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October 15, 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: Verizon Pennsylvania LLC and Verizon North LLC v. Metropolitan Edison Company, Pennsylvania Electric Company, and Pennsylvania Power Company
Docket No. C-2020-3019347

Dear Secretary Chiavetta:

Enclosed for filing is the Motion of Metropolitan Edison Company, Pennsylvania Electric Company, and Pennsylvania Power Company (the "Companies") to Unseal Certain Proprietary Information and Request for Expedited Consideration ("Motion") in the above-referenced proceeding. The Companies respectfully requests a ten (10) day answer period and expedited consideration of the attached Motion by the Pennsylvania Public Utility Commission ("Commission").

The Motion contains **PROPRIETARY** Appendices A through I, which will be filed via email directly to Secretary Chiavetta. The **PROPRIETARY** Appendices A through I should continue to be treated as **PROPRIETARY** information and afforded non-public treatment unless and until the Commission orders them unsealed. A public cover page associated with **PROPRIETARY** Appendices A through I is included in the public version of this filing.

Respectfully submitted,

Garrett P. Lent

GPL/jl

Enclosures

cc: Honorable Joel H. Cheskis
Certificate of Service
Office of Special Assistants

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).

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Date: October 15, 2020

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Verizon Pennsylvania LLC and Verizon North LLC, Complainants	:	
v.	:	
Metropolitan Edison Company, Pennsylvania Electric Company, and Pennsylvania Power Company, Respondents	:	Docket No. C-2020-3019347

NOTICE TO PLEAD

YOU ARE HEREBY ADVISED THAT, PURSUANT TO 52 PA. CODE § 5.103(c), ANSWERS TO MOTIONS GENERALLY ARE DUE WITHIN TWENTY (20) DAYS AFTER THE DATE OF SERVICE. **IN THE INSTANT MOTION, THE COMPANY REQUESTS AN EXPEDITED RESPONSE PERIOD OF TEN (10) CALENDAR DAYS TO FACILITATE A RULING ON THE MOTION IN SUFFICIENT TIME BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION'S DEADLINE TO ISSUE A FINAL RULING IN THE ABOVE-CAPTIONED PROCEEDING**. YOUR ANSWER SHOULD BE FILED WITH THE SECRETARY OF THE PENNSYLVANIA PUBLIC UTILITY COMMISSION, P.O. BOX 3265, HARRISBURG, PA 17105-3265. A COPY OF YOUR ANSWER SHOULD ALSO BE SERVED ON THE UNDERSIGNED COUNSEL.

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Date: October 15, 2020

Attorneys for Metropolitan Edison Company, Pennsylvania Electric Company, and Pennsylvania Power Company.

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Verizon Pennsylvania LLC and Verizon North LLC, Complainants	:	
v.	:	
Metropolitan Edison Company, Pennsylvania Electric Company, and Pennsylvania Power Company, Respondents	:	Docket No. C-2020-3019347

MOTION OF METROPOLITAN EDISON COMPANY, PENNSYLVANIA ELECTRIC COMPANY, AND PENNSYLVANIA POWER COMPANY TO UNSEAL CERTAIN PROPRIETARY INFORMATION AND REQUEST FOR EXPEDITED CONSIDERATION

TO PENNSYLVANIA PUBLIC UTILITY COMMISSION:

Pursuant to Section 335(d) of the Pennsylvania Public Utility Code, 66 Pa.C.S § 335(d), and Sections 5.103 and 5.365(a) of the Pennsylvania Public Utility Commission's ("Commission") regulations, 52 Pa. Code §§ 5.103 and 5.365(a), and paragraph 11 of the Stipulated Protective Agreement entered into by the parties to this proceeding, Metropolitan Edison Company ("Met-Ed"), Pennsylvania Electric Company ("Penelec"), and Pennsylvania Power Company ("Penn Power") (collectively, "FirstEnergy" or the "Companies") hereby file this Motion to Unseal Certain Proprietary Information contained in the testimony, Briefs, Exceptions, and Replies Exceptions submitted in this proceeding by FirstEnergy as well as Verizon Pennsylvania LLC and Verizon North LLC (collectively, "Verizon").

More specifically, (a) the aggregate amount of the annual revenue decrease sought by Verizon, and (b) the amount of refunds sought by Verizon have been designated as "PROPRIETARY" and should be unsealed and re-designated as "NON-PROPRIETARY" and

available to the public. As more fully explained below, these categories of information relate specifically to the relief that Verizon seeks in this proceeding and will directly impact the rates paid by the Companies' Pennsylvania electric service customers. Importantly, FirstEnergy is not requesting that the individual rates that Verizon pays be disclosed. Instead, it is specifically requesting that the aggregate total annual revenue decrease and total refund amounts that Verizon seeks as relief be disclosed. As explained below, this aggregate data cannot be used to reverse calculate the specific rates Verizon pays under each of the Joint Use Agreements. The public release of this information is necessary to ensure that the public is adequately informed of the potential impact of Verizon's requested relief and to ensure that the interests of the Companies' Pennsylvania electric service customers are adequately considered by the Commission. Therefore, FirstEnergy respectfully requests that the Commission unseal the pages of the parties' testimony, Briefs, Exceptions and Replies Exceptions that accompany this Motion.[1]

In support of its Motion, FirstEnergy states as follows:

I. BACKGROUND

1. The procedural history of this proceeding before the Commission and the Federal Communications Commission ("FCC") is set forth in FirstEnergy's Main Brief. *See* FirstEnergy

[1] A true and correct copy of the applicable pages of each of the parties' testimony, Briefs, Exceptions, and Replies to Exceptions are attached hereto as follows: (1) applicable pages from FirstEnergy St. 3-R are attached hereto as **PROPRIETARY Appendix A**; (2) applicable pages from FirstEnergy's Main Brief are attached hereto as **PROPRIETARY Appendix B**; (3) applicable pages from FirstEnergy's Reply Brief are attached hereto as **PROPRIETARY Appendix C**; (4) applicable pages from FirstEnergy's Exceptions are attached hereto as **PROPRIETARY Appendix D**; (5) applicable pages from FirstEnergy's Replies to Exceptions are attached hereto as **PROPRIETARY Appendix E**; (6) applicable pages from Verizon's Main Brief are attached hereto as **PROPRIETARY Appendix F**; (7) applicable pages from Verizon's Reply Brief are attached hereto as **PROPRIETARY Appendix G**; (8) applicable pages from Verizon's Exceptions are attached hereto as **PROPRIETARY Appendix H**; and (9) applicable pages from Verizon's Replies to Exceptions are attached hereto as **PROPRIETARY Appendix I**. FirstEnergy notes that the identified pages are from the "PROPRIETARY" versions of the parties' submissions. As such, unless and until the Commission orders that these pages be unsealed, FirstEnergy requests that they continue to be afforded "PROPRIETARY" and non-public treatment by the Commission and its bureaus.

MB at 9-14. Herein, FirstEnergy incorporates the recitation of the procedural history set forth in its Main Brief by reference.

2. The parties did not seek and the Deputy Chief Administrative Law Judge Joel H. Cheskis ("ALJ") did not issue a Protective Order in this proceeding.

3. FirstEnergy and Verizon did, however, enter into a "Protective Agreement" as a part of the proceeding before the FCC, on January 27, 2020. A true and correct copy of the Protective Agreement is attached hereto as is **Public Appendix J**.

4. Paragraph 12 of the Protective Agreement states:

> 12. By entering into this Agreement, a Receiving Party does not waive any right that it may have to dispute the Companies' determination regarding any material identified as Protected Material by the Companies and to pursue those remedies that may be available to Receiving Party before an administrative agency or court of competent jurisdiction. Nothing in this Agreement precludes a Receiving Party from filing a motion to compel.

Appendix I ¶ 12.

5. Subsequently, on June 8, 2020, FirstEnergy and Verizon entered into a "Stipulated Protective Agreement" with respect to the proceeding before the Commission. A true and correct copy of the Stipulated Protective Agreement is attached hereto as is **Public Appendix K**.

6. Paragraph 11 of the Stipulated Protective Agreement states:

> 11. The parties affected by the terms of this Stipulated Protective Agreement shall retain the right to question or challenge the confidential or highly confidential nature of the Proprietary Information; to question or challenge the admissibility of Proprietary Information; to refuse or object to the production of Proprietary Information on any proper ground, including but not limited to irrelevance, immateriality, or undue burden; and to seek additional measures of protection of Proprietary Information beyond those provided in this Stipulated Protective Agreement. If a challenge is made to the designation of a document or information as Proprietary Information, the party claiming that the information is proprietary or otherwise confidential or highly confidential retains

> the burden of demonstrating that the designation is necessary and appropriate.

Appendix J ¶ 11.

7. Paragraph 15 of the Stipulated Protective Agreement states as follows:

> 15. All materials designated as "CONFIDENTIAL" or "COMPETITIVELY SENSITIVE CONFIDENTIAL" by either party in Federal Communications Commission Proceeding No. 19-355, Bureau ID No. EB-19-MD-009 pursuant to the Protective Agreement entered by the parties on January 27, 2020 (the "FCC Protective Agreement") shall continue to be protected in accordance with the terms of the FCC Protective Agreement and shall be treated as "CONFIDENTIAL INFORMATION" and "HIGHLY CONFIDENTIAL INFORMATION," respectively, under this Stipulated Protective Agreement. To the extent the terms and conditions of the FCC Protective Agreement and this Stipulated Protective Agreement conflict with respect to the disclosure, access, or use of such materials in this proceeding, the terms and conditions of this Stipulated Protective Agreement shall control.

Appendix J ¶ 15 (emphasis added).

8. Pursuant to the Second Scheduling Order dated June 9, 2020, the parties submitted Main Briefs on July 28, 2020, and submitted Reply Briefs on August 14, 2020. Both FirstEnergy and Verizon submitted "Public" and "PROPRIETARY" versions of their respective Main and Reply Briefs.

9. In its Briefs, Verizon asserted that it was entitled to a substantial reduction in the rates it pays FirstEnergy to attach to FirstEnergy's poles under several, substantially similar Joint Use Agreements between the parties. Verizon specifically sought to (a) reduce the going-forward rate it pays under the Joint Use Agreements to a rate calculated using the FCC's new telecom rate formula, which it asserted was the only just and reasonable rate under the Joint Use Agreements, and (b) obtain refunds of the differences between the rates it paid FirstEnergy under the Joint Use Agreements and the FCC's new telecom rate from July 2011 to present.

10. FirstEnergy, on the other hand, demonstrated that there was no legal basis under the Public Utility Code or Pennsylvania law to reduce the rates Verizon pays or award it refunds. In addition, FirstEnergy established that Verizon was entitled to none of the relief it sought under the FCC's regulations and applicable precedent. Based upon these arguments, FirstEnergy reasonably believed there was no lawful basis upon which the ALJ could recommend the award of refunds. As explained by FirstEnergy in this proceeding, the plain language of the Public Utility Code (particularly Section 508, 66 Pa.C.S. § 508) and Pennsylvania law remain clear on this issue.

11. On September 15, 2020, the ALJ issued the Recommended Decision ("RD") in this proceeding. The Secretarial Letter serving the RD indicated that Exceptions were due by September 22, 2020, and that Replies to Exceptions were due by September 28, 2020. In the RD, the ALJ adopted Verizon's arguments. The RD (a) concluded that Verizon should pay a rate calculated using the FCC's new telecom rate under the Joint Use Agreements going forward, and (b) awarded Verizon refunds reaching back to March 2019.

12. On September 22, 2020, FirstEnergy and Verizon each submitted exceptions to the RD. Each of the parties respectively submitted "Public" and "PROPRIETARY" versions of their exceptions.

13. On September 28, 2020, FirstEnergy and Verizon each submitted replies to the other party's exceptions to the RD. Each of the parties respectively submitted "Public" and "PROPRIETARY" versions of their replies to exceptions.

14. As stated in FirstEnergy's Exceptions and Replies to Exceptions, the RD committed significant errors of law by awarding Verizon a new rate under the Joint Use Agreements going forward and granting Verizon refunds based upon a retroactive revision of the Joint Use Agreements.

15. For the reasons explained below, the pages of the parties' Main and Reply Briefs, Exceptions, and Replies to exceptions identified in **PROPRIETARY Appendices A-I** should be unsealed and re-designated as "public" and "non-proprietary."

II. MOTION TO UNSEAL

16. Section 5.103 of the Commission's regulations states that "[a] motion may be made in writing at any time" and that it "must set forth the ruling or relief sought, and state the grounds therefor and the statutory or other authority upon which it relies." *See* 52 Pa. Code § 5.103(a) and (b).

17. Section 335(d) of the Public Utility Code states that:

> if a document contains trade secrets or proprietary information and it has been determined by the commission that harm to the person claiming the privilege would be substantial or if a document required to be released under this section contains identifying information which would operate to the prejudice or impairment of a person's reputation or personal security, or information that would lead to the disclosure of a confidential source or subject a person to potential economic retaliation as a result of their cooperation with a commission investigation, or information which, if disclosed to the public, could be used for criminal or terroristic purposes, the identifying information may be expurgated from the copy of the document made part of the public record.

66 Pa.C.S. § 335(d) (emphasis added).

18. The Supreme Court of Pennsylvania has explained that, through Section 335(d), "the General Assembly signaled that transparency is of particular importance in the context of the PUC's governing relationship with public utilities." *Pa. PUC v. Seder*, 139 A.3d 165, 1741-175 (Pa. 2016). "More specifically, Subsection 335(d) is a public disclosure law that evinces the General Assembly's desire to effectuate transparency, above and beyond that which is required by the RTKL, in the government's dealings with public utilities." *Id.* at 174. Indeed, as declared by the Commonwealth Court, "[p]roprietary nature is viewed against a public policy favoring access

to the administrative process." *Lyft, Inc. v. Pa. PUC*, 145 A.3d 1235, 1242 (Pa. Cmwlth. 2016) (citation omitted).

19. Section 5.365 of the Commission's regulations, which governs protective orders in Commission proceedings, is consistent with these well-established principles—it "requires the PUC to balance the alleged proprietary nature against the public interest in disclosure." *Id.* Therefore, although the Commission's regulations contemplate limiting the availability of proprietary information (including "[a] trade secret or other confidential research, development or commercial information" *see* 52 Pa. Code § 5.362(a)(7)), Section 5.365 of the Commission's regulations sets forth the criteria used to determine whether, and to what extent, the Commission should limit the availability of "proprietary information." *See* 52 Pa. Code § 5.365(a). In particular, the Commission should:

> consider, along with other relevant factors, the following:
>
> > (1) The extent to which the disclosure would cause unfair economic or competitive damage.
> >
> > (2) The extent to which the information is known by others and used in similar activities.
> >
> > (3) The worth or value of the information to the party and to the party's competitors.
> >
> > (4) The degree of difficulty and cost of developing the information.
> >
> > (5) Other statutes or regulations dealing specifically with disclosure of the information.

52 Pa. Code § 5.365(a) (emphasis added).

20. Although these provisions of the Public Utility Code and the Commission's regulations do not specifically address requests by a party to unseal or re-designate certain proprietary information as public, the Commission has analyzed similar requests under these

provisions and determined that it was necessary and appropriate to unseal the proprietary information at issue. *Lyft*, 145 A.3d at 1238-44 (affirming the Commission's rejection that certain information should be afforded proprietary treatment under 66 Pa.C.S. § 335(d) and 52 Pa. Code § 5.365(a)).[2]

21. Furthermore, the total annual revenue decrease and the total amounts are aggregated data. The Commonwealth Court found in *Lyft, Inc. v. Pa. PUC*, that "Aggregated data are not the type of data generally protected pursuant to" the PUC's protective order regulation. *Lyft*, 145 A.3d at 1243. "To the contrary, '[d]isclosing aggregate information is consistent with [the PUC's] prior practice' in other service contexts." *Id.* at 1243-44 (citations omitted).

22. Further, aggregated data is not exempt from disclosure under the trade secrets exception and other certain exceptions under the Right to Know Law. *See* 65 P.S. § 67.708(d).

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[2] In addition, "[i]n Pennsylvania, the common law, the first amendment to the United States Constitution, and the Pennsylvania Constitution, all support the principle of open-ness. "'All courts shall be open.'" *Storms v. O'Malley*, 779 A.2d 548, 568-569 (Pa. Super. 2011) (quoting *Hutchison v. Luddy*, 581 A.2d 578, 582 (Pa. Super. 1990), *rev'd on other grounds*, 594 A.2d 307 (Pa. 1991) and other cited authorities).

Although the presumption of public access is rebuttable, Pennsylvania appellate courts have explained that:

> Two methods have emerged in the Third Circuit by which one may attempt to overcome the presumption of openness and to limit pub-lic access. First, if attempting to achieve closure under a first amendment analysis, there must be a showing that the denial serves an important governmental interest and there is no less restrictive way to serve that governmental interest. Also, it must be established that the material is the kind of information that courts will protect and that there is good cause for the order to issue. Good cause is established on a showing that disclosure will work a clearly defined and serious injury to the party seeking closure.
>
> Second, a party who attempts to establish that the common law presumption in favor of access does not extend to certain records or proceedings must show that the interest in secrecy outweighs the presumption. In deciding whether to grant the motion of the party who seeks to seal records or proceedings under the common law approach, the court engages in a balancing test, weighing on the one hand the factors in favor of access, and, on the other, those against it.

Hutchison, 581 A.2d at 582 (internal citations and quotations omitted).

Under the RTKL, however, "[a]ggregated data" is defined as "a tabulation of data which relate to broad classes, groups or categories so that it is not possible to distinguish the properties of individuals within those classes, groups or categories." 65 P.S. § 67.102.

23. It is necessary and appropriate to unseal the identified pages of the parties' submissions for the Commission to adequately consider the relief sought by Verizon and its impact on the Companies' Pennsylvania-based electric service customers. In addition, with respect to the information identified in **PROPRIETARY Appendices A-H**, no good cause for continuing the proprietary treatment of this information exists.

24. FirstEnergy repeatedly explained in its testimony and Briefs that the relief sought by Verizon would have a substantial impact on the Company's Pennsylvania electric service rates. As explained by FirstEnergy witness Ms. Joanne Savage:

> When the Companies file base rate proceedings, joint use and other pole attachment revenues are a credit in the calculation of the total revenue requirement. In other words, this credit acts as an offset to directly reduce the amount of revenues required from the Companies' electric customers. The Companies' rates are designed so the Companies do not profit from providing pole attachment services to Verizon and other third parties as one hundred percent of the joint use revenues offset the rates to be paid by electric customers.

(FirstEnergy St. 3-R, pp. 3-4 (emphasis added).) In this regard, FirstEnergy itself obtains no benefit from the rates its charges Verizon under the Joint Use Agreements. Instead, all revenues received by the Companies are credited directly to their electric service customers in base rate proceedings.[3]

[3] FirstEnergy further explained that Verizon's requested relief will ultimately decrease the revenues collected by FirstEnergy associated with the joint use network. In this regard, until the FirstEnergy EDCs have a base rate case and obtain recovery of any such reductions in revenues, they will be denied a fair rate of return on their investment in the joint use poles. *See* FirstEnergy MB at 90.

25. To demonstrate the magnitude of the impact of Verizon's requested relief, FirstEnergy prepared a table showing the 2019 revenues associated with joint use contracts between the Companies and ILECs, as well as the amount of 2019 revenues specifically attributed to Verizon. *See* FirstEnergy St. 3-R at 4.

26. Generally, the referenced table demonstrates that in 2019 alone the Companies collectively received millions of dollars in revenue under joint use contracts with Verizon and other ILECs, which are directly credited to the Companies' electric service customers. The magnitude of this impact is even more substantial given that (1) Verizon is not the only ILEC that has negotiated joint use contracts with the Companies, and (2) FirstEnergy is not the only EDC that has joint use contracts with Verizon or other ILECs in Pennsylvania. Indeed, the other major EDCs in Pennsylvania (*i.e.*, PPL Electric Utilities Corporation ("PPL Electric"), PECO Energy Company ("PECO"), Duquesne Light Company ("Duquesne Light"), and West Penn Power Company ("West Penn")) also have joint use agreements with Verizon and other ILECs. And Verizon admitted that it alone paid in excess of $28 million in annual "pole rental expenses" in Pennsylvania in 2017.[4]

27. As such, the rate reductions and refunds sought by Verizon will result in a dollar-for-dollar decrease in pole attachment revenues and an associated dollar-for-dollar increase in the Companies' electric service customers' rates, in the Companies' next electric distribution service base rate proceedings. Moreover, Verizon argued that the Commission should grant the rate reductions and refunds it sought in order to will have a ripple effect upon other joint use contracts

[4] FirstEnergy requested in discovery that Verizon identify joint use payments to PPL Electric, PECO, and Duquesne Light, but Verizon refused to produce the information. FirstEnergy subsequently moved to compel this information, and its motion to compel was denied by the ALJ.

involving the Companies and other ILECs, as well as the contracts between other EDCs and ILECs doing business in Pennsylvania.[5]

28. Despite the import of including an appropriate consideration of these negative impacts upon the rates of Pennsylvania electric service customers, throughout this proceeding, Verizon has disclaimed the impacts of its requested relief upon the Companies' electric service customers rates. *See, e.g.*, Verizon St. 2.1 at 55-56; Verizon's Replies to Exceptions at 6.

29. However, the potential impact upon electric service customers' rates is not fully or publicly known or quantified because the information has been treated as proprietary at this time. In this regard, the public (and the Companies' electric service customers) are completely unaware of the potential impacts of Verizon's requested relief.

30. Furthermore, Verizon has attempted to justify its requested relief, in part, relying upon its claim that the decreased rates and the refunds it seeks will benefit broadband deployment throughout Pennsylvania. *See, e.g.*, Verizon MB at 2 ("The Commission adopted rules that benefit consumers through low, uniform pole attachment rates. It should grant Verizon's complaint to ensure Pennsylvania customers see those benefits.").

31. Yet, Verizon never quantified these benefits or produced any information during this proceeding to show these benefits would actually occur. More importantly, Verizon claimed that this information was simply irrelevant. *See, e.g.*, FirstEnergy MB at 50 (citing FirstEnergy Exhibit JMS-1 (Verizon's Answer to FE to Verizon Set II, No. 8)).

32. If the information identified by FirstEnergy is not unsealed and re-designated as public information, Verizon's requested relief, if granted, will effectively result in a stealth rate increase for the Companies' Pennsylvania electric service customers, with no showing that this

[5] *See* Verizon Exceptions at 10.

rate increase will actually result in any tangible benefits regarding broadband deployment. Verizon is part of large, extremely profitable international organization; Pennsylvania ratepayers should not be required to subsidize Verizon to the benefit of its stockholders' bottom line. Moreover, this sort of rate increase specifically frustrates "the General Assembly's desire to effectuate transparency, above and beyond that which is required by the RTKL, in the government's dealings with public utilities" and the "particular importance" that transparency plays "in the context of the PUC's governing relationship with public utilities." *See Seder*, 139 A.3d at 174-175.

33. Moreover, none of the other relevant factors identified in Section 5.365(a) of the Commission's regulations justify affording the information identified by FirstEnergy proprietary treatment. *See* 52 Pa. Code § 5.365(a). FirstEnergy is not requesting that the individual rates that Verizon pays to the Companies under the Joint Use Agreements be unsealed; rather, it is specifically requesting that the aggregate total annual revenue decrease and total refund amounts that Verizon seeks as relief be unsealed. These aggregate amounts involve multiple contracts involving multiple EDCs and Verizon, and a "netting" of payments made by each EDC and Verizon under each Joint Use Agreement. As such, this aggregate data cannot be used to back into the specific rates Verizon pays under each of the Joint Use Agreements.

34. Disclosure of the information identified by FirstEnergy will not cause unfair economic or competitive damage to Verizon. 52 Pa. Code § 5.365(a)(1). Throughout this proceeding, Verizon has averred that it is seeking a competitively neutral rate and has argued that it attaches to FirstEnergy's poles under comparable terms and conditions to its competitors. Irrespective of Verizon's assertions, if the rate it seeks is "competitively neutral," then no competitive damage will result from the public disclosure of the total annual revenue decrease or

total refunds it seeks. As such, if the Commission grants Verizon's requested rate decrease, the rate that Verizon used to pay FirstEnergy will no longer be relevant. Thus, public knowledge of the existing rate and the difference between it and any newly ordered rate will not economically or competitively harm Verizon.

35. The second factor, i.e., "the extent to which the information is known by others and used in similar activities," also does not weigh against this limited disclosure. 52 Pa. Code § 5.365(a)(2). FirstEnergy is not requesting the specific rates that Verizon pays under the Joint Use Agreements to be unsealed. Rather, it is requesting the overall impacts of Verizon's requested relief, *i.e.*, the annual reduction in the specific amount Verizon will pay going forward and the total amount of refunds, to be unsealed. These amounts, while currently under seal, must be publicly known should FirstEnergy seek Commission approval to defer and record as a regulatory asset the difference in revenues produced from new rates and existing rates plus carrying charges, and permit FirstEnergy's EDCs to claim and recover this deferred amount in their next base rate cases.

36. With respect to the third factor, the worth or value of the information identified by FirstEnergy to Verizon and its competitors is minimal, if Verizon's claims are true. 52 Pa. Code § 5.365(a)(3). Indeed, for the same reasons as those identified above concerning the first factor, there is no competitive value to Verizon's competitors that can be attributed to public release of the total annual revenue decrease or the refund amounts that it seeks.

37. Regarding the fourth factor, the development of the rates that Verizon currently pays under the Joint Use Agreements and the calculation of its requested refunds are not difficult or costly to develop. 52 Pa. Code § 5.365(a)(4). This information is based upon a cost-sharing arrangement contained in each of the Joint Use Agreements and a comparison of the existing rate

calculated under this formula to the calculation of any new rate under the FCC's rate formulas. No special or proprietary study was conducted by Verizon to calculate the annual going forward reduction or its requested refunds.

38. Fifth, other statutes or regulations do not expressly prohibit the disclosure of this information. 52 Pa. Code § 5.365(a)(5). Although Section 222 of the Telecommunications Act, 47 U.S.C. § 222(a)-(b), create affirmative duties for a "telecommunications carrier" to protect certain confidential information, those duties do not apply to the information identified by FirstEnergy.

39. For these reasons, the information identified by FirstEnergy should be disclosed to the public.

III. REQUEST FOR EXPEDITED CONSIDERATION

40. FirstEnergy further respectfully requests that the Commission consider its Motion on an expedited basis.

41. Under Section 77.5(d) of the Commission's regulations:

> The Commission will take final action consisting of an order that will issue within 180 days of the filing of a formal complaint initiating a pole attachment dispute as required by 47 U.S.C. § 224(c)(3)(B)(i) except for good cause shown. If the Commission determines that a final action will not issue within 180 days, the Commission will issue a final action consisting of an order no later than 270 days from the filing of the formal complaint as permitted by 47 U.S.C. § 224(c)(3)(B)(ii).

52 Pa. Code § 77.5(d).

42. As noted in the Scheduling Order and the RD, the Commission must take final action on Verizon's Complaint by no later than the December 17, 2020 public meeting date.

43. In addition, expedited consideration of FirstEnergy's Motion is necessary to protect the interests of FirstEnergy and the Companies' Pennsylvania-based electric service customers,

and to ensure that the general public is aware of the public impacts of Verizon's requested relief prior to the deadline for it to act in this proceeding.

44. For these reasons, the Commission should grant FirstEnergy's request for expedited consideration of this Motion and establish an answer period of no more than ten (10) calendar days.

III. CONCLUSION

For the reasons set forth above, Metropolitan Edison Company, Pennsylvania Electric Company, and Pennsylvania Power Company respectfully requests that the Pennsylvania Public Utility Commission (a) unseal and re-designate the "PROPRIETARY" information contained in the parties' Briefs, Exceptions and Replies to Exceptions, which is identified in **Appendices A-I** of this Motion, as "NON-PROPRIETARY" and public information, and (b) consider and grant this Motion on an expedited basis.

Respectfully submitted,

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Date: October 15, 2020

PROPRIETARY
Appendices A through I
(No Public Versions Available)

Appendix J

Before the
Federal Communications Commission
Washington, DC 20554

VERIZON PENNSYLVANIA LLC and VERIZON NORTH LLC, Complainants, v. METROPOLITAN EDISON COMPANY, PENNSYLVANIA ELECTRIC COMPANY, and PENN POWER COMPANY, Defendants.	Proceeding No. 19-354 Bureau ID No. EB-19-MD-008

VERIZON MARYLAND LLC, Complainant, v. THE POTOMAC EDISON COMPANY, Defendant.	Proceeding No. 19-355 Bureau ID No. EB-19-MD-009

PROTECTIVE AGREEMENT

This Protective Agreement ("Agreement") is entered into this 27th day of January, 2020, by and between Metropolitan Edison Company, Pennsylvania Electric Company, Penn Power Company, and The Potomac Edison Company (each a "Company" and collectively, the "Companies") and Verizon Pennsylvania LLC, Verizon North LLC, and Verizon Maryland LLC (each a "Receiving Party," collectively, the "Receiving Parties," and collectively with the Companies, "the Parties"). This Agreement is designed to facilitate and expedite the

Companies' production to Receiving Parties of information in the discovery process in the above-captioned Proceedings, as the "Proceedings" are defined herein. It reflects agreement between the Companies and the Receiving Parties as to the manner in which "Protected Materials" as defined herein are to be treated. This Agreement is not intended to constitute any resolution of the merits concerning the confidentiality of any of the Protected Materials or any resolution of the Companies' obligation to produce (including the manner of production) any requested information or material.

1. The purpose of this Agreement is to provide the Receiving Parties access to and permit review of materials that the Companies contend are Protected Materials in a manner that will allow their use for the purposes of these Proceedings while protecting such data from disclosure to non-participants without a prior ruling by an administrative agency of competent jurisdiction or court of competent jurisdiction regarding whether the information deserves such protection.

2. "Proceedings" as used throughout this Agreement mean either or both of the above-captioned cases filed at the Federal Communications Commission ("Commission") and any related proceedings including appeals, mediations, arbitrations, settlement proceedings, proceedings on remand, and any other proceedings related thereto, including any proceedings at any state regulatory authority should either or both of the above-captioned cases be forwarded to a state regulatory authority pursuant to 47 C.F.R. § 1.1405(d) and any proceedings related thereto, including appeals, mediations, arbitrations, settlement proceedings, and proceedings on remand.

3.A. "Protected Materials" mean documents and information produced by some or all of the Companies to some or all Receiving Parties in the course of either or both Proceedings and that are conspicuously marked and designated by the Companies under this Agreement as

"CONFIDENTIAL," that are treated by the Companies or third parties as sensitive or proprietary, that are not available to the public, and that which, if disclosed freely, would subject the Companies or third parties to risk of competitive disadvantage or other business injury. Protected Materials may include materials meeting the definition of "trade secret" under Pennsylvania, Maryland and United States law.

B. "Protected Materials" also include documents and information that identify by name the entities attached to the Companies' distribution and/or transmission poles, such as joint use agreements, license agreements, and other documents that list the rates, terms, and conditions that apply to a particular entity ("Protected Identity Information"). An unredacted copy of Protected Identity Information will be conspicuously marked and designated by the Companies under this Agreement as "COMPETITIVELY SENSITIVE CONFIDENTIAL" material that may only be viewed by Fully Authorized Representatives, as defined below. A separate redacted copy of Protected Identity Information that redacts each attaching entity's name, but identifies the type of attaching entity involved (*e.g.*, competitive local exchange carriers, incumbent local exchange carrier, cable television provider, wireless provider, or other attaching entity), will be conspicuously marked and designated by the Companies under this Agreement as "CONFIDENTIAL" material that may be viewed by Fully Authorized Representatives and Limited Authorized Representatives, as defined below.

C. "Protected Materials" do not include any information or documents contained in the public files of any state or federal administrative agency or court, any documents or information which are or were in the public domain at the time of, or prior to, the commencement of either Proceeding, or which enter into the public domain during the pendency of either Proceeding in a manner that is not contrary to the terms of this Agreement.

D. "Protected Materials" include documents or information that are stored or recorded in the form of electronic or magnetic media (including information, files, databases, or programs stored on any digital or analog machine-readable device, computers, discs, networks or tapes) ("Computerized Material"). The Companies at their discretion may produce Computerized Material in such form. To the extent that any Receiving Party reduces Computerized Material to hard copy, Receiving Party shall conspicuously mark such hard copy as CONFIDENTIAL or COMPETITIVELY SENSITIVE CONFIDENTIAL using the definitions set forth in Sections 3(A) through 3(C) above.

4. "Fully Authorized Representative" means an individual who has access to COMPETITIVELY SENSITIVE CONFIDENTIAL Protected Materials under this Agreement. Fully Authorized Representatives shall be limited to the following persons:

A. The Commission, Court, agreed-upon mediator, or their personnel;

B. Receiving Parties' outside counsel and any in-house legal counsel employed by a Receiving Party or its affiliated entity and who is involved in the conduct of either or both Proceedings and who has signed a Non-Disclosure Certificate in the form of Exhibit B;

C. Any outside expert or consultant retained by any Receiving Party for the purpose of assisting in either or both Proceedings who has signed a Non-Disclosure Certificate in the form of Exhibit B; and

D. Paralegals, analysts, and other employees who are associated for purposes of either Proceeding with the outside counsel and in-house legal counsel described in Paragraph 4(B) or the outside expert or consultant described in Paragraph 4(C), as well as employees of third-party contractors involved solely in one or more aspects of organizing, filing, coding, converting, storing, retrieving, or copying documents or information or performing other clerical or

ministerial functions with regard to Protected Materials connected with either or both Proceedings.

5. "Limited Authorized Representative" means an individual who has access to CONFIDENTIAL Protected Materials under this Agreement. Limited Authorized Representatives shall be limited to the following persons:

A. The Commission, Court, agreed-upon mediator, or their personnel;

B. Receiving Parties' outside counsel and any in-house legal counsel employed by a Receiving Party or its affiliated entity and who is involved in the conduct of either or both Proceedings and who has signed a Non-Disclosure Certificate in the form of Exhibit A;

C. Any employee of either Receiving Party or its affiliated entity who is involved in either Proceeding and who has signed a Non-Disclosure Certificate in the form of Exhibit A;

D. Any outside expert or consultant retained by any Receiving Party for the purpose of assisting in either or both Proceedings who has signed a Non-Disclosure Certificate in the form of Exhibit A; and

E. Paralegals, analysts, and other employees who are associated for purposes of either Proceeding with the outside counsel and in-house legal counsel described in Paragraph 5(B) or the outside expert or consultant described in Paragraph 5(D), as well as employees of third-party contractors involved solely in one or more aspects of organizing, filing, coding, converting, storing, retrieving, or copying documents or information or performing other clerical or ministerial functions with regard to Protected Materials connected with either or both Proceedings.

6. Fully Authorized Representatives and Limited Authorized Representatives will be provided access to Protected Materials designated by the Companies as "CONFIDENTIAL." Protected Materials designated as "COMPETITIVELY SENSITIVE CONFIDENTIAL" under

Paragraph 3(B) will be **strictly** limited to Fully Authorized Representatives. Fully Authorized Representatives and Limited Authorized Representatives must treat all Protected Materials (no matter how designated), copies thereof, information contained therein, and writings made therefrom (including, without limitation, Protected Materials comprised of portions of transcripts) as proprietary and confidential, and will safeguard such Protected Materials, copies thereof, information contained therein, and writings made therefrom so as to prevent voluntary, inadvertent, or accidental disclosure to any persons other than Fully Authorized Representatives and Limited Authorized Representatives, as applicable.

7. Nothing in this Agreement precludes the disclosure of any Protected Materials or any portion thereof that becomes part of the public record or enters into the public domain in a manner that is not contrary to the terms of this Agreement. Nothing in this Agreement precludes a Receiving Party from using any part of the Protected Materials in either or both Proceedings in a manner not inconsistent with this Agreement, such as by filing Protected Materials under seal.

8. Receiving Party, Fully Authorized Representatives, and Limited Authorized Representatives are prohibited from disclosing Protected Materials to a third-party, provided however that (i) Receiving Party's counsel may disclose Protected Materials to the Commission, Court, agreed-upon mediator, or their personnel in connection with either Proceeding, (ii) for Protected Materials identified as CONFIDENTIAL, Limited Authorized Representatives may disclose such Protected Materials and writings regarding their contents to any other Limited Authorized Representative, and (iii) for Protected Materials identified as COMPETITIVELY SENSITIVE CONFIDENTIAL, Fully Authorized Representatives may disclose such Protected Materials and writings regarding their contents to any other Fully Authorized Representative.

9. Receiving Parties shall request confidential treatment of Protected Materials in the Proceedings consistent with the Commission's rules, shall redact Protected Materials in a filing

on the public record, and shall otherwise treat Protected Materials as confidential information under the Commission's rules.

10. If a Receiving Party receives a request or demand to provide, include, utilize, refer to, or copy any Protected Materials in any manner not provided for in this Agreement, Receiving Party must take all reasonable steps to preserve and keep confidential such Protected Materials, including without limitation, filing the appropriate objection to its production. In such event, Receiving Party must give prompt written notice to the Companies' outside counsel of record of the legal process and cooperate in efforts by the Company to seek an appropriate protective order, or pursue any other such other legal action necessary to preserve the confidentiality of the materials, and to the fullest extent permitted by law, Receiving Party will continue to protect as confidential all Protected Materials.

11. Once Receiving Party has complied with any applicable records retention schedule(s) pertaining to the retention of the Protected Materials and the Receiving Party determines that it has no further legal obligation to retain the Protected Materials and both Proceedings (including any appeals and remands) have concluded, the Receiving Party must return or dispose of all copies of the Protected Materials unless the Protected Materials have been released to the public domain or filed with a state or federal administrative agency or court under seal. Notwithstanding this paragraph, Receiving Parties, their counsel, and their outside experts and consultants may retain, under the continuing strictures of this Agreement, one copy of any filings, submissions, orders, or decisions that contain Protected Materials.

12. By entering into this Agreement, a Receiving Party does not waive any right that it may have to dispute the Companies' determination regarding any material identified as Protected Material by the Companies and to pursue those remedies that may be available to

Receiving Party before an administrative agency or court of competent jurisdiction. Nothing in this Agreement precludes a Receiving Party from filing a motion to compel.

13. By entering into this Agreement, the Companies do not waive any right it may have to object to the discovery of Protected Material on grounds other than confidentiality and to pursue those remedies that may be available to the Companies before the administrative agency of competent jurisdiction or court of competent jurisdiction.

14. Inadvertent production of any document or information during discovery without a designation of "CONFIDENTIAL" or "COMPETITIVELY SENSITIVE CONFIDENTIAL" will not be deemed to waive the Companies' claim to its confidential nature or estop the Companies from designating the document or information at a later date. Disclosure of the document or information by Receiving Party prior to such later designation shall not be deemed a violation of this Agreement and Receiving Party bears no responsibility or liability for any such disclosure. Receiving Party does not waive its right to challenge the Companies' delayed claim or designation of the inadvertent production of any document or information as "CONFIDENTIAL" or "COMPETITIVELY SENSITIVE CONFIDENTIAL."

15. This Agreement shall become effective upon the date first above written and shall remain in effect until terminated in writing by all Parties hereto. Notwithstanding any such termination, the rights and obligations with respect to the disclosure of Protected Materials as defined hereinabove shall survive the termination of this Agreement for a period of three (3) years following the conclusion of both Proceedings (including any appeals and remands).

16. This Agreement represents the entire understanding of the Parties with respect to Protected Materials and supersedes all other understandings, written or oral, with respect to the Protected Materials. No amendment, modification, or waiver of any provision of this Agreement is valid, unless in writing signed by all Parties.

17. This Agreement is binding upon each Party and its respective officers, directors, employees, successors, and assigns.

18. In the event that any one or more of the provisions of this Agreement is determined to be invalid, unenforceable, or illegal, such invalidity, illegality, or unenforceability does not affect any other provisions of this Agreement, and the Agreement will be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

19. This Agreement will be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania.

Metropolitan Edison Company, Pennsylvania Electric Company, Penn Power Company, and The Potomac Edison Company	Verizon Pennsylvania LLC, Verizon North LLC, Verizon Maryland LLC
BY:	BY:
Counsel	Counsel
January 27, 2020	January 27, 2020
Date	Date

Exhibit A

Before the
Federal Communications Commission
Washington, DC 20554

VERIZON PENNSYLVANIA LLC and VERIZON NORTH LLC, Complainants, v. METROPOLITAN EDISON COMPANY, PENNSYLVANIA ELECTRIC COMPANY, and PENN POWER COMPANY, Defendants.	Proceeding No. 19-354 Bureau ID No. EB-19-MD-008
VERIZON MARYLAND LLC, Complainant, v. THE POTOMAC EDISON COMPANY, Defendant.	Proceeding No. 19-355 Bureau ID No. EB-19-MD-009

NON-DISCLOSURE CERTIFICATE FOR
CONFIDENTIAL PROTECTED MATERIALS

I certify my understanding that Protected Materials may be provided to me pursuant to the terms and restrictions of the Protective Agreement, dated January 27, 2020, and certify that I have been given a copy of and have read the Protective Agreement, and that I agree to be bound by it. I understand that the contents of Protected Materials, and any writings, memoranda, or any other form of information regarding or derived from Protected Materials will not be disclosed to anyone other than in accordance with the Protective Agreement and

will be used only for the purposes of these Proceedings as defined in Paragraph 2 of the Protective Agreement.

Name: _____

Title: _____

Company: _____

Address: _____

Telephone: _____

Date: _____

Exhibit B

Before the
Federal Communications Commission
Washington, DC 20554

VERIZON PENNSYLVANIA LLC and VERIZON NORTH LLC, Complainants, v. METROPOLITAN EDISON COMPANY, PENNSYLVANIA ELECTRIC COMPANY, and PENN POWER COMPANY, Defendants.	Proceeding No. 19-354 Bureau ID No. EB-19-MD-008

VERIZON MARYLAND LLC, Complainant, v. THE POTOMAC EDISON COMPANY, Defendant.	Proceeding No. 19-355 Bureau ID No. EB-19-MD-009

NON-DISCLOSURE CERTIFICATE FOR
COMPETITIVELY SENSITIVE CONFIDENTIAL PROTECTED MATERIALS

I certify my understanding that access to COMPETITIVELY SENSITIVE CONFIDENTIAL Protected Materials may be provided to me pursuant to the terms and restrictions of the Protective Agreement, dated January 27, 2020, and certify that I have been given a copy of and have read the Protective Agreement, and that I agree to be bound by it. I understand that the contents of Protected Materials, and any writings, memoranda, or any other form of information regarding or derived from Protected Materials will not be disclosed

to anyone other than in accordance with the Protective Agreement and will be used only for the purposes of these Proceedings as defined in Paragraph 2 of the Protective Agreement.

Name: _____

Title: _____

Company: _____

Address: _____

Telephone: _____

Date: _____

Appendix K

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Verizon Pennsylvania LLC and Verizon North LLC	:	
	:	
v.	:	
	:	**Docket No. C-2020-3019347**
Metropolitan Edison Company, Pennsylvania Electric Company, and Pennsylvania Power Company	:	

STIPULATED PROTECTIVE AGREEMENT

1. This Stipulated Protective Agreement is granted with respect to all materials and information identified in Paragraph Nos. 2 and 3, below, which are filed with the Pennsylvania Public Utility Commission ("Commission"), produced in discovery, or otherwise presented during the above-referenced proceeding by complainants Verizon Pennsylvania LLC and Verizon North LLC ("Verizon") or defendants Metropolitan Edison Company, Pennsylvania Electric Company, and Pennsylvania Power Company ("FirstEnergy"). All persons now, and hereafter, granted access to the materials and information identified in Paragraph Nos. 2 and 3 shall use and disclose such information only in accordance with this Stipulated Protective Agreement.

2. The materials and information subject to this Stipulated Protective Agreement include all correspondence, documents, data, studies, methodologies, and all other materials or information that either party ("the producing party") furnishes in this proceeding to the other party ("the receiving party") pursuant to filing, discovery or evidentiary procedures, or otherwise may provide as a courtesy to another party in this proceeding, which are claimed to be of a proprietary or confidential nature and which are designated "CONFIDENTIAL INFORMATION" or

"HIGHLY CONFIDENTIAL INFORMATION." Such materials and information are referred to in this Order as "Proprietary Information."

3. For purposes of this Stipulated Protective Agreement there are two categories of Proprietary Information: "CONFIDENTIAL INFORMATION" and "HIGHLY CONFIDENTIAL INFORMATION." A producing party may designate as "CONFIDENTIAL INFORMATION" materials and information concerning electric or telecommunications service facilities, inspection or maintenance practices or policies that may be security-sensitive, proprietary or otherwise confidential, and any other information that is either specified as confidential by its terms or pertains to business practices, operations or financial matters that are commercially sensitive or that is ordinarily considered and treated as confidential by the producing party. Absent further order of the Administrative Law Judge or the Commission, FirstEnergy may only designate as "HIGHLY CONFIDENTIAL INFORMATION" such Proprietary Information that identifies by name the entities attached to a party's distribution and/or transmission poles, such as joint use agreements, license agreements, and other documents that list the rates, terms, and conditions that apply to a particular entity ("Protected Identity Information"). A separate redacted copy of Protected Identity Information that redacts each attaching entity's name, but identifies the type of attaching entity involved (*e.g.*, competitive local exchange carriers, incumbent local exchange carrier, cable television provider, wireless provider, or other attaching entity), will be produced with any "HIGHLY CONFIDENTIAL INFORMATION" and designated "CONFIDENTIAL INFORMATION" when the producing party can reasonably and feasibly create such versions of the documents. The parties shall endeavor to limit the information designated as "HIGHLY CONFIDENTIAL INFORMATION."

4. Confidential Information shall be disclosed solely to counsel to the parties in this proceeding (including in-house counsel and outside counsel of the reviewing party who are actively engaged in this proceeding, and their associates, secretaries, paralegals, employees and vendors (collectively "staff")), employees of a party or its affiliated entities, officers and members of a party (as applicable) who are directly responsible for reviewing, preparing or supporting the presentation of evidence, cross-examination or argument in this proceeding or otherwise seeking a resolution of this proceeding, and outside experts or consultants retained by a party or its counsel for the purpose of assisting in this proceeding. Confidential Information shall be specifically marked as "CONFIDENTIAL" or "CONFIDENTIAL INFORMATION."

5. Highly Confidential Information shall be provided solely to counsel to the parties in this proceeding (including in-house counsel and outside counsel of the reviewing party who are actively engaged in this proceeding, and their staff), employees and consultants of a party or its affiliated entity who have or will submit testimony, or will assist in the preparation of such testimony, in this proceeding, and outside experts or consultants retained by a party or its counsel for the purpose of assisting in this proceeding; provided, however, that such persons are not an employee of a party or affiliated entity if the employee's duties involve retail, marketing, business development or expansion, or pricing of the party's services such that receipt of the Highly Confidential Information would afford the party an unfair advantage over its competitors. If a party's representative desires to disclose the producing party's Highly Confidential Information to persons other than those permitted by the foregoing sentence, counsel for the receiving party shall notify the producing party's counsel three (3) days prior to such disclosure to allow the producing party time to raise the issue orally with the Commission or the presiding Administrative Law Judge if there is an objection to such disclosure. If upon inspection the requesting party disagrees with

the designation of any of the material as Highly Confidential Information and the producing party does not revise the designation, that issue may also be submitted orally to the Commission or the Administrative Law Judge for resolution. Further, in accordance with the provisions of Section 5.362 of the Commission's Rules of Practice and Procedure (52 Pa. Code § 5.362), any party may, by objection or motion, seek further protection with respect to Highly Confidential Information, including, but not limited to, total prohibition of disclosure or limitation of disclosure only to particular parties. Highly Confidential Information shall be specifically marked "HIGHLY CONFIDENTIAL INFORMATION."

6. Proprietary Information shall be made available to the Commission and its Staff for use in this proceeding. For purposes of filing, to the extent that Proprietary Information is placed in the Commission's report folders, testimony folders or other document folders, such information shall be separately bound, conspicuously marked, and accompanied by a copy of the protective order that will be based upon this Stipulated Protective Agreement. The Proprietary Information shall be considered and treated as "confidential proprietary information" as defined in the Pennsylvania Right-to-Know Law, 65 P.S. § 67.101, *et seq*. Public inspection of the Proprietary Information shall be permitted only in accordance with the protective order that will be based upon this Stipulated Protective Agreement.

7. Proprietary Information shall be made available only as permitted by this Stipulated Protective Agreement and only for purposes of reviewing, preparing or presenting evidence, cross-examination or argument in this proceeding. No person authorized to receive Proprietary Information under Paragraph Nos. 4 and 5 of this Stipulated Protective Agreement will be afforded access to Proprietary Information until a signed acknowledgement of this Stipulated Protective Agreement in the form attached to this Stipulated Protective Agreement or, in the case of

Proprietary Information provided prior to execution of this Stipulated Protective Agreement, the form attached to the FCC Protective Agreement defined in Paragraph No. 15 below, from each such person, has been returned to the producing party. Upon return of a signed acknowledgment, parties will receive access to Proprietary Information consistent with this Stipulated Protective Agreement. Notwithstanding the foregoing, a signed acknowledgment by counsel for a party shall be sufficient to cover staff of that counsel and there is no obligation to return a signed acknowledgement or otherwise identify an expert or consultant retained by a party unless and until the receiving party submits testimony from the expert or consultant in this proceeding. Persons afforded access to Proprietary Information shall use such Proprietary Information only for the purpose of this proceeding and any related proceedings including appeals, mediations, arbitrations, settlement proceedings, and proceedings on remand and such Proprietary Information shall not be disclosed or used other than in accordance with the Stipulated Protective Agreement.

8. Nothing in this Agreement precludes the disclosure of any Proprietary Information or any portion thereof that becomes part of the public record or enters into the public domain in a manner that is not contrary to the terms of this Stipulated Protective Agreement. Nothing in this Stipulated Protective Agreement precludes a receiving party from using any part of the Proprietary Information in this proceeding in a manner not inconsistent with this Stipulated Protective Agreement, such as by filing Proprietary Information under seal.

9. The producing party shall designate data or documents as constituting or containing Confidential Information or Highly Confidential Information by affixing an appropriate stamp or typewritten designation on all such data or documents. Where only part of a compilation or multi-page document constitutes or contains Confidential Information or Highly Confidential

Information, the producing party shall designate only the specific data or pages of documents which constitute or contain Confidential Information or Highly Confidential Information.

10. Any public reference to Proprietary Information by the Administrative Law Judge, the Commission, its Staff, the parties, their counsel, or other persons afforded access thereto shall be to the title or exhibit reference in sufficient detail to permit persons with access to the Proprietary Information to understand the reference fully and not more. Proprietary Information shall remain a part of the record, to the extent admitted, for all purposes of administrative or judicial review. Part of any record of this proceeding containing Proprietary Information, including but not limited to all exhibits, writings, direct testimony, cross-examination, argument, and responses to discovery, and including reference thereto as mentioned in the above Paragraphs, shall be sealed for all purposes, including administrative and judicial review, unless such Proprietary Information is released from the restrictions of this Stipulated Protective Agreement, either through the agreement of the parties or pursuant to a further order of the Administrative Law Judge or the Commission.

11. The parties affected by the terms of this Stipulated Protective Agreement shall retain the right to question or challenge the confidential or highly confidential nature of the Proprietary Information; to question or challenge the admissibility of Proprietary Information; to refuse or object to the production of Proprietary Information on any proper ground, including but not limited to irrelevance, immateriality, or undue burden; and to seek additional measures of protection of Proprietary Information beyond those provided in this Stipulated Protective Agreement. If a challenge is made to the designation of a document or information as Proprietary Information, the party claiming that the information is proprietary or otherwise confidential or

highly confidential retains the burden of demonstrating that the designation is necessary and appropriate.

12. Inadvertent production of any material or information without a "Confidential Information" or "Highly Confidential Information" designation will not be deemed to waive the producing party's claim to the Confidential or Highly Confidential nature of the material or information or estop the producing party from designating the material or information Confidential or Highly Confidential at a later date. Disclosure of the material or information by the receiving party prior to such later designation shall not be deemed a violation of this Stipulated Protective Agreement; however, the receiving party shall take reasonable steps to inform the persons to whom it disclosed such information that the information has been deemed Confidential or Highly Confidential and has become subject to this Stipulated Protective Agreement and secure from them the signed acknowledgment provided for in Paragraph No. 7. The receiving party does not waive its right to challenge the producing party's delayed claim or designation of the inadvertent production of any material or information as Confidential or Highly Confidential.

13. If a receiving party receives a request or demand to provide, include, utilize, refer to, or copy any Proprietary Information in any manner not provided for in this Stipulated Protective Agreement, receiving party must take all reasonable steps to preserve and keep confidential such Proprietary Information, including without limitation, filing the appropriate objection to its production. In such event, receiving party must give prompt written notice to the producing party's outside counsel of record of the legal process and cooperate in efforts by the producing party to seek an appropriate protective order, or pursue any other such other legal action necessary to preserve the confidentiality of the materials, and to the fullest extent permitted by law, receiving party will continue to protect as confidential all Proprietary Information

14. Upon completion of this proceeding, including any administrative or judicial review, all copies of all documents and other materials, including notes, whether written or oral, which contain any Proprietary Information, shall be promptly returned to the party furnishing such Proprietary Information or destroyed. This provision, however, shall not apply to any party receiving the consent of the producing party to retain the Proprietary Information; except, however, that Highly Confidential Information provided to any party pursuant to Paragraph No. 5, above, shall be returned to the producing party or destroyed in all cases. In the event that a party elects to destroy all copies of material and information containing Proprietary Information instead of returning the copies to the producing party, that party shall certify in writing to the producing party that all copies of the material and information containing Proprietary Information have been destroyed. Notwithstanding the foregoing, receiving parties, their counsel, and their outside experts and consultants may retain, under the continuing strictures of this Stipulated Protective Agreement, one copy of any filings, submissions, orders, or decisions that contain Proprietary Information.

15. All materials designated as "CONFIDENTIAL" or "COMPETITIVELY SENSITIVE CONFIDENTIAL" by either party in Federal Communications Commission Proceeding No. 19-355, Bureau ID No. EB-19-MD-009 pursuant to the Protective Agreement entered by the parties on January 27, 2020 (the "FCC Protective Agreement") shall continue to be protected in accordance with the terms of the FCC Protective Agreement and shall be treated as "CONFIDENTIAL INFORMATION" and "HIGHLY CONFIDENTIAL INFORMATION," respectively, under this Stipulated Protective Agreement. To the extent the terms and conditions of the FCC Protective Agreement and this Stipulated Protective Agreement conflict with respect to the disclosure, access, or use of such materials in this proceeding, the terms and conditions of this Stipulated Protective Agreement shall control.

Dated: June 8, 2020

Tori Giesler
Counsel for Metropolitan Edison Company, Pennsylvania Electric Company, and Pennsylvania Power Company

Dated: June 8, 2020

Suzan Paiva
Counsel for Verizon Pennsylvania LLC and Verizon North LLC

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Verizon Pennsylvania LLC and Verizon North LLC	:	
	:	
v.	:	
	:	
Metropolitan Edison Company, Pennsylvania Electric Company, and Pennsylvania Power Company	:	**Docket No. C-2020-3019347**

ACKNOWLEDGMENT

TO WHOM IT MAY CONCERN:

The undersigned is the expert, counsel, employee, representative, member or officer of Metropolitan Edison Company, Pennsylvania Electric Company, and Pennsylvania Power Company (the retaining party).

The undersigned has read and understands the Stipulated Protective Agreement executed in the above-captioned proceeding deals with the treatment of Proprietary Information. The undersigned agrees to be bound by, and comply with, the terms and conditions of said Stipulated Protective Agreement. The undersigned agrees that any Proprietary Information shall be used or disclosed only for purposes of preparation for, and conduct of the above-captioned proceeding, and any administrative or judicial review thereof, and shall not be disclosed or used other than in accordance with this Stipulated Protective Agreement.

Signature

Tori L. Giesler
Print Name

2800 Pottsville Pike, Reading, PA 19601
Address

Date: June 8, 2020

FirstEnergy Service Company
Employer