

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Beth Kraus	:	
	:	
v.	:	C-2022-3030565
	:	
Metropolitan Edison Company	:	

**INITIAL DECISION**

Before  
Charece Z. Collins  
Administrative Law Judge

**INTRODUCTION**

This Decision dismisses the formal complaint filed by Beth Kraus against Metropolitan Edison Company. Ms. Kraus failed to satisfy her burden of demonstrating that Metropolitan Edison Company violated the Public Utility Code, a Commission order or regulation or a Commission-approved tariff with respect to two power surge events that occurred at her home.

**HISTORY OF THE PROCEEDING**

On January 25, 2022, Beth Kraus (Complainant or Ms. Kraus) filed a formal complaint with the Pennsylvania Public Utility Commission (Commission) against Metropolitan Edison Company (Met-Ed).<sup>1</sup> In her complaint, Ms. Kraus alleged that on October 27, 2021 and October 30, 2021, she experienced power surges at her home. Ms. Kraus averred that the power surges destroyed certain home equipment and appliances that she had to repair or replace,

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<sup>1</sup> This formal complaint is an untimely appeal of the Commission’s Bureau of Consumer Services’ determination regarding Complainant’s informal complaint at No. 3814838.

including a house generator, pellet stove, electrical panel, dishwasher, hot tub, fuses, television, surge protectors, and various lights, outlets and switches. Ms. Kraus requested reimbursement for the money she allegedly spent (\$4,081.49) to repair or replace her home equipment and appliances. Ms. Kraus further requested that Met-Ed explain the safety measures that were put in place to prevent this from happening in the future. Ms. Kraus attached to her complaint a claim denial letter from Met-Ed, dated November 4, 2021; a dismissal letter from the Commission's Bureau of Consumer Services ("BCS"), dated December 17, 2021; and a letter from State Representative Rosemary M. Brown's office, dated November 9, 2021, which appeared to provide Met-Ed's explanation for the power surges.

Ms. Kraus' complaint was served on Met-Ed on January 26, 2022. On February 15, 2022, Met-Ed filed a timely answer and new matter in response to Ms. Kraus' complaint. In its answer, Met-Ed denied that there was a reliability or quality problem with the electric service it provided to Ms. Kraus. Met-Ed averred that the surge on October 27, 2021 was caused by an off-right-of-way tree that was toppled due to beaver damage. Met-Ed denied that an outage event occurred on Ms. Kraus' circuit on October 30, 2021. Met-Ed averred that its actions were reasonable and performed in accordance with all applicable laws. In its new matter, which was accompanied by a notice to plead, Met-Ed averred that the Commission has no jurisdiction to award monetary damages and requested that Ms. Kraus' complaint be dismissed with prejudice or denied in its entirety. Met-Ed attached a copy of its Tariff Rule 21 and the underlying BCS decision to its answer.

Also on February 15, 2022, Met-Ed filed preliminary objections, accompanied by a notice to plead, in response to Ms. Kraus' complaint. In its preliminary objections, Met-Ed reiterated its argument that the Commission does not have authority to award damages and requested that the Commission dismiss Ms. Kraus' complaint or deny the complaint in its entirety. Ms. Kraus did not file a response to Met-Ed's preliminary objections. Met-Ed's preliminary objections were granted in part via my Order dated March 18, 2022. Ms. Kraus' request for monetary damages was stricken from her complaint, but my Order indicated that she would be permitted to proceed with the remainder of her complaint at the evidentiary hearing.

On March 18, 2022, the Commission served an initial telephonic hearing notice setting a formal call-in telephonic hearing for this matter for May 10, 2022 at 10:00 a.m. and assigning me as the presiding officer. In anticipation of that hearing, I served a prehearing order on March 18, 2022, setting forth hearing information and the rules that would govern the proceeding.

The hearing was held as scheduled on May 10, 2022 at 10:00 a.m. Ms. Kraus appeared on behalf of herself, and Margaret A. Morris, Esquire attended on behalf of Met-Ed, along with two witnesses for Met-Ed. Met-Ed submitted eight exhibits that were admitted into the record. Ms. Kraus did not submit any exhibits.

The record in this case closed on June 1, 2022 upon the filing of the May 10, 2022 hearing transcript with the Commission.

#### FINDINGS OF FACT

1. The Complainant is Beth Kraus.
2. The Respondent is Metropolitan Edison Company.
3. The Complainant's service address is 1116 Red Fox Rd., East Stroudsburg, PA 18301.
4. Ms. Kraus experienced a power surge in her home on October 28, 2021. Tr. 11-12, 19.
5. The October 28, 2021 power surge caused a power outage for a little over five hours. Tr. 12.
6. Met-Ed advised Ms. Kraus that the October 28, 2021 outage was caused by beaver damage. Tr. 12; Met-Ed Exhibit 2.

7. Ms. Kraus experienced a second power surge at her home on November 1, 2021. Tr. 12, 19.

8. The November 1, 2021 event caused a momentary power outage that lasted less than five minutes. Tr. 37, 44.

9. Met-Ed advised Ms. Kraus that a falling tree branch caused the November 1, 2021 power surge to occur. Tr. 12; Met-Ed Exhibit 2.

10. The October 28, 2021 surge event was caused by an off-right-of-way tree that was damaged by a beaver and fell on a service wire. Tr. 27, 41-42; Met-Ed Exhibit 2; Met-Ed Exhibit 3; Met-Ed Exhibit 5.

11. The tree that fell on October 28, 2021 was less than a mile away from Ms. Kraus' service location, which directly impacted the severity of the outage that she sustained. Tr. 43.

12. The closer a fault event occurs to the service location, the higher the voltage experienced may be. Tr. 43-44.

13. On October 28, 2021, after the surge event, Met-Ed's crews patrolled the circuit and found a tree on the line, which was caused by damage from a beaver. Tr. 41, 67; Met-Ed Exhibit 3; Met-Ed Exhibit 5.

14. On October 28, 2021, Met-Ed's crews replaced the blown fuses on the line, and removed a damaged arrestor from the line. Tr. 41; Met-Ed Exhibit 3.

15. Met-Ed's crews replaced the arrestor on December 10, 2021. Tr. 41.

16. Generally, after damage is noted by Met-Ed's crews, follow-up work is typically done within three months. Tr. 66-67.

17. Though one damaged arrestor was removed, other functioning arrestors were still in place on the line. Tr. 71.

18. Met-Ed's crews did not note any further issues that could cause damage on October 28, 2021. Tr. 57, 71.

19. There is no action that Met-Ed could have taken to prevent the damage that occurred on October 28, 2021. Tr. 43.

20. On the same day as the November 1, 2021 surge event, Met-Ed's crews inspected the circuit where the fault occurred, and, because branches were down in the area, suspected that a tree branch came in contact with a power line while falling. Tr. 45, 57; Met-Ed Exhibit 4.

21. During its investigation of the area on November 1, 2021, Met-Ed found nothing leaning against the wires and no other potential issues that could lead to future power surges. Tr. 57-58, 67; Met-Ed Exhibit 2.

22. There is no action that Met-Ed could have taken to prevent the damage that occurred on November 1, 2021. Tr. 45.

23. Ms. Kraus filed a claim with Met-Ed on November 1, 2021 regarding the surge events that occurred on October 28, 2021 and November 1, 2021. Tr. 27.

24. Upon investigating the claim, Met-Ed determined on November 4, 2021 that there was no evidence that any surge damage was caused by improper conduct by Met-Ed or its employees and denied the claim. Tr. 27; Met-Ed Exhibit 7.

25. Met-Ed's crews inspected the circuit again on November 8, 2021, to ensure that there were no additional items that could cause any further surges. Tr. 46, 58.

26. The crews found no potential issues on November 8, 2021. Tr. 46, 58.

- Tr. 19.
27. Ms. Kraus has not experienced any surge events since November 1, 2021.
28. Two back-to-back surge events are rare. Tr. 45-46.
29. Ms. Kraus' service location receives electricity from overhead wires. Tr. 35.
30. Ms. Kraus' service location is served by Met-Ed's Marshall Creek substation and its 127-3 circuit. Tr. 35.
31. Met-Ed's circuit 127-3 is roughly 15 miles long and serves 447 customers. Tr. 35.
32. Met-Ed's circuit 127-3 is protected by reclosures, hundreds of fuses and surge/lightning arrestors. Tr. 36-37.
33. In the event of a fault condition, a reclosure opens up to stop the flow of electricity and then resets after a predetermined amount of time. Tr. 36.
34. The reclosure's operation minimizes the amount of time a power outage occurs from a temporary tree event (where a tree hits the line and then clears). Tr. 36.
35. Fuses also stop the flow of electricity in the event of a fault, but they have to be manually reset. Tr. 36-37.
36. Surge/lightning arrestors limit an over voltage condition on a distribution power line. Tr. 37.
37. Met-Ed performs periodic inspections of its equipment and facilities consistent with American National Standards Institute Incorporated (ANSII). Tr. 46-47.

38. Met-Ed routinely inspects its circuits by foot every five years, walking under conductors and examining the condition of each circuit (including the wires, poles, fuses, reclosures and other equipment), and makes repairs or replacements as necessary. Tr. 47-49.

39. Met-Ed performs an aerial inspection of its circuits annually. Tr. 48.

40. Met-Ed also performs periodic thermo-vision inspections to identify equipment heating issues that may need to be rectified. Tr. 48.

41. Met-Ed trims the trees along its circuits every four years. Tr. 49.

42. The last tree-trimming that Met-Ed performed occurred in the year 2020. Tr. 49.

43. Met-Ed has made several reliability improvements to its systems between 2008 and 2022, including the installation of fuses and reclosers, the replacement of poles, and the installation of meters on the circuit to assist crews with troubleshooting electricity issues. Tr. 50-51; Met-Ed Exhibit 2.

44. Met-Ed is not permitted to remove healthy off-right-of-way trees without permission from the property owner; however, it may remove trees that are dead, dying or leaning, and may potentially interfere with its facilities, such as its power lines. Tr. 65, 69.

## DISCUSSION

### Legal Standard

Section 332(a) of the Public Utility Code provides that the party seeking relief from the Commission has the burden of proof. 66 Pa.C.S. § 332(a). As a matter of law, a complainant must show that the named utility is responsible or accountable for the problem described in the complaint in order to prevail. *Patterson v. Bell Tel. Co. of Pa.*, 72 Pa. PUC 196 (1990). “Burden of proof” means a duty to establish a fact by a preponderance of the evidence,

or evidence more convincing, by even the smallest degree, than the evidence presented by the other party. *Se-Ling Hosiery v. Margulies*, 70 A.2d 854 (Pa. 1950). The offense must be a violation of the Public Utility Code, the Commission's regulations, or an outstanding order of the Commission. 66 Pa.C.S. § 701. In this proceeding, Ms. Kraus has alleged that Met-Ed violated section 1501 of the Public Utility Code regarding reasonable, safe and quality service. 66 Pa.C.S. § 1501. Therefore, Ms. Kraus has the burden of proof in this proceeding.

If a complainant establishes a *prima facie* case, the burden of going forward with the evidence shifts to the utility. If a utility does not rebut the evidence, the complainant will prevail. If the utility rebuts the complainant's evidence, the burden of going forward with the evidence shifts back to the complainant, who must rebut the utility's evidence by a preponderance of the evidence. The burden of going forward with the evidence may shift from one party to another, but the burden of proof never shifts; it always remains with the complainant. *Milkie v. Pa. Pub. Util. Comm'n*, 768 A.2d 1217 (Pa. Cmwlth. 2001); *see also*, *Burleson v. Pa. Pub. Util. Comm'n*, 443 A.2d 1373 (Pa. Cmwlth. 1982).

Moreover, the Commission's decision must be supported by "substantial evidence," which consists of evidence that a reasonable mind might accept as adequate to support a conclusion. *Norfolk & W. Ry. Co. v. Pa. Pub. Util. Comm'n*, 413 A.2d 1037 (Pa. 1980). A mere trace of evidence or a suspicion of the existence of a fact is insufficient. *Erie Resistor Corp. v. Unemployment Comp. Bd. of Review*, 166 A.2d 96 (Pa. Super. 1960). A complainant cannot establish a case merely by stating his or her personal beliefs, since assertions, personal opinions or perceptions do not constitute evidence. *Pa. Bureau of Corr. v. City of Pittsburgh*, 532 A.2d 12 (Pa. 1987).

Utility companies are required by law to provide adequate and reasonable service. Section 1501 of the Public Utility Code states, in relevant part:

**§ 1501. Character of service and facilities.**

Every public utility shall furnish and maintain adequate, efficient, safe and reasonable service and facilities, and shall make all such repairs, changes, alterations, substitutions, extensions, and improvements in or to such service and facilities as shall be

necessary or proper for the accommodation, convenience and safety of its patrons, employees and the public. Such service also shall be reasonably continuous and without unreasonable interruptions or delay. Such service and facilities shall be in conformity with the regulations and orders of the commission . . .

66 Pa.C.S. § 1501. This section does not require utility companies to provide perfect service. *Elkin v. Bell Tel. Co. of Pa.*, 372 A.2d 1203 (Pa. Super. 1987).

Moreover, a utility's Commission-approved tariff (list of services, rules for service and rates for service) has the force of law and is binding on the utility and its customers. *Pa. Elec. Co. v. Pa. Pub. Util. Comm'n*, 663 A.2d 281 (Pa. Cmwlth. 1995); *Brockway Glass Co. v. Pa. Pub. Util. Comm'n*, 437 A.2d 1067 (Pa. Cmwlth. 1981); *Stiteler v. Bell Tel. Co. of Pa.*, 379 A.2d 339 (Pa. Cmwlth. 1977). Tariff provisions approved by the Commission are *prima facie* reasonable. *Lynch v. Pa. Pub. Util. Comm'n*, 594 A.2d 816 (Pa. Cmwlth. 1991), *alloc. den.*, 605 A.2d 335 (Pa. 1992); 66 Pa.C.S. § 316.

Met-Ed's Electric Service Tariff states that Met-Ed does not guarantee a continuous, uninterrupted or regular supply of electric service. Met-Ed shall not be liable for any damages due to accident, strike, storm . . . or any other cause beyond Met-Ed's control. Met-Ed Tariff Rule 21, Electric Pa. P.U.C. No. 52, Original Page No. 56, issued May 1, 2015, effective May 3, 2015 (Met-Ed Tariff Rule 21); Met-Ed Exhibit 6.

#### Failure to Meet Burden

Ms. Kraus testified that she experienced power surge events on October 28, 2021 and November 1, 2021 and that Met-Ed's service was therefore unreasonable. Tr. 11-12, 19. Ms. Kraus further testified that she lost equipment and appliances in her home due to the power surges. Tr. 12. Ms. Kraus did not submit any documentation into evidence regarding the loss of power, the reason for the loss of power, or damage to her appliances. The Commission does not have authority to award damages. *Feingold v. Bell Tel. Co. of Pa.*, 383 A.2d 791 (Pa. 1977). However, there is no evidence in the record to prove that Met-Ed provided unreasonable service and caused damage to Ms. Kraus' equipment and appliances. 66 Pa.C.S. § 1501.

Met-Ed's principal witness was Gregory Mervos, senior engineer for First Energy Service Company. Tr. 32. Mr. Mervos is responsible for addressing reliability issues in Met-Ed's system. Tr. 33. Mr. Mervos testified that the October 28, 2021 surge event was caused by an off-right-of-way tree that was damaged by a beaver and fell on a service wire. Tr. 27, 41-42; Met-Ed Exhibit 2; Met-Ed Exhibit 3; Met-Ed Exhibit 5. Met-Ed's crews investigated the area on October 28, 2021, the same day that the surge event occurred, and took pictures of the bottom of the tree where the beaver damage occurred. Tr. 42, 67; Met-Ed Exhibit 3; Met-Ed Exhibit 5. Mr. Mervos' testimony explained that the tree falling on the power lines caused power outages for customers along the 127-3 circuit that serves Ms. Kraus' service location. Tr. 41-42; Met-Ed Exhibit 2; Met-Ed Exhibit 3. Mr. Mervos also explained that because the tree fell less than a mile from Ms. Kraus' residence, the power outage she experienced was more severe. Tr. 43-44.

On the same day that the October 28, 2021 surge event occurred, Met-Ed's crews replaced the blown fuses on the line, and removed a damaged arrestor from the line. Tr. 41; Met-Ed Exhibit 3. Met-Ed's crews replaced the arrestor on December 10, 2021, within the three-month timeframe that equipment is generally replaced. Tr. 41, 66-67. Met-Ed's crews did not note any further issues on October 28, 2021. Tr. 57, 71. There is no evidence that Met-Ed could have done anything to prevent the beaver damage to the tree, or that Met-Ed's actions led to the power outage. Tr. 43.

Regarding the outage on November 1, 2021, Mr. Mervos testified that Met-Ed's crews investigated the area the same day, and because of the tree branches on the ground in the area where the fault event occurred, they presumed that a tree branch had fallen and hit a wire on the way down, which caused a momentary outage for Ms. Kraus. Tr. 44-45, 57; Met-Ed Exhibit 4.

The evidence of record shows that Met-Ed did not delay in addressing the surge events that occurred. On the same days as the October 28, 2021 and November 1, 2021 surge events, Met-Ed's crews went out to investigate the area, fix any damaged equipment, and search for additional issues that may cause additional outages or surges. Tr. 41, 45, 57, 67, 71; Met-Ed Exhibit 3; Met-Ed Exhibit 4; Met-Ed Exhibit 5. Furthermore, to be even more cautious, on

November 8, 2021, Met-Ed's crews patrolled the area again to ensure that no further issues existed that may lead to additional surge events. Tr. 46. Met-Ed did this additional inspection in part because it was not entirely sure that the tree branch caused the November 1, 2021 surge event. Tr. 57. Met-Ed wanted to perform another inspection to ensure that there were no equipment issues, or anything else that may lead to another surge event. Tr. 46, 58. Met-Ed's crews did not find any further issues. Tr. 46, 58. Ms. Kraus testified that she has not experienced another surge event since November 1, 2021. Tr. 19.

Met-Ed's expert testimony also illustrates that Met-Ed's care for its facilities is not solely responsive; it is also proactive. Mr. Mervos testified that Met-Ed performs periodic inspections of its equipment and facilities consistent with American National Standards Institute Incorporated (ANSII). Tr. 46-47. Met-Ed routinely inspects its circuit 127-3, which is roughly 15 miles long and serves 447 customers. Tr. 35. Mr. Mervos testified that Met-Ed's circuit 127-3 is protected by reclosures, hundreds of fuses and surge/lightning arrestors. Tr. 36-37. Met-Ed routinely inspects its circuits by foot every five years, walking under conductors and examining the condition of each circuit (including the wires, poles, fuses, reclosures and other equipment), and makes repairs or replacements as necessary. Tr. 47-49. Met-Ed performs an aerial inspection of its circuits annually. Tr. 48. Met-Ed also performs periodic thermo-vision inspections to identify equipment heating issues that may need to be rectified. Tr. 48. Even further, Met-Ed has made a number of reliability improvements to its systems between 2008 and 2022, including the installation of fuses and reclosers, the replacement of poles, and the installation of meters on the circuit to assist crews with troubleshooting electricity issues. Tr. 50-51; Met-Ed Exhibit 2.

Mr. Mervos also testified that Met-Ed trims the trees along its circuits every four years. Tr. 49. The last tree-trimming occurred in the year 2020. Tr. 49. When Ms. Kraus asked Mr. Mervos why the trees surrounding where the first tree fell on October 28, 2021 were not cut or removed by Met-Ed's crews, Mr. Mervos testified that Met-Ed is not permitted to remove healthy off-right-of-way trees without permission from the property owner; it may only remove trees that are dead, dying or leaning, and may potentially interfere with its facilities, such as its power lines. Tr. 56, 65, 69. Mr. Mervos testified that nothing was leaning against the wires

during the crews' patrols, and the crews did not identify anything in the area that needed to be removed. Tr. 57.

Laurie Parker, advanced customer services compliance specialist and witness for Met-Ed, testified that Ms. Kraus filed a claim with Met-Ed on November 1, 2021, alleging damages sustained on October 28, 2021 and November 1, 2021 due to power surges caused by Met-Ed. Tr. 21, 27. Met-Ed promptly investigated that claim and determined that there was no indication that Met-Ed or its employees caused the power surges. Tr. 27. Consistent with its tariff rule 21,<sup>2</sup> Met-Ed determined that it was not liable for any alleged damage to Ms. Kraus' equipment or appliances and issued a denial letter on November 4, 2021. Tr. 27; Met-Ed Tariff Rule 21; Met-Ed Exhibit 6; Met-Ed Exhibit 7.

As stated above, Met-Ed's tariff does not guarantee a continuous, uninterrupted supply of electric service. Met-Ed Tariff Rule 21; Met-Ed Exhibit 6. Met-Ed is also not liable for any damages due to accident, strike, storm . . . or any other cause beyond Met-Ed's control. Met-Ed Tariff Rule 21; Met-Ed Exhibit 6. Moreover, Section 1501 of the Public Utility Code requires reasonable service, not perfect service. 66 Pa.C.S. § 1501; *Elkin v. Bell Tel. Co. of Pa.*, 372 A.2d 1203 (Pa. Super. 1987). The record reflects that both power surges were caused by off-right-of-way trees, which Met-Ed is not responsible for unless the tree is diseased, dying or leaning and may interfere with its service lines. Tr. 65, 69. Ms. Kraus did not submit any evidence to show that Met-Ed was responsible for the removal of any of the off-right-of-way trees near her property.

After the off-right-of-way tree fell due to beaver damage on October 28, 2021, Met-Ed immediately inspected the area, made the necessary repairs and found no issues with the remainder of the surrounding trees. Tr. 41, 57, 67, 71; Met-Ed Exhibit 3; Met-Ed Exhibit 5. When the tree branch presumably fell on the service wire on November 1, 2021, Met-Ed investigated the area and found nothing leaning against the wires and no other potential issues that could lead to future power surges. Tr. 57-58, 67; Met-Ed Exhibit 2. To be even more

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<sup>2</sup> "Met-Ed shall not be liable for any damages due to accident, strike, storm . . . or any other cause beyond West Penn's control . . ." Met-Ed Tariff Rule 21.

cautious, Met-Ed's crews went to the area again on November 8, 2021 to further investigate and ensure that nothing else would cause a power surge, and they found no evidence of any issues. Tr. 46, 58. Ms. Kraus testified that she has not experienced a power surge since November 1, 2021. Tr. 19.

#### Complainant's Argument Regarding Met-Ed's Arrestor

During her cross-examination of Mr. Mervos, and during her closing argument (which is not sworn testimony), Ms. Kraus focused on the arrestor that was damaged in the October 28, 2021 surge event and replaced on December 10, 2021. Tr. 63-64, 77. Complainant noted in her closing statement that she had no further issues after the arrestor was replaced in December 2021, and therefore, replacing the arrestor sooner could have prevented the second power surge she experienced on November 1, 2021. Tr. 77. Ms. Kraus emphasized that she has not had any power outages since December 10, 2021. Tr. 77. However, Ms. Kraus has also had no further issues since the last surge event on November 1, 2021. Tr. 19. She did not have any further surge events between November 1, 2021 and December 10, 2021, when the arrestor was replaced. Tr. 19. Moreover, the first surge event occurred on October 28, 2021, prior to the arrestor being damaged. There is no evidence that proves that the damaged arrestor was the cause of the November 1, 2021 surge event, nor that the replacement of the arrestor is the direct reason that no additional surges have occurred since December 10, 2021. Mr. Mervos testified that Met-Ed is not entirely sure what caused the surge event on November 1, 2021, but based on the tree branches that were down in the area, it presumed that it was due to a falling tree limb, as it found nothing leaning against the wires during its inspection. Tr. 45, 57-58, 67; Met-Ed Exhibit 2; Met-Ed Exhibit 4. Met-Ed also did an extensive inspection on November 8, 2021, for any additional potential causes of future outages/surges, and it found no issues. Tr. 46, 58. Mr. Mervos testified that two back-to-back surge events are rare. Tr. 45-46. The evidence supports a finding that Met-Ed's actions were reasonable in responding to Complainant's concerns. 66 Pa.C.S. § 1501.

## Conclusion

Met-Ed testified that it does periodic inspections of its equipment and facilities. Tr. 47-49. However, Met-Ed's inspections would not guarantee that, at times, equipment may be damaged by means beyond its control. As Mr. Mervos testified, Met-Ed's distribution system is exposed to many things outside of its control, such as inclement weather, vehicular accidents and animals. Tr. 51. Still, occasional surges do not constitute unreasonable service, especially when Met-Ed responded to the surges immediately, made all necessary repairs, and did an additional inspection to ensure that no further issues were in the areas where the surges occurred. The regular maintenance that Met-Ed performs on its equipment and powerlines, combined with the immediate action Met-Ed took to repair any damaged equipment, demonstrates reasonable service. The evidence of record supports the finding that Met-Ed did not violate the Public Utility Code, a Commission order or regulation or a Commission-approved tariff with regard to the outages that Ms. Kraus experienced on October 28, 2021 and November 1, 2021. Met-Ed provided reasonable service in accordance with the Public Utility Code and its Commission-approved tariff.

The experience of a surge event is certainly unfortunate, and I am not unsympathetic to Ms. Kraus' concerns. However, the evidence of record does not demonstrate that Met-Ed took any actions that caused the surge events that Ms. Kraus experienced. The evidence of record does not support a finding that Met-Ed's service to Ms. Kraus was unreasonable. To the contrary, the actions of Met-Ed in this case demonstrate reasonable service under Section 1501 of the Public Utility Code. 66 Pa.C.S. § 1501. In the absence of evidence in the record that supports Ms. Kraus' claims, I must find that Ms. Kraus failed to meet her burden to prove that Met-Ed violated any laws in connection with the power surges that she experienced at her home. There is no evidence in the record to prove that Met-Ed provided unreasonable service to Ms. Kraus. 66 Pa.C.S. § 1501.

Accordingly, for the reasons stated above, the Complainant's Complaint is dismissed.

## CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the subject matter and the parties to this proceeding. 66 Pa.C.S. § 701.
2. Section 332(a) of the Public Utility Code provides that the party seeking relief from the Commission has the burden of proof. 66 Pa.C.S. § 332(a).
3. A complainant must show that the named utility is responsible or accountable for the problem described in the complaint in order to prevail. *Patterson v. Bell Tel. Co. of Pa.*, 72 Pa. PUC 196 (1990).
4. "Burden of proof" means a duty to establish a fact by a preponderance of the evidence, or evidence more convincing, by even the smallest degree, than the evidence presented by the other party. *Se-Ling Hosiery v. Margulies*, 70 A.2d 854 (Pa. 1950).
5. The offense must be a violation of the Public Utility Code, the Commission's regulations, or an outstanding order of the Commission. 66 Pa.C.S. § 701.
6. If a complainant establishes a *prima facie* case, the burden of going forward with the evidence shifts to the utility. If a utility does not rebut the evidence, the complainant will prevail. If the utility rebuts the complainant's evidence, the burden of going forward with the evidence shifts back to the complainant, who must rebut the utility's evidence by a preponderance of the evidence. The burden of going forward with the evidence may shift from one party to another, but the burden of proof never shifts; it always remains with the complainant. *Milkie v. Pa. Pub. Util. Comm'n*, 768 A.2d 1217 (Pa. Cmwlth. 2001); *Burleson v. Pa. Pub. Util. Comm'n*, 443 A.2d 1373 (Pa. Cmwlth. 1982).
7. The decision of the Commission must be supported by substantial evidence. 2 Pa.C.S. § 704.

8. "Substantial evidence" is the amount of evidence that a reasonable mind might accept as adequate to support a conclusion. More is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established. *Norfolk & W. Ry. Co. v. Pa. Pub. Util. Comm'n*, 413 A.2d 1037 (Pa. 1980); *Erie Resistor Corp. v. Unemployment Comp. Bd. of Review*, 166 A.2d 96 (Pa. Super. 1961); and *Murphy v. Pa. Dep't of Pub. Welfare, White Haven Ctr.*, 480 A.2d 382 (Pa. Cmwlth. 1984).

9. Mere bald assertions, personal opinions or perceptions, when not substantiated by facts, do not constitute evidence. *Mid-Atl. Power Supply Assoc. v. Pa. Pub. Util. Comm'n*, 746 A.2d 1196 (Pa. Cmwlth. 2000); *Pa. Bureau of Corrs. v. City of Pittsburgh*, 532 A.2d 12 (Pa. 1987).

10. Utility companies are required to provide reasonable service. 66 Pa.C.S. § 1501.

11. Utility companies are not required to provide perfect service. *Elkin v. Bell Tel. Co. of Pa.*, 372 A.2d 1203 (Pa. Super. 1987); 66 Pa.C.S. § 1501.

12. Met-Ed does not guarantee a continuous, uninterrupted or regular supply of electric service. Met-Ed is also not liable for any damages due to accident, strike, storm . . . or any other cause beyond Met-Ed's control. Met-Ed Tariff Rule 21, Electric Pa. P.U.C. No. 52, Original Page No. 56, issued May 1, 2015, effective May 3, 2015.

13. Met-Ed provided reasonable service consistent with Section 1501 of the Public Utility Code. 66 Pa.C.S. § 1501.

14. Ms. Kraus has failed to satisfy her burden of proof to demonstrate that Met-Ed has violated the Public Utility Code, a Commission order or regulation or a Commission-approved tariff. 66 Pa.C.S. §§ 332(a), 701.

