

Tori L. Giesler, Esq.
(610) 921-6658
(330) 315-9263 (Fax)

August 19, 2020

VIA ELECTRONIC FILING

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

Re: Larry R. Kramer and Ellen M. Kramer v. Metropolitan Edison Company
Docket No. C-2017-2630621

Dear Secretary Chiavetta:

Enclosed please find the answer of Metropolitan Edison Company to the Complainants' Objection and Reconsideration of the August 6, 2020 Interim Order with regard to the above-captioned matter.

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

Very truly yours,



Tori L. Giesler

kbw
Enclosures

c: As Per Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Larry R. and Ellen M. Kramer,	:	
	:	
Complainants,	:	
	:	
v.	:	Docket No. C-2017-2630621
	:	
Metropolitan Edison Company,	:	
	:	
Respondent.	:	

**ANSWER OF METROPOLITAN EDISON COMPANY
TO THE COMPLAINANTS’ OBJECTION AND RECONSIDERATION OF
THE AUGUST 6, 2020 INTERIM ORDER**

TO ADMINISTRATIVE LAW JUDGE JEFFREY A. WATSON:

Metropolitan Edison Company (“Met-Ed” or the “Company”) hereby files this Answer to the “Objection and Reconsideration of the August 6, 2020, Ruling Of ALJ Watson’s Interim Order Which Was Made In Error” (“Objection and Motion for Reconsideration”) filed by Larry R. and Ellen M. Kramer (“Complainants”) on August 12, 2020, pursuant to the Pennsylvania Public Utility Commission’s (“Commission”) regulations at 52 Pa. Code §§ 5.61 and 5.103(c). In the Objection and Motion for Reconsideration, the Complainants make numerous irrelevant specious allegations regarding the Interim Order Addressing Late Filed Exhibits issued by the Administrative Law Judge Jeffrey A. Watson (the “ALJ”) on August 6, 2020 (the “Interim Order”).¹ None of the Complainants’ assertions have merit and, for the reasons explained below, the Objection and Motion for Reconsideration should be denied.

In support thereof, Met-Ed states as follows:

¹ At this time, Met-Ed objects to the admission of any further exhibits by the Complainants as untimely. However, as Met-Ed does not know the subject matter of any such exhibits at this time, Met-Ed fully reserves its rights to renew its objection based on untimeliness and raise additional objections to any further exhibits based on their substance.

I. BACKGROUND PROCEDURAL HISTORY

1. This proceeding has a long history. Met-Ed incorporates the procedural history set forth in paragraphs 1-47 of its Objections to the Complainants' Late-Filed Exhibits dated July 31, 2020.

2. On August 6, 2020, the ALJ issued the Interim Order. While the ALJ admitted Compl. Exhibits 1 and 2 into the record, the ALJ precluded the Complainants and Met-Ed from submitting further proposed exhibits as the deadline for submitting late-filed exhibits had passed. Interim Order, Ordering Paragraphs 1-2.

3. The Complainants filed the instant Objection and Motion for Reconsideration on August 12, 2020.

II. ANSWER TO THE COMPLAINANTS' OBJECTION AND MOTION FOR RECONSIDERATION

4. The Complainants' Objection and Motion for Reconsideration raises five primary arguments. Based on these claims, the Complainants request various relief, including reconsideration of the Interim Order, extension of the deadlines established by the ALJ at hearing and the creation of a new deadline for the Complainants to submit additional, late filed exhibits in this matter. *See* Objection and Motion at 6.² As explained below, each of these arguments is without merit and should be denied.

5. First the Complainants assert that the telephonic hearing held in this case on June 29, 2020, constitutes a denial of due process. Objection and Motion at 1 ("The presiding officer denied us due process by not accommodating any of those requests."). The Complainants appear to assert that were not permitted to submit a list of witnesses. However, since the issuance of the

² Met-Ed notes that the version of the Objection and Motion that it was served with appears to have several pages out of order. Met-Ed has endeavored to re-order those pages for purposes of this Answer and has attached the Objection and Motion as **Attachment A**.

October 15, 2018 Interim Order Establishing Initial Litigation Schedule, the Complainants were provided an opportunity to identify any witnesses they wished to call. However, the Complainants failed to do so in compliance with the deadlines established by the ALJ. *See* May 10, 2019 Met-Ed Status Report. Met-Ed also requested this information in discovery, and the Complainants did not provide it. In addition, the Complainants' claim that they required additional time to review documents or submit evidence is similarly without merit. This case has been ongoing since October 14, 2017 (i.e., approximately 34 months) and the Complainants have received numerous prior extensions of time to prepare their case. Any lack of preparation or time to prepare for the June 29, 2020 hearing rests solely on the Complainants' shoulders. Lastly, the Complainants' attempts to re-argue previously denied motions for recusal should simply be denied. The Complainants were provided with ample notice and opportunities to be heard throughout this case and, therefore, have been afforded more than ample due process.

6. Second, the Complainants assert that they were not provided a copy of the transcript in this proceeding. *See* Objection and Motion at 2 (Paragraph C) and 5 (Paragraph E). Again, however, any failure to obtain the transcript rests solely on the Complainants themselves. Importantly, the ALJ clearly explained the procedure by which the Complainants could obtain a transcript. The ALJ noted that "the parties have an opportunity to purchase a copy of the transcript, if you want to do that." Tr. 12. "So if you would like to obtain a copy of the transcript, please call my office, leave a message and somebody will get back to you to give you all the information you need to purchase the transcript." Tr. 13 (emphasis added). The ALJ further made available an option for the Complainants to review the transcript, if they did not want to purchase it, and indicated that "if you want to review it and take notes from it just

contact my office and the commission will use their best efforts under these unique circumstances to attempt to arrange that.” Tr. 14 (emphasis added).

7. Indeed, if the Complainants wanted to obtain a copy of the transcript, or review a copy without purchasing it, they were required to make this desire known and obtain the details necessary to purchase or review it. No additional notification or communication from the Commission to Met-Ed was contemplated or made; Met-Ed contacted the ALJ, per his instructions, to purchase and obtain a copy of the transcript. Complainants’ failure to similarly follow instructions does not warrant reconsideration of the Interim Order.

8. Third, the Complainants take umbrage with Met-Ed’s Objections to their late-filed exhibits on irrelevant and inaccurate grounds. *See* Objection and Motion at 2-3 (Paragraph D.1 through 5). Even if these assertions were accurate, and they are not, none of them are relevant or persuasive grounds for granting reconsideration of the Interim Order or providing further extensions of time for the Complainants to make additional submissions.

9. Fourth, the Complainants repeat their claim that they were, or should be, permitted to further delay the close of the record in this proceeding and submit additional late-filed exhibits which were in their possession at the time hearings were held. *See* Objection and Motion at 3-4 (Paragraph D.6). However, the Complainants were not provided until August 14, 2020, to submit any additional late-filed exhibits. Tr. 386. Although the ALJ provided the Complainants the opportunity to present further late-filed exhibits, based on the specific facts surrounding any such exhibits, the Complainants simply failed to specifically identify and describe any other exhibits they would be permitted to file late.

10. Indeed, as previously explained by Met-Ed, despite being directed by the ALJ to identify any further exhibits the Complainant clearly stated “I can’t do that.” Tr. 119. Moreover,

despite indicating that any additional exhibits were in a “binder,” which the Complainants had within their possession, and being provided an opportunity to retrieve those documents and identify them for consideration, the Complainants failed to identify or produce any additional items they wished to be considered as late-filed exhibits. *See* Tr. 119-121, 124-132. As such, the Complainants were only granted until July 20, 2020 to submit the two termination letters identified herein as Compl. Exhibits 1 and 2; they were not at any time provided until August 14, 2020 to submit any other late-filed exhibits.

11. Met-Ed further also that the August 30, 2020, deadline asserted by the Complainants is incorrect; Met-Ed was provided until August 31, 2020 to respond to the Complainants’ objections to the documents identified as PD-1 through PD-5. Tr. 285-286. This date makes no reference to objecting to additional late-filed exhibits.

12. Furthermore, the Complainants’ attempts to obfuscate the facts that (a) they had their exhibits in their possession at the hearing and (b) they were given an opportunity by the ALJ to identify these exhibits for admission, which they did not seize, should be denied. The assertion that some of these exhibits were, or were not, in “binderS” does not matter; the fact remains that these exhibits were in the Complainants’ possession at the time of the hearing and they failed to present to them for admission. Simply stated, it is not “impossible” to identify the exhibits a party intends to present at hearing. The Complainants’ claims of impossibility appear to be nothing more than an unsupported attempt to obtain further delays in this proceeding and should be denied.

13. And fifth, the Complainants claim that Met-Ed’s Objections to the Late-Filed Exhibits “changed the instructions or the law.” Objection and Motion at 4 (Paragraph D.7). Met-Ed has done nothing of the sort. Rather, Met-Ed followed the instructions provided by the

ALJ necessary to obtain a copy of the transcript, and then quoted the transcript in its Objections. The Complainants were given the opportunity to do the same, but did not do so. As such, their Objections and Motion should be denied.

14. For these reasons, Met-Ed requests that the Complainants' Objection and Motion for Reconsideration be denied. To the extent that the Complainants refuse to comply with an order denying the Objection and Motion for Reconsideration, or attempt to submit additional exhibits in contravention of the ALJ's Interim Order, Met-Ed hereby will seek sanctions, up to and including dismissal of the Complaint, due to the Complainants' repeated refusals and failures to comply with the orders and directives of the ALJ and the Commission's regulations.

III. CONCLUSION

For the reasons set forth above, Larry R. and Ellen M. Kramer's "Objection and Reconsideration of the August 6, 2020, Ruling of ALJ Watson's Interim Order Which Was Made In Error" should be denied.

Respectfully submitted,



Lauren M. Lepkoski
Attorney No. 94800
Tori L. Giesler
Attorney No. 207742
FirstEnergy Service Company
2800 Pottsville Pike
P.O. Box 16001
Reading, Pennsylvania 19612-6001
(610) 921-6203
(610) 921-6658
llepkoski@firstenergycorp.com
tgiesler@firstenergycorp.com

Date: August 19, 2020

Attorneys for Metropolitan Edison Company

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Larry R. and Ellen M. Kramer,	:	
	:	
Complainants,	:	
	:	
v.	:	Docket No. C-2017-2630621
	:	
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 Complainants' Objection and Reconsideration of the August 6, 2020 Interim Order 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 mail as follows:

Larry R. Kramer and Ellen M. Kramer
kramer101@comcast.net

Administrative Law Judge Jeffrey A. Watson
Jeffwatson@pa.gov

Dated: August 19, 2020



Lauren M. Lepkoski
Tori L. Giesler
FirstEnergy Service Company
2800 Pottsville Pike
P.O. Box 16001
Reading, Pennsylvania 19612-6001
(610) 921-6203
(610) 921-6658
llepkoski@firstenergycorp.com
tgiesler@firstenergycorp.com