual family medical challenges and the extra time

needed for Complainants' with vision issues at this time. For due process to occur, adequate time is necessary even in the most ideal situations.

C. We move the Court to consider our request for a delay of hearing to be exigent circumstances as stated in the Order.

11. Administrative Law Judge Watson stated in his Order dated May 26, 2020, that a delay of a telephonic hearing would not occur unless there were a "exigent circumstances" which are present at this time.
12. Complying with a yet unfulfilled Order of the Chief Judge Rainey for a Resolution Conference would seem to a person of normal intelligence as an "exigent circumstance."
13. Having sufficient time to prepare documents, considering that Complainants have the burden of proving a preponderance of evidence, is allowing due process and an "exigent circumstance."
14. Preparing such documents could not occur by June 15, 2020, because of extreme family medical circumstances. A mother in the hospital with surgeries not even related to her reason for admission and a child having a *double hip replacement* are surely "exigent" to any person who has a healthy relationship with their own parent or to any person who has or desires even one child.
15. Preparing and labeling documents exhibits by a June 15, 2020 deadline would not be possible due to both Complainants' current vision issues which are exigent.
16. Met-Ed states in an unnumbered paragraph on pages 2-3 that "the burden to participate in a hearing will be minimal." This additionally is not true.

- a. Only a sloppy person would bear minimal burden in this case. We bear the burden of a preponderance of evidence which is not “minimal.”
- b. In order to be granted due process, Complainants do not bear a “minimal burden” in participating in this case.

D. We move the Court to assign a different Administrative Law Judge to our case.

17. Met-Ed claims that discovery has been completed since June 17, 2019. However,
- a. On May 25, 2019, Complainants mailed Set IV Interrogatories to Met-Ed.
 - b. On June 6, 2019, Met-Ed mailed Objections to Complainants’ Interrogatories and Production of Documents, Set IV. Met-Ed claimed that “[n]umerous of the Complainants’ Discovery Requests, Set IV, seek information or documents that are wholly objectionable, and the Company objects to them in their entirety.”
 - c. **On June 17, 2019**, Complainants responded to Met-Ed’s objections to Complainants’ Interrogatories Set IV with a Motion to Compel. This is the date that Met-Ed erroneously refers to as the date when discovery concluded.
 - d. On December 6, 2019, Judge Watson denied the non-attorney Complainants’ Motion to Compel.
 - e. On December 18, 2019, Complainants filed a Reconsideration of Motion to Compel Met-Ed to answer interrogatories Set IV.
 - f. On March 6, 2020, Judge Watson denied non-attorney Complainants’ second request for a Motion to Compel Met-Ed to answer Interrogatories

Set IV which were initially served on May 25, 2019. This was **over nine (9) months to resolve and denying Complainants a timely opportunity to notify the Court that more time for discovery is necessary. Met-Ed remains uncooperative with discovery. The Court has always determined in favor of Met-Ed on our Motions to Compel despite Pa. Code. However, our objections to Met-Ed's Interrogatories all were denied.**

18. With that denial, as with all other denials of our Motions to Compel Met-Ed to answer our Interrogatories, **we believe we have been denied valid and evidentiary evidence at a hearing.** Regardless of how specific a question would appear to a person of normal intelligence, those who answered for Met-Ed claimed that nearly every question was vague, overly burdensome, etc. **Complainants feel denied the right to evidence from that discovery for a hearing.**
19. In their paragraph 15, Met-Ed claimed that Complainants never served our responses to discovery. Said answers to Met-Ed's Interrogatories Set I were responded to on December 27, 2018, as indicated in a Certificate of Service properly served upon the Secretary, Judge Watson, and the Respondent.
20. Met-Ed states that on January 23, 2019, "Complainants submitted a request to extend the litigation schedule". On or about January 23, 2019, non-attorney Complainants had just filed a document that took considerable time to prepare. Therefore, desiring to do everything thoroughly, we were unable to prepare our list of witnesses which were quickly due and requested an extension of time. On

the day that witnesses were due, Judge Watson received the request and promptly denied that request for extension of time with no explanation.

21. On the recommendation of the Secretary, Complainants submitted a second request for extension of time. Again, it included a request to at least be able to submit the list of witnesses. In neither extension of time nor in a response to our following Status Report did Judge Watson address our request or grant us permission to submit a list of witnesses thereby attempting to deny us due process.

22. In numerous Orders, Complainants have felt as though Judge Watson has scolded us for non-compliance with orders:

- a. when we requested clarification to his Orders which were unclear, or
- b. when information has been included in our responses, but he accuses us of not including that information, or
- c. he accuses us of being late when we clearly have met deadlines.

23. These represent examples of extended delays on the part of the Court and not addressing details of due process. None of this displays proper and expected judicial temperament. Therefore, we move that the Secretary assign another judge to our case.

E. We move that Met-Ed and the Court accept Complainants list of witnesses.

24. Anyone who is familiar with our documents for the last 18 months would know that we have been trying to get the Court to be open to our having witnesses participate in our hearing. The first request reached ALJ Watson on the day it was due. For due process to

occur, adequate time and coordination with those witnesses is necessary rather than setting a date five weeks from the date of the order. Because of obligations of those witnesses, they are not available until after September 20, 2020. Because of our immediate family medical issues, we are not yet able to coordinate dates with them.

F. We move the Court that a telephonic hearing be scheduled at some date after September 20, 2020, when at least four (4) of Complainants' witnesses are available.

Respectfully,

Larry R. Kramer

Larry R. Kramer

Ellen M. Kramer

Ellen M. Kramer

June 14, 2020

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PENNSYLVANIA PUBLIC UTILITY COMMISSION

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Certificate of Service

We hereby certify that we have this day served a true copy of the response to Judge Watson's Interim Order of June 14, 2020, upon the individuals listed below, in accordance with the requirements of 52 Pa. Code § 1.54.

Service by efile and email as follows:

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Dated: June 14, 2020


Larry R. Kramer


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