

March 20, 2023

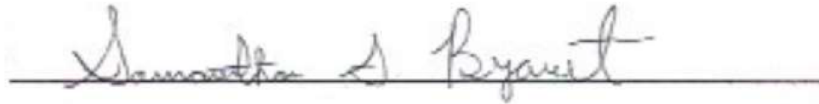
Rosemary Chiavetta, Esquire
Secretary
PA Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

**Re: Docket No. C-2021- 3028283
Samantha Bryant et al Metropolitan Edison Company and Mid-Atlantic
Interstate Transmission, LLC
et al
Reply Brief of Complainants in Consolidated Proceeding**

Dear Secretary Chiavetta:

Attached for filing is the Reply Brief of Complainant, Samantha Bryant et al in the above referenced proceeding. A copy of the Reply Brief has been provided to the Respondents and all Complainants in the manner indicated on the attached certificate.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Samantha S. Bryant", is written over a horizontal line.

Samantha Bryant

Cc: The Hon. Mark A. Hoyer
The Hon. John Coogan
Tori Giesler, Esquire, FirstEnergy Service Company
Margaret Morris, Esquire, Representing MAIT and Metropolitan Edison Company
Complainants Parties of Record

March 20, 2023

Via Electronic Filing

Rosemary Chiavetta, Esquire
Secretary
PA Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Re Docket No. C-2021-3028283

Samantha Bryant et al v. Metropolitan Edison Company and Mid-Atlantic Interstate
Transmission, LLC

et al

Reply Brief

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been served upon the following person(s), in the manner indicated, in accordance with the requirements.

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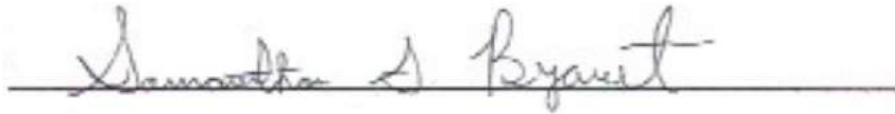
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If there are any questions, please contact me.
Thank you,

A handwritten signature in dark ink, reading "Samantha S. Bryant", is written over a horizontal line.

Samantha Bryant

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List of pertinent proceedings that have been consolidated noted below:

C-2021-3028186- DEBORA CONNELL v. METROPOLITAN EDISON COMPANY & MID-ATLANTIC INTERSTATE TRANSMISSION, LLC

C-2021-3028464-TRACY AND JILL TROUTMAN V. METROPOLITAN EDISON COMPANY & MID-ATLANTIC INTERSTATE TRANSMISSION, LLC

C-2021-3028278-REBECCA WALIZER V. METROPOLITAN EDISON COMPANY & MID-ATLANTIC INTERSTATE TRANSMISSION, LLC

C-2021-3028416- NEAL WALMER v. METROPOLITAN EDISON COMPANY & MID-ATLANTIC INTERSTATE TRANSMISSION, LLC

C-2021-3028211 - MICHAEL AND MARGARET MARINO v. METROPOLITAN EDISON & MID-ATLANTIC INTERSTATE TRANSMISSION, LLC

C-2021-3028346- STANLEY & EILEEN KRASINSKI v. METROPOLITAN EDISON COMPANY & MID-ATLANTIC INTERSTATE TRANSMISSION, LLC

C-2021-3028286-MICHAEL FLORIO v. METROPOLITAN EDISON COMPANY & MID-ATLANTIC INTERSTATE TRANSMISSION, LLC

C-2021-3028283-SAMANTHA BRYANT v. METROPOLITAN EDISON COMPANY & MID-ATLANTIC INTERSTATE TRANSMISSION, LLC

C-2021-3028314-MICHAEL KRAMER v. METROPOLITAN EDISON COMPANY & MID-ATLANTIC INTERSTATE TRANSMISSION, LLC

C-2021-3028414 -ANDREW S. FREIBERG v. METROPOLITAN EDISON COMPANY & MID-ATLANTIC INTERSTATE TRANSMISSION, LLC

C-2021-3028418-KAREN AND MICHAEL FEDASH v. METROPOLITAN EDISON COMPANY & MID- ATLANTIC INTERSTATE TRANSMISSION, LLC

C-2021-3030530-GREGORY BAIR v. METROPOLITAN EDISON COMPANY & MID-ATLANTIC INTERSTATE TRANSMISSION, LLC

C-2021-3028302-PINGOI DAI v. METROPOLITAN EDISON COMPANY

C-2021-3028348-COREY & BETTY RIGBERG v. METROPOLITAN EDISON COMPANY

C-2021-3028627-PATRICIALANE V. METROPOLITAN EDISON COMPANY

Updated 06/01/22

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Samantha Bryant

v.

C-2021-3028283

Metropolitan Edison Company and Mid-Atlantic Interstate Transmission, LLC

REPLY BRIEF

March 20, 2023

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Introduction and Statement of the Case

In short, the Respondents state that the current 72 Campbelltown-Middletown-North Hershey 69 kV Transmission line requires replacement due to aged facilities. They propose replacing the segment through the Meadows neighborhood with a similar-in-kind, overhead transmission line design except they propose to raise the average pole height from 52 to 59 feet, reduce the number of poles from 9 to 7 and reduce the number of wires from 7 to 4.¹

The Complainants,² all property owners in the Meadows neighborhood, oppose this proposed replacement overhead design specifically because:

- It lacks sufficient safety as evidenced by two separate documented, historical incidents of infrastructure failure leading to downed live wires in the Meadows neighborhood.³
- It is even more unsafe than the present transmission line due to Respondent cost cutting measures.⁴
- It introduces additional, fresh Pentachlorophenol (PCP) into the Meadows environment and indefinitely perpetuates unsafe public exposure to PCP, a known carcinogenic chemical used as a wood preservative and pesticide on the utility poles and a chemical that is currently being phased out by the EPA specifically because of its documented hazardous qualities.⁵
- The safer option of undergrounding, which eliminates all Complainants concerns, is available.

It should be noted that, in their argument, **the Respondents completely fail to address the most critical issues:**

- The two separate witnessed incidents of infrastructure failure, in two different locations along the current transmission line, resulting in downed live wires in the Meadows neighborhood.⁶
- The greater threat to a larger number of residents caused by Respondent cost cutting measures, i.e. use of fewer poles creates longer spans of wiring which creates

¹ Respondent Main Brief, page 9.

² Complainants include C-2021-3028186- DEBORA CONNELL; C-2021-3028464-TRACY AND JILL TROUTMAN; C-2021-3028278-REBECCA WALIZER; C-2021-3028416-NEAL WALMER; C-2021-302821-MICHAEL AND MARGARET MARINO; C-2021-3028346-STANLEY AND EILEEN KRASINSKI; C-2021-3028286-MICHAEL FLORIO; C-2021-3028283-SAMANTHA BRYANT; C-2021-3028314-MICHAEL KRAMER; C-2021-3028414-ANDREW S. FREIBERG; C-2021-3028418-KAREN AND MICHAEL FEDASH; C-2021-3030530-GREGORY BAIR; C-2021-3028302-PINGQI DAI; C-2021-3028348-COREY & BETTY RIGBERG; C-2021-3028627-PATRICIA LANE.

³ Complainant Direct Written Testimony (DWT), page 21, lines 443-448, line 451, Exhibit 7 (C-2021-3028211), Exhibit 11 (C-C-2021-3028186).

⁴ Complainant DWT, page 19, lines 408-423, Diagram 4, and page 20, lines 424-442.

⁵ Complainant DWT, page 8, lines 174-195, page 9, lines 196-216, Complainant Rebuttal Testimony, page 3, lines 58-69.

⁶ Complainant DWT, page 21, lines 443-448, line 451, Exhibit 7 (C-2021-3028211), Exhibit 11 (C-C-2021-3028186).

significantly greater sweep radii for downed live wires. These greater sweep radii would capture **more** homes and residents than present in the areas of risk.⁷

- The fresh introduction and perpetuated, indefinite exposure of Meadows' residents to the carcinogenic chemical PCP.⁸

For the reasons set forth above and discussed in further detail below, the Respondents' proposed overhead design should be denied and the Complainants proposed relief of underground design should be mandated. The Respondents have failed to abide by the safety requirements of Code Pa. C.S. § 1501 both in the past⁹ and also with this proposed, demonstrably less safe design.¹⁰

The Complainants also reiterate here that they **receive zero benefit from this transmission line (they are not Respondent customers). They receive only risk.**

Summary of the Argument

The argument between Complainants and Respondents can be stated in very simple terms. It is an argument as to whether or not cost savings are more important than public safety or, more plainly, do common "cents" outweigh common "sense?"

The Respondents' essential argument is that they own the easement and the proposed overhead design they wish to implement is traditional, has been used for decades, is simpler for them to accomplish, is cheaper to install, and is safe enough for present application.

The Complainants argue that this old overhead type of design is antiquated and far too dangerous **for this specific section through the Meadows** given the Meadows' history of two separate downed live wire incidents in two different locations,¹¹ the changes in land use, and the changes in population density. Further, the Complainants argue that this proposed design is even more dangerous than the current design due to Respondent cost cutting measures (fewer poles with longer spans of wiring yielding wider potential sweep radii for downed live wires, threatening even more residents)¹² and because of its continued use of Pentachlorophenol (PCP) saturated utility poles (PCP, a known toxic, carcinogenic chemical which is currently being phased out by the EPA and will be banned completely in a few years).¹³

⁷ Complainant DWT, page 19, lines 408-423, Diagram 4, and page 20, lines 424-442.

⁸ Complainant DWT, page 8, lines 174-195, page 9, lines 196-216, Complainant Rebuttal Testimony, page 3, lines 58-69.

⁹ Complainant DWT, page 21, lines 443-448, line 451, Exhibit 7 (C-2021-3028211), Exhibit 11 (C-C-2021-3028186).

¹⁰ Complainant DWT, page 19, lines 408-423, Diagram 4, and page 20, lines 424-442.

¹¹ Complainant DWT, page 21, lines 443-448, line 451, Exhibit 7 (C-2021-3028211), Exhibit 11 (C-C-2021-3028186).

¹² Complainant DWT, page 19, lines 408-423, Diagram 4, and page 20, lines 424-442.

¹³ Complainant DWT, page 8, lines 174-195, page 9, lines 196-216, Complainant Rebuttal Testimony, page 3, lines 58-69.

Argument

“Safety” is noted prominently in the marketing material of FirstEnergy¹⁴ and in Public Utility Commission (PUC) code.¹⁵ Respondents demand that that Complainants must point out specific violation of PUC Code to stop them from implementing an unsafe transmission line replacement design at this moment. It is interesting to note that Code violations are rarely, if ever, identified prior to a disaster even by trained professionals. Rather, they are discovered primarily through careful investigation **after** catastrophic incidents. In every specific electrocution case noted below,¹⁶ violations were only discovered by the PUC Bureau of Investigation and Enforcement (PUCBIE) **after** each disaster.

Complainants know that the Respondents’ parent company, FirstEnergy, and its subsidiaries have violated Code in the past with catastrophic results. It is public record. Their violations brought us the Goretzka,¹⁷ Poynton,¹⁸ and Colton¹⁹ electrocutions and deaths.

It is documented, witnessed fact that the Complainants have already experienced two separate major incidents²⁰ of infrastructure failure at two different locations along the current transmission line, which, the Respondents admit, is similar-in-kind to the proposed replacement project design. These historical incidents which resulted in downed live wires are, by themselves, indicative of insufficient safety in practice, design, construction, maintenance, and inspection by the Respondents in violation of Code 66 Pa. C.S. § 1501 (“**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 or **facilities as shall be necessary or proper** for the accommodation, convenience, and **safety of** its patrons, employees, and **the public**” (emphasis added)).

The Respondents are aware of the dangers to which they subject us. They have paid civil penalties and have been mandated corrective actions for their negligence in the past.²¹ They know that PCP, which saturates the poles they use, is a toxic, carcinogenic chemical²² whose danger is so severe that it is currently being phased out by the EPA and will be banned totally by 2027.²³ **The risks associated with PCP exposure are no less severe today than they will be in 2027.** Yet, in proposing this design, the Respondents knowingly subject both present and future residents and their offspring to an unlimited, undefined future of exposure to the

¹⁴ Complainant DWT, page 5, lines 98-109, page 6, lines 110-111, Complainant Main Brief, page 5, pt 12.

¹⁵ PUC Code 66 Pa. C.S. § 1501.

¹⁶ Complainant DWT, page 10, lines 232-256, page 11, lines 264-290, page 12, lines 295-313.

¹⁷ Complainant DWT, page 10, lines 232-256.

¹⁸ Complainant DWT, page 11, lines 264-290.

¹⁹ Complainant DWT, page 12, lines 295-313.

²⁰ Complainant DWT, page 21, lines 443-448, line 451, Exhibit 7 (C-2021-3028211), Exhibit 11 (C-C-2021-3028186).

²¹ Complainant DWT, page 10, lines 232-256, page 11, lines 264-290, page 12, lines 295-313.

²² Complainant DWT, page 8, lines 174-195, page 9, lines 196-216, Complainant Rebuttal Testimony, page 3, lines 58-69.

²³ Complainant Rebuttal Testimony, page 3, lines 58-69.

known, carcinogenic, toxic chemical PCP as well as the risks of property damage, injury and death from falling wires. The Complainants have backyard barbecues near these poles. Children play near these poles. They obtain their drinking water from the ground in which these poles are driven and the Complainants have cited credible evidence that PCP saturated poles contaminate groundwater and drinking water.²⁴ Further, the majority of residents in the Meadows are within sweep range of electrocution from downed live wires.²⁵

The Respondents argue that it is not their fault that the land use has changed or that our homes and yards are too close to this transmission line. Yet, the reality we find ourselves in today is that the land use has evolved from farmland to residential neighborhood and the homes are too dangerously close to this transmission line.²⁶ **One home is 45 feet away from this transmission line.** Two others are within 54 feet, and ten more are within 105 feet of this transmission line. With the proposed replacement design, thirty (30) of thirty-nine (39) homes in the Meadows neighborhood will be within contact distance of a downed live wire²⁷ and the actual area of risk is even greater than simply the contact range. As noted in the Poynton electrocution case, Mr. Poynton was electrocuted 70 feet from the downed live wire.²⁸ These facts place the resident public at unacceptable risk for both harmful results from infrastructure failure and from exposure to PCP.

The Respondents state that that “the transmission line was constructed 30 years before the Complainants’ housing development and the Complainants assertions regarding speculative health, aesthetics, and safety are without merit.”²⁹ They state further that “the Complainants who purchased lots and/or homes did so with the actual knowledge of the existence of the facilities.”³⁰ The Respondents’ statements are disingenuous. The Complainants counter that while they may have moved in 30 years ago relatively naïve to the dangers, many of which were as yet unknown, more recent scientific research³¹ over the past 30 years has highlighted and provided substantial evidence of the dangers faced by such unsafe design in this specific environment. **The dangers are very real and Complainant concerns are not “without merit.”**

In their DWT, the Respondents stated that the deeds of **all** Complainants located adjacent to the Easement of note include a very specific statement referencing this easement.³² They also cite in their Main Brief that “**all** Complainants chose to move to the Meadows with actual knowledge of the transmission line and recorded easement.”³³ Both statements are false. While one deed (Lane) does contain the specific statement noted by the Respondents, many of the

²⁴ Complainant DWT, page 8, lines 187-195, page 9, lines 196-216.

²⁵ Complainant DWT, page 19, lines 408-423, Diagram 4, page 20, lines 424-442.

²⁶ Complainant DWT, page 15, lines 359-360, Diagram 1, page 16, lines 367-386.

²⁷ Complainant DWT, page 19, lines 408-423, Diagram 4, page 20, lines 424-442.

²⁸ Complainant DWT, page 11, lines 264-290.

²⁹ Respondent Main Brief, page 2.

³⁰ Rebuttal testimony of Kevin Irvine, page 5, lines 16-17.

³¹ Complainant DWT, page 8, lines 174-195, page 9, lines 196-216, Complainant Rebuttal Testimony, page 3, lines 58-69.

³² Direct Testimony of Michael Espinoza, page 3, lines 19-23, page 4, lines 1-2.

³³ Respondent Main Brief, page 11, point 8.

deeds make only a broad, general statement regarding an unspecified easement, and **two of the Complainant deeds (Bryant and Freiberg), whose properties directly abut this easement, make no reference to any easement whatsoever.**³⁴

Respondents also point out that the Complainants did not raise any concerns regarding the Transmission Line prior to the announcement of the project being announced. This is true. The Complainants have common sense, and are thoughtful, intelligent people who believe that a request to underground the lines prior would have been unsuccessful. However, when the utility itself has determined that the entire structure must be removed and replaced in its entirety, **NOW is the obvious, logical moment to lobby for a more modern, safer alternative to a 60+ year old antiquated, dangerous design.**

The Respondents frequently state in their Brief that the Complainants offer only “personal opinion”, “unsubstantiated concerns”, “speculation”, and “perceptions”³⁵ that the proposed transmission is unsafe...that they lack fact. However, the Respondents failed to tie those allegations to any specific statements in the Complainants DWT.

The Complainants argue:

- 1) It is not “opinion”, “speculation”, or “perception” that PCP, a known carcinogen, is harmful to humans through:
 - a. Physical contact.
 - b. Contamination of ground water (the drinking water for all Complainants).

These points are conclusions of fact drawn from scientific studies by official government scientific regulating and enforcing bodies (the Centers for Disease Control and Prevention (CDC),³⁶ the Environmental Protection Agency (EPA),³⁷ and the National Institute of Health (NIH)³⁸).

- 2) It is not Complainant “opinion”, “speculation”, or “perception” that overhead electric transmission facilities fail and live wires fall, injuring and killing humans and damaging personal property. This is fact and documented in the electrocution cases of Goretzka,³⁹ Poynton,⁴⁰ and Colton.⁴¹
- 3) It is not Complainant “opinion”, “speculation”, or “perception” that the Complainants have already experienced two major incidents of live wires falling at two different

³⁴ Complainant Rebuttal Testimony, page 8, lines 212-219, page 9, lines 220-227.

³⁵ Respondent Main Brief, page 1, 3, 9, 10.

³⁶ Complainant DWT, page 8, lines 174-185.

³⁷ Complainant Rebuttal Testimony, page 11, lines 58-69.

³⁸ Complainant DWT, page 8, lines 194-195, page 9, lines 196-199.

³⁹ Complainant DWT, page 10, lines 232-256.

⁴⁰ Complainant DWT, page 11, lines 264-290.

⁴¹ Complainant DWT, page 12, lines 295-313.

locations along the current transmission line. These incidents are factual, very concerning, and cited by witnesses Connell and Marino in their Direct Written Testimony.⁴² While grateful that these incidents did not result in tragedy the first two times, Complainants note that Ms. Goretzka⁴³ was not electrocuted in the first downed wire incident. She was electrocuted and killed in a second, repeat, downed wire incident. The Complainants consider these two hazardous incidents to be their “Goretzka warning” which is why they now advocate for a safer resolution to prevent a similar, deadly result.

Currently, this overhead transmission line design is fully 60+ years old. If the similar-in-kind design is allowed to proceed and a similar replacement schedule is followed, the design will likely be 120+ years old when the Respondents decide it is in need of replacement again. Thus, the Respondents (and the PUC if they allow this), will be subjecting the current and future residents of the Meadows and neighboring families to:

- 1) At least 60 more years of unnecessary harmful exposure to an **additional, fresh dose** of the chemical, PCP, that is currently being phased out by the EPA and which use will be completely banned in 2027 **specifically because of its currently known and documented harmful effects.**⁴⁴ Complainants argue that such an act would not only be immoral and unethical, it would be an act of negligence.
- 2) At least 60 more years of unnecessary exposure to risk of overhead infrastructure failure that can lead to injury, death, and property damage.⁴⁵ This is above and beyond the two major downed live wire incidents⁴⁶ already experienced.

The Complainants would be subjected to all of the above **despite** advances in technology, design, and safety which should preclude this proposed design **in this specific setting** for a reasonable, public safety oriented, forward-thinking company. **This unsafe, antiquated design is completely unnecessary.** The Complainants argue that technology, safety, and design have advanced, and knowledge/evidence of the harmful effects associated with overhead transmission line design has grown significantly. One would expect the Respondents to enthusiastically embrace this advanced technology and expansion in science...that they would be using it to make improvements in practice, even to redefine their “best practices”, as do their competitors⁴⁷ to make a safer, better product. Instead, they seem to ignore it, and even attempt to bury this truth, simply for cost savings. The Complainants would far prefer that the Respondents embrace industry innovation and safely bury the transmission lines...rather than the truth.

⁴² Complainant DWT, page 21, lines 443-448, line 451, Exhibit 7 (C-2021-3028211), Exhibit 11 (C-C-2021-3028186).

⁴³ Complainant DWT, page 10, lines 232-256.

⁴⁴ Complainant DWT, page 8, lines 174-195, page 9, lines 196-216, Complainant Rebuttal Testimony, page 3, lines 58-69.

⁴⁵ Complainant DWT, page 10, lines 232-256, page 11, lines 264-290, page 12, lines 295-313.

⁴⁶ Complainant DWT, page 21, lines 443-448, line 451, Exhibit 7 (C-2021-3028211), Exhibit 11 (C-C-2021-3028186).

⁴⁷ Complainant DWT, page 28, lines 687-696, page 33, lines 777-782.

When this easement was originally granted in 1941 and construction of the original transmission line followed, automobiles did not have safety belts or shoulder harnesses. They didn't have airbags, halogen headlights, power steering, power brakes, automatic transmissions, or any of the current electronic safety advancements which make us exponentially safer today. Yet, automotive technology did advance, as did the knowledge of the harmful effects of lacking such advanced safety features. The result is an automobile today that is infinitely safer to drive.

What the Respondents propose now is the equivalent of demanding that the Complainants return to driving the less safe, antiquated automobile of yesteryear (with extremely primitive features by today's standards and without the advanced safety features outlined) because it is cheaper to manufacture and would satisfy the basic requirements. It is an absurd proposal. Concepts and practice in design, technology, and safety have evolved over time and the automotive industry has incorporated them into their "best practices" for the betterment of society. This same evolution has also occurred in the electrical transmission and distribution industry,⁴⁸ but for noted reasons of cost savings,⁴⁹ the Respondents choose to ignore it.

In their Brief, the Respondents state repeatedly that this proposed overhead transmission line design is the "most cost effective" (cheapest) option which has been used for decades, is therefore adequately safe, and should be allowed. Further, they claim it is only Complainants' "opinion, speculation, and "perception" that their proposed design is not safe enough. Complainants reply...could General Motors produce a car today without modern safety features that is more "cost effective" (cheaper), yet functions well enough to accomplish its basic task? Of course. That car was actually manufactured in 1941. Should they be allowed to market such a car today? Of course not. That premise is absurd as is the Respondents' proposal to replace this 60+ year old overhead transmission line with a similar-in-kind overhead transmission line with the same (now known and documented) safety deficiencies (made even more dangerous by cost cutting measures previously described) because it is cheaper and can satisfy the basic mission.

The Respondents repeatedly stress in their brief, **without evidence**, that their proposed overhead transmission line design is "consistent with current industry best practices."⁵⁰ The Complainants argue that this proposed design is the exact opposite of "best practices", that this is an example of "idle practices", of "traditional practices", of "cost savings at the expense of safety practices". An industry's "best practices" do not ignore industry advancements in safety, design, and technology as exemplified by the evolution of "best practices" in the auto industry. Advancements should likewise not be ignored in the electrical transmission and distribution

⁴⁸ Complainant DWT, page 28, lines 687-696, page 33, lines 777-782.

⁴⁹ Complainant DWT, Exhibit 12, question 5, Direct Testimony of Kevin Irvine, page 4, lines -18, Respondent Main Brief, page 11, points 15 and 16.

⁵⁰ Direct Testimony of Kevin Irvine, page 4, lines 18-19, Respondent Main Brief, Proposed Findings of Fact, page 11, point 17.

industry either. Yet, unlike many other utilities,⁵¹ the Respondents do just that. **At the very least, “best practices” should necessarily consider innovations and trends in industry technology, safety and design. “Best practices” should also consider the specific physical setting/site involved and changes in the specific population affected.**

One might logically and thoughtfully ask if there might be a reasonable middle ground, some sort of compromise acceptable to both opposing parties. The Complainants have given this serious consideration and believe there is **not**.

First, the **present** overhead transmission line, which the Respondents describe as similar-in-kind to their proposed replacement design, has been proven too unsafe by two separate documented incidents of infrastructure failure resulting in downed, sparking, live wires.⁵² This design is also compromised by public exposure to the soon to be banned, toxic, carcinogen chemical, PCP, and its documented harmful effects.⁵³ This is **unacceptable**.

Second, the Respondents’ **proposed** design, similar-in-kind to the current unsafe overhead design, is also too unsafe for the reasons noted above, **plus**, it is demonstrably **less safe** due to the cost cutting measures of fewer poles and longer spans of wiring creating far wider sweep radii for downed wires. This cost cutting design threatens an even greater number of residents and homes than present.⁵⁴ This proposed design also introduces **fresh, additional PCP** to the Meadows’ environment, **and** perpetuates, **indefinitely**, public exposure to its harmful effects. This is also **unacceptable**.

Third, could non-PCP tainted poles be substituted for PCP saturated poles to eliminate the PCP threat? Yes...**but** the risk of infrastructure failure continues, a risk the Complainants have proven too unsafe given two separate prior major incidents of downed live wires at two different locations along this transmission line in the Meadows. This is also **unacceptable**.

Last, the most interesting question is how undergrounding this transmission line would affect the opposing parties? Respondents argue that underground facilities are more expensive to install initially than overhead facilities. That appears to be true. However, the Complainants have shown evidence that competing utilities have found that undergrounding facilities recoups that initial cost outlay quickly (in as few as two damaging weather events) because underground transmission lines suffer less frequent disruptions in service. This results in fewer emergency repair calls, fewer power outages which eliminates a multitude of problems previously outlined in Complainant DWT.⁵⁵ Undergrounding yields a more constant flow of electricity to their customers (further supportive of Code 66 Pa. C.S. § 1501, which states “such service as shall be reasonably continuous and without unreasonable interruptions or delay”).

⁵¹ Complainant DWT, page 28, lines 687-696, page 33, lines 777-782.

⁵² Complainant DWT, page 21, lines 443-448, line 451, Exhibit 7 (C-2021-3028211), Exhibit 11 (C-C-2021-3028186).

⁵³ Complainant DWT, page 8, lines 174-195, page 9, lines 196-216, Complainant Rebuttal Testimony, page 3, lines 58-69.

⁵⁴ Complainant DWT, page 19, lines 408-423, Diagram 4, page 20, lines 424-442.

⁵⁵ Complainant DWT, page 28, lines 687-696, page 33, lines 777-782.

The result is a better product at significantly lower costs long term. Perhaps it would be beneficial for the Respondents to perform a present value cost comparison of projected long-term costs of the two designs, something which they admit they have never done.⁵⁶

Further, undergrounding eliminates all threat of overhead transmission line infrastructure failure (which can lead to property damage, personal injury, and death), **and** it completely eliminates future public exposure to PCP and its proven toxic, carcinogenic effects.

For the Respondents, undergrounding would also likely reduce future liability, litigation, settlements, and civil penalties which result from unsafe practices not given adequate consideration.

Undergrounding this transmission line is a winning solution for both Respondents and Complainants.

Conclusion

The Complainants contend that the Respondents are operating in disregard for their duty to maintain the safety of the **public** in this case. PUC code 66 Pa. C.S. § 1501 requires the Respondents to demonstrate reasonable regard for public safety. The facts in this case beg for a safer alternative. Advancements in industry technology, safety, and design **allow** for a safer alternative. The Respondents' parent company, First Energy, recorded \$11.1 billion dollars in revenue in 2021 and \$11 billion dollars in revenue for the past 3 years.⁵⁷ Surely, the cost to underground this short segment of transmission line through the Complainant neighborhood is worth a tiny fraction of that annual revenue. This project does not involve hundreds of miles, tens of miles, or even one mile. It is a mere 0.37 mile (less than 2000 feet) stretch of transmission line through the Meadows neighborhood...a neighborhood which has already experienced two separate documented hazardous incidents in two different locations resulting in downed live wires and whose neighborhood demographics are now far different than those of 1941 when the original easement was granted. The cost of even one life must surely outweigh the cost of burying this line.

The Complainants are determined to minimize and/or prevent their own future risk of property damage, dismemberment, death from overhead infrastructure failure and their risk of cancer and poisoning from PCP.

The Complainants have already suffered **two separate hazardous incidents** of downed live wires **at two different locations** along their current, similar-in-kind transmission line. Does it require tragedy to pique PUC interest and to trigger PUCBIE involvement? When residents of the Meadows reported incidents of downed live wires,⁵⁸ no one followed up with them to

⁵⁶ Complainants DWT, page 26, lines 618-626, Exhibit 12, question 1.

⁵⁷ FirstEnergy Form 10-k for the fiscal year ended December 21, 2021, page 71.

⁵⁸ Complainant DWT, page 21, lines 443-448, line 451, Exhibit 7 (C-2021-3028211), Exhibit 11 (C-C-2021-3028186).

notify them of specific Code violations nor were they aware at the time that they would need documentation of such for future litigation. Complainants argue that the PUC has a responsibility to analyze and consider these two specific recent incidents of past negligence in the Meadows neighborhood to avoid a predictable, tragic outcome. Several examples of catastrophic electrocution events, with identification of Code violations only after the fact, have been cited by the Complainants.⁵⁹ Those types of tragic events are precisely what the Complainants wish to prevent by burying the transmission lines now.

PCP is currently being phased out by the EPA and its use will be fully banned in the United States in 2027 because of its toxic, carcinogenic effects on humans.⁶⁰ The dangerous effects of this chemical are just as harmful today as they will be in 2027 when fully outlawed. **If the Respondents are allowed to introduce additional, fresh PCP into the environment now, it will not magically disappear in 2027 when PCP is fully outlawed. It will be in this environment forever** and the Complainants will be exposed to its damaging effects forever more. This would be an unconscionable, negligent act.

Residents in the Meadows neighborhood demand the safer, more reasonable solution of undergrounding, a solution which has become “best practice” and is being implemented proactively by many thoughtful, cost conscious, safety oriented, forward-thinking competing utility companies around the United States.⁶¹ However, the Respondents demand the opposite. They demand that they own the easement and it is therefore their legal right to install a similar-in-kind, antiquated, unsafe overhead design which knowingly harms the public through continuing use of the, toxic, carcinogenic chemical PCP, and which can damage personal property and maim, injure, and/or kill the public secondary to infrastructure failure.

The safest and most reasonable solution is available today. That solution is to underground these lines. Undergrounding eliminates all overhead infrastructure...infrastructure that fails leading to falling lines, falling poles, and the destruction, injury and death that results.⁶² It eliminates all exposure to PCP, a known carcinogen and toxin on their poles which is being banned currently because of its known harmful effects.⁶³

Undergrounding eliminates ALL concerns of the Complainants.

The Respondents have violated Code and demonstrated negligence in the past. They have paid civil penalties and have been mandated corrective actions for it.⁶⁴ Based on recent comments by Mr. Irvine, the Project Engineer on this project, it appears the Respondents fully expect

⁵⁹ Complainant DWT, page 10, lines -256, page 11, lines 264-290, page 12, lines 295-313.

⁶⁰ Complainant DWT, page 8, lines 174-195, page 9, lines 196-216, Complainant Rebuttal Testimony, page 3, lines 58-69.

⁶¹ Complainant DWT, page 28, lines 687-696, page 33, lines 777-782.

⁶² Complainant DWT, page 10, lines 232-256, page 11, lines 264-290, page 12, lines 295-313.

⁶³ Complainant DWT, page 8, lines 174-195, page 9, lines 196-216, Complainant Rebuttal Testimony, page 3, lines 58-69.

⁶⁴ Complainant DWT, page 10, lines 232-256, page 11, lines 264-290, page 12, lines 295-313.

casualties, injuries, property damage, and accidents in the future associated with overhead design.⁶⁵ Complainants argue that the Respondents have demonstrated negligence and violation of PUC Code 66 Pa. C.S. § 1501 in recent Meadows' history associated with the two cited and witnessed major incidents of downed live wires.⁶⁶ Further, the Complainants assert the Respondents are demonstrating negligence now by attempting to force a similar, antiquated, less safe design than current on them....an unsafe design that perpetuates risk for overhead infrastructure failure and indefinite public exposure to the carcinogenic chemical PCP.⁶⁷

The PUC has the power to mandate the safer underground design. PUC Code 66 Pa. C.S. 1505 states "Whenever the commission, after reasonable notice and hearing, upon its own motion or upon complaint, finds that the service or facilities of any public utility are unreasonable, unsafe, inadequate, insufficient, or unreasonably discriminatory, or otherwise in violation of this part, the commission shall determine and prescribe...the reasonable, safe, adequate, sufficient, service or facilities to be observed, furnished, enforced, or employed, including all such repairs, changes, alterations, extensions, substitutions, or improvement in facility as shall be reasonably necessary and proper for the safety, accommodation, and convenience of the public."

The Complainants believe they have supplied sufficient evidence and persuasive argument to satisfy the Burden of Proof in this case and that the PUC should now mandate the safer underground solution. If the PUC allows the Respondents to complete this design as proposed, the Complainants believe the PUC would be ceding its authority to the Respondents and its reasonable duty to protect public safety.

Request of Relief

WHEREFORE, for the foregoing reasons, the Complainants respectfully request that this Honorable Court deny with prejudice the Respondents' proposed overhead design plan and mandate that the Respondents replace the current overhead transmission facilities with underground transmission facilities through the short distance of the Meadows neighborhood.

⁶⁵ Rebuttal Testimony of Kevin Irvin, p 3, lines 24-26.

⁶⁶ Complainant DWT, page 21, lines 443-448, line 451, Exhibit 7 (C-2021-3028211), Exhibit 11 (C-C-2021-3028186).

⁶⁷ Complainant DWT, page 8, lines 174-195, page 9, lines 196-216, Complainant Rebuttal Testimony, page 3, lines 58-69.