

20 March 2023

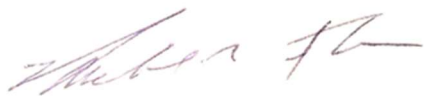
Rosemary Chiavetta, Esquire
Secretary
PA Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Re: Docket No. C-2021-3028286
Michael Florio et al v. First Energy, 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, Michael Florio 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 blue ink, appearing to read "Michael R. Florio".

Michael R. Florio

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

20 March 2023

Via Electronic Filing

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Re: Docket No. C-2021-3028286
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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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Thank you,



Michael R. Florio

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-PINGQI 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

Michael R. Florio :

v. : C-2021-3028286

Metropolitan Edison Company and :

Mid-Atlantic Interstate Transmission, LLC et al. :

REPLY BRIEF

20 March 2023

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INTRODUCTION

Metropolitan Edison Co., a FirstEnergy Corporation company (collectively “FirstEnergy”)¹ informed some residents of the Meadows in early to mid-2021 of its intent to replace the existing 69kV transmission lines with fewer and taller poles spaced further apart.² The remaining residents were not informed until September 2021. Upon receipt of the notice to replace the transmission lines and poles, residents of the Meadows requested additional information, expressed concern, and inquired about adjustments to the proposed project plan. Meadows’ residents were met with non-responses and/or incomplete responses to their inquiries, thus filed formal Complaints with the PUC as early as September 2021.³

On February 17, 2023, the Complainants filed a Main Brief of Consolidated Proceedings (Main Brief) that outlined the various components of the Complaint.⁴ In summary, Complainants oppose the project to replace a portion of the Campbell-Middletown-North Hershey transmission lines in a similar manner to how the transmission lines are currently constructed, above-ground with wooden poles. All Complainants are homeowners in the Meadows neighborhood through which an easement allows the transmission lines to run. The transmission lines either pass through Complainants’ property or are located nearby Complainants’ property where Complainants walk and/or drive under the lines. The easement allows for the lines to be installed underground. The Complainants argue that underground transmission lines are the safest path forward given the significant health and safety concerns discussed in detail below and the fact that FirstEnergy has a history of

¹ Mid-Atlantic Interstate Transmission (MAIT) is also a subsidiary of FirstEnergy and a named Respondent in some Complaints in this matter.

² Complainants’ Direct Written Testimony (DWT), Exhibit 1; Exhibit 2, Diagram 1, page 15 and Diagram 2, page 17. Complaints include Debora Connell, Tracy and Jill Troutman, Rebecca Walizer, Neal Warmer, Michael and Margaret Marino, Stanley and Eileen Krasinski, Michael Florio, Samantha Bryant, Michael Kramer, Andrew Freiberg, Karen and Michael Fedash, Gregory Bair, Pingqi Dai, Corey and Betty Rigberg, and Patricia Lane.

³ See for example, 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.

⁴ Complainant’s Main Brief, pages 1-11.

negligence in maintaining lines as evidenced by the electrocutions discussed in the Complainants Main Brief.

The current proposal replaces the above ground transmission lines with similar in-kind transmission lines; however, the replacement poles are proposed taller poles and spaced further apart than the existing poles. As outlined in the Complainants Main Brief, this plan poses increased health and safety risks to the residents of the Meadows. Complainants do not directly benefit from, meaning they do not consume, the electricity transmitted on the lines at issue. The safety risk posed by the increase sweep of the proposed lines and the health risks of the carcinogenic chemicals used to treat the utility poles are of great concern to the Complainants.

It is not speculation, nor opinion that above ground transmission lines have a history of falling and causing death and dismemberment, as well as destruction of property.⁵ It is well documented that the toxic chemical, Pentachlorophenol (PCP) used to treat wood utility poles causes cancer and contaminates water sources;⁶ all homes in the Meadows are serviced solely by well water. To eliminate these risks, the project to replace the transmission lines that pass through the Meadows neighborhood needs to be redesigned such that the transmission lines are buried underground.

The Complainants are not opposed to replacing this transmission line. The Complainants are opposed to replacing poles and lines with a similar in-kind, antiquated overhead design made more dangerous by Respondents' cost cutting measures. A safer underground design exists and should be implemented. The Complainants' concerns are not without merit.

The Complainants are responding here to the Main Brief filed by the Respondents (MAIT and Met-Ed et al).

⁵ Complainant's DWT, Exhibits 3,4; page 11, lines 264-274; page 12, lines 295-300.

⁶ Complainant's DWT, pages 8 lines 174-195; p. 9 lines 196-216.

STATEMENT OF THE CASE

Complainants Main Brief sets forth a complete Statement of the Case in this proceeding. For the reasons set forth below, the Respondents proposed design should be denied, and the Complainants proposed relief of undergrounding the transmission lines should be mandated. The Respondents have failed to maintain safety requirements of PUC Code, 66 Pa. C.S. §15.01 both in the past⁷ and with this proposed, demonstrably unsafe design.⁸ The Respondents have failed to provide evidence that the proposed design is safer than the underground alternative.

SUMMARY OF THE REPLY ARGUMENTS

The Respondents state within their Brief that “the Complainants offer only “personal opinion”, “unsubstantiated concerns”, “speculation”, and “perceptions” that the proposed transmission lines are “unsafe”⁹...that Complainant’s lack fact. However, the Respondents failed to tie those allegations to specific statements made in the Complainants DWT. The facts and evidence stated in the Complainants DWT and Main Brief support Complainants concerns and are outlined below:

- History of Code Violations and Negligence
- Further Evidential Facts Regarding Safety
- Hazardous Effects of Pentachlorophenol (PCP)
- Best Industry Standards
- Respondents Cost Cutting Design
- Deeds Missing Easements
- Undergrounding

ARGUMENTS

History of Code Violations and Negligence

The safety of residents in the Meadows neighborhood has been jeopardized, as documented by several residents in the DWT. These residents reported several hazardous incidents describing downed live wires, smoking utility poles, sparks, fireballs, and broken wires.¹⁰ If formal complaints had been filed by the Meadows residents for these hazardous events and investigated

⁷Complainant DWT Exhibit 7 (C-2-21-3028211), Exhibit 8 (C-2021-3028414) and Exhibit 11 (C-2021-3028186).

⁸ Complainants DWT, page 19, lines 411-416.

⁹ Respondents’ Main Brief, pages 3, 10.

¹⁰Complainant DWT Exhibit 7 (C-2-21-3028211), Exhibit 8 (C-2021-3028414) and Exhibit 11 (C-2021-3028186).

by the Pennsylvania Public Utility Commission Bureau of Investigation and Enforcement (PUCBIE), it is reasonable to assume that the PUCBIE would have alleged and put forth evidence that the Respondents violated certain provisions to the Public Utility Code as found in the Poynton¹¹ and Goretzka¹² downed transmission lines:

PUC Code, 66 Pa. C.S § 1501 – Respondents failed to furnish and maintain adequate, efficient, safe, and reasonable service and facilities and to make all such repairs, changes, and improvement in or to such service and facilities for the safety of its patrons, employees and public.

PUC Code, 66 Pa. C.S § 1501 – Respondents failed to furnish and maintain adequate, efficient, safe, and reasonable service and facilities in that Met-Ed failed to create and implement installation procedures related to the clasp use thereby placing the public safety in danger.

PUC Code, 66 Pa. C.S. § 1501 Section 1102(a)(3) – Respondents failed to ensure integrity of the subject splice.

PUC Code, 66 Pa. C.S. § 1501 Section 1102(a)(3) – Respondents failed to properly secure the electric distribution line in the automatic splice used to hold the line.

The above evidence shows that FirstEnergy companies have a history of negligence.

Since multiple accidents have already occurred, Respondents cannot argue that the current lines/poles are “safe”. The aforementioned incidents demonstrate negligence and violate PUC Code, 66 Pa. C.S. § 1501.

“Safety” is prominent in the marketing material of FirstEnergy¹³ and the PUC Code. Respondents demand that that Complainants must point out a 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, caught prior to a disaster. Rather, they are discovered primarily through careful investigation after each catastrophic incident. In

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

¹² Complainant DWT, page 10, lines 232-256

¹³ Complainant Main Brief, ¶ 12.

each electrocution case noted in the Complaints Main Brief, violations were only discovered after each disaster.¹⁴

It is a matter of public record, that FirstEnergy, the Respondents parent company, and its subsidiaries have violated Code in the past with catastrophic results as evidenced by the Goretzka¹⁵, Poynton¹⁶, and Colton¹⁷ electrocutions and deaths.

Complainants have outlined evidence of past and repeated “proof” that the Respondents have violated PUC Code. When Residents of the Meadows reported incidents of downed live wires, smoking utility poles, sparks, fireballs, and broken wires no one followed up with them to notify them of the specific Code violations nor were they aware at the time that they would need documentation of such Code violations for future litigation. Further, as evidenced by the Goretzka, Poynton, and Colton electrocutions Code violations were only identified by the PUCBIE after the electrocutions occurred and for which FirstEnergy was assessed civil penalties and were mandated to take corrective actions. If Code violations are only identified after a catastrophic event, then it is apparent that regular maintenance and inspection of transmission lines and related equipment does not occur. The Complainants argue that it is unreasonable to expect laymen residents to have the level of expertise required to identify Code violations as trained professionals failed to identify violations and prevent the catastrophic events from occurring. These catastrophic events and subsequent Code violations are precisely what the Complainants wish to prevent by burying the transmission lines.

Further Evidential Facts Regarding Safety

Climatological studies by the Pennsylvania Department of Environmental Protection support that perpetuating this unsafe overhead transmission line design will result in more future incidents of infrastructure failure and greater severity.¹⁸ As stated by Mr. Irvine, the Respondents’ expert witness and Project Engineer, “no casualties, no injuries, no property damage, and no accidents

¹⁴ Complaints Main Brief, ¶¶ 19-20.

¹⁵ Complainant DWT page 10, lines 232-256.

¹⁶ Complainant DWT page 11, lines 264-290.

¹⁷ Complainant DWT page 12, lines 295-313.

¹⁸ Complainant DWT page 5, lines 87-92.

resulting from the overhead lines and poles is absurd.”¹⁹ Mr. Irvine’s testimony, therefore, acknowledges that there will be accidents and violations in the future.

Respondents state in their Rebuttal Testimony that there is “no credible evidence that the project is unsafe”. However, the Respondents failed to provide evidence that the Proposed Plan is safe. Complainants have experienced two separate infrastructure failures with downed live wires. Complaints argue that the proposed design is less safe, due to the longer potential sweep radii of a downed wire.²⁰

Pentachlorophenol (PCP) is a Known Carcinogen

The Complainants have provided research conducted by the Centers for Disease Control and Prevention (CDC)²¹ and National Institute of Health (NIH)²² stating that PCP is harmful to humans through physical contact, and/or contamination of ground water. Complainants also noted that the Environmental Protection Agency (EPA) established that PCP is currently being phased out and will be completely banned for use by 2027 due to its health and environmental hazards²³. During Mr. Irvine’s cross-examination, he stated that he was unaware of the fact that PCP is carcinogenic; evidence of negligence of the proposed project’s safety. Ignorance is no excuse for negligence. At no point did the Respondents provide any evidence that PCP is safe for use on utility poles.

Respondents state 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.²⁴ These statements by the Respondents are disingenuous. Complainants may have been naïve to the dangers of overhead transmission lines and utility poles when the neighborhood was initially developed in 1991. However, Complainants have

¹⁹ Mr. Irvine Rebuttal Testimony, p. 3, lines 24-26.

²⁰ Complainant DWT, page 19, Diagram 4.

²¹ Complainant DWT, page 8, lines 174-185.

²² Complainant DWT, page 8, lines 194-195; p 9, lines 196-199.

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

²⁴ Respondents Main Brief, page 2.

since become more educated and aware of the dangers associated with overhead transmission lines and carcinogenic utility poles.²⁵

Facts not Opinions: Substantial Evidence

Respondent's Summary of Reply Arguments claim that it is the Complainants "personal opinion" "unsubstantiated concerns", "speculation", or "perception" that overhead electric transmission facilities fail, and live wires fall, injuring and killing humans and damaging personal property²⁶. This is fact, not opinion as evidenced by the Goretzka, Colton, and Poynton electrocutions.²⁷ Further, it is fact, not opinion that the Complainants have witnessed two incidents of live wires falling from the current lines in the Meadows.²⁸ It should be noted that in the Goretzka matter, it was not the first but the second incidence of a downed wire that electrocuted and killed Goretzka. The Complainants have had their "Goretzka warning" and advocate for a resolution to prevent a deadly result.

"Best" Practice Not Proven

The overhead transmission line design is over 60 years old. If the proposed design is allowed to proceed, it will likely be decades before the Respondents decide it needs replacement. Thus, FirstEnergy and the PUC will be sentencing the current and future residents of the Meadows to:

- Decades of unnecessary exposure to potential overhead infrastructure failure that can lead to injury, death, and property damage. This is above and beyond the two downed live wire incidents already experienced.
- Decades of exposure to carcinogenic PCP, that is currently being phased out by the EPA and to be eliminated in 2027 due to its known and documented harmful effects²⁹.

The Complainants argue that safer options are available based on technological advancements since the lines were initially constructed.³⁰ The Respondents must acknowledge the government

²⁵ Complainant Main Brief, ¶¶ 16-18.

²⁶ Respondent Main Brief, pages 1,3,9,10.

²⁷ Complainants Main Brief, ¶19.

²⁸ Complainant DWT Exhibit 7 (C-2-21-3028211), Exhibit 11 (C-2021-3028186).

²⁹ Complainants Rebuttal Testimony, page 3, lines 58-69.

³⁰ Complainants DWT, page 27, lines 658-664; page 28, lines 665-672, 687-691; page 33, lines 777-782.

supported evidence of the harmful effects of PCP. First Energy puts a strong emphasis on safety, stating that its “core values encompass what matters most” and include both “Integrity” and “Safety”³¹. FirstEnergy’s Sam Belcher, Senior Vice President, Operations, states, “Safety is, and always will be, an unwavering core value at FirstEnergy and is at the forefront of everything we do. Keeping one another safe in every situation, every day, is at the heart of our safety commitment. Our leaders are our role models and sponsors of safety, and our employees should know that they have support from the leadership team to do the right thing every time. As we continue to improve our safety culture, we must not only focus on keeping one another safe, but ensure our customers and communities are, too.”³² However, it is not apparent that they are considering the safety of the Complainants and the residents of the Meadows. Ms. Morris stated that her client wants to move forward with the proposed plan purely based on cost³³. The Complainants argue that FirstEnergy should in good faith consider public safety and consider the issues at hand as burying the transmission line could very well could be a cost-effective long-term solution, especially when considering litigation and settlement costs associated with future incidents.

When the easement was originally granted in 1941 and the overhead transmission line was constructed, automobiles didn’t have safety belts, shoulder harnesses, airbags, halogen headlights, power steering, power brakes, automatic transmissions, or any of the current safety features in cars today. Yet, technology did advance, as did the knowledge of the consequences of not incorporating safety features into new automobiles. Thus, an automobile manufactured today is safer today than one manufactured in the 1940s.

FirstEnergy’s proposal is the equivalent of demanding that the Complainants return to driving less safe akin to those manufactured in the 1940s, because it would “be cheaper to manufacturer and would satisfy the basic requirements.” Design, technology, and safety concepts have evolved, and the automotive industry has incorporated them into their best practices which has

³¹ “An environment where people thrive” FirstEnergy, https://www.firstenergycorp.com/careers/why_firstenergy/values_culture.html.

³² “Safety, Health and Wellness,” FirstEnergy, <https://www.fecorporateresponsibility.com/fecorporateresponsibility/employee/safety-health-and-wellness.html>.

³³ Complainant DWT, Exhibit 12, Question 5; Direct Testimony of Kevin Irvine, p. 4, lines 15-18; Respondent Main Brief, page 11, Points 15, 16.

improved safety. The safe practice of undergrounding electrical transmission lines has been adopted by other utilities, but apparently not so for the Respondents.³⁴

Cost Cutting By Respondents

The Respondents Brief repeatedly states that their plan using overhead lines and poles is designed to “minimize costs” and “the proposed location of structures will minimize material and construction costs which resulted in fewer structures than the existing layout”; “[t]he proposed wires were selected to minimize cost and meet capacity requirements. However, respondents have not offered any proof that their cost cutting plan is safe or safer. Nor have they provided a detailed cost comparison for the record³⁵. Complainants requested more information regarding costs, but Respondents failed to respond to that request. Further, they claim it is only Complainants’ “opinion, speculation, and “perception” that it is not safe enough. The new design is more dangerous by the cost cutting measures previously described.³⁶

The Respondents repeatedly stress in their brief that their proposed overhead lines and poles design is an example of “current industry best practices.”³⁷ However, there is no credible evidence as to why and how the design is “best practice.” The Complainants argue that this proposed design is the exact opposite of “best practices.” “Best practice” does not mean “common practice”. “Best” is a superlative. “Best practice” can only be achieved by building upon and doing better than in the past. “Best practice” must evolve in accordance with new information and trends in industry technology, safety, and innovations to ensure public safety is prioritized. “Best practice” should also consider the specific physical setting/site involved and changes within the affected population. How can the Respondents say that putting the transmission lines overhead is a “current industry best practice” of safety, when there have already been multiple safety incidents, and there is a likelihood of incidents in the future, per Mr. Irvine?³⁸ Respondents’ state that the proposed design focuses on “minimizing cost”. This is

³⁴ Complainants DWT, page 28, lines 687-696.

³⁵ Complainants DWT, page 26, lines 618-626, Exhibit 12, Question 1.

³⁶ Complainants DWT, page 19, lines 408-423, Diagram 4, p 20, lines 424-442.

³⁷ Respondents Main Brief (RMB), Proposed Findings of Fact, page 11, point 17.

³⁸ Kevin Irvine Rebuttal, page 3, lines 24-26.

not consistent with “best practice” for safety and does not consider the safety of the Complainants.

Deeds Missing Easements

In the Respondents’ DWT it states that the deeds of all Complainants located adjacent to the Easement of note include a very specific statement referencing this easement. They cite in their Main Brief that “all Complainants chose to move to the Meadows with actual knowledge of the Transmission Line and recorded easement.” Both statements are false. One of the deeds does contain this specific statement, however many of the deeds make a broad, general statement regarding an unspecified easement, and two of the Complainants’ deeds (Bryant and Freiberg) made no reference to any easement whatsoever.³⁹

The Respondents Brief noted that the Meadows neighborhood was developed in 1995. This statement is factually inaccurate; the Meadows began construction in 1991.

Securing Public Safety

The Respondents are operating in disregard for their duty to maintain the safety of the Public in this case. PUC code requires the Respondents to demonstrate reasonable regard for public safety.⁴⁰ The facts in the Complainants case strongly and clearly support the need for a safer alternative. Technological advancement of undergrounding allows for a safer alternative. FirstEnergy reported \$11.1 billion dollars in revenue for the past 3 years.⁴¹ How much does it cost to bury 0.37 miles of transmission lines? How much is the cost of one life? Surely, the cost to one human life must outweigh the cost to bury 0.37 miles of transmission lines. We affirm that the “Best Practice” of safety in our neighborhood is to put the transmission lines underground. None of this risk for hazard is necessary. Undergrounding this 0.37 mile stretch of transmission line will minimize the risk of danger for all residents of the Meadows.

³⁹ Complainant Rebuttal Testimony, page 8, lines 212-219, page 9, lines 220-227.

⁴⁰ PUC Code 66 Pa. C.S. § 1501.

⁴¹ FirstEnergy Form 10-k for the fiscal year ended December 31, 2021, page 71.

Undergrounding

The present overhead transmission line is not safe as evidenced by two separate incidents in different locations of infrastructure failure resulting in downed live wires.⁴² The proposed design poses the same risk of downed live wires and the added risk of exposure to newly applied PCP.

The Respondents' proposed design, similar-in-kind to the current unsafe overhead design, 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.⁴³

The Respondents argue that undergrounding is more expensive to install. However, the Complainants have provided evidence that other utility companies find that undergrounding recoups that initial cost outlay after two damaging weather events⁴⁴ and undergrounding continues more cost effective in following years.⁴⁵ Perhaps the Respondents should do a present value cost comparison of projected long-term costs of the transmission lines. Underground transmission lines suffer less frequent disruptions in service which result in fewer emergency repair calls, fewer power outages which eliminates a multitude of problems⁴⁶ previously outlined in the Brief and yields a more constant flow of electricity to their customers (further supportive of PUC Code, 66 Pa. C.S. § 1501, "such service also shall be reasonably continuous and without unreasonable interruptions or delay")). The result is a better product at significantly lower costs long term.

Further, undergrounding eliminates all threat of overhead transmission line infrastructure failure which can lead to property damage, personal injury, and death, and eliminates exposure to PCP. Undergrounding could also reduce future liability, litigation, settlements, and fines which result from unsafe practices not given adequate consideration by and for the Respondents.

Undergrounding this transmission line is a winning solution for both parties.

⁴² Complainant DWT, page 21, lines 443-449, line 451, Exhibit 7, Exhibit 11.

⁴³ Complainant DWT, page 19, lines 408-423, Diagram 4, page 20, lines 424-442.

⁴⁴ Complainant DWT, page 24, lines 552-555.

⁴⁵ Complainant DWT, page 24, lines 552-555.

⁴⁶ Complainant DWT, page 28, lines 687-696, page 33, lines 777-782.

Conclusion

The Complainants have provided “substantial evidence” that this proposed design is unsafe and supports the placement of the electric transmission lines underground. The Respondents’ proposed design is cost motivated and places the Complainants’ health and safety at greater risk through the use of fewer poles, treated with PCP, and the increased sweep of the transmission lines.⁴⁷

Complainants provided evidence that the existing lines are unsafe as evidenced by their testimony. Mr. Irvine admits that there will be accidents with the proposed design.⁴⁸ Respondents have been negligent to the Complainants safety, as violations have already occurred within The Meadows.

Respondents are not acknowledging Complainants’ safety and health concerns. PUC Code violations were committed by the Respondents as evidenced by the Complainants reported hazardous incidents of downed lines.⁴⁹ Accidents should not be considered inevitable and the cost of doing business as Mr. Irvine implies. Major safety decisions must not be based primarily on “minimizing cost” as the Respondents repeatedly state.⁵⁰ These decisions must reflect what is in the best interest for the health and safety of the public who are affected by these transmission lines.

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

⁴⁷ Complainant DWT, p. 17, Diagram 2; DWT, page 8 lines 174-195, page 9 lines 196-216; DWT, page 19 lines 411-416.

⁴⁸ Rebuttal Testimony of Kevin Irvine, page 3, lines 24-26.

⁴⁹ Complainant DWT Exhibit 7 (C-2-21-3028211), Exhibit 11 (C-2021-3028186).

⁵⁰ RMB, Proposed Findings of Fact, page 11, points 15 and 16.

improvement in facility as shall be reasonably necessary and proper for the safety (emphasis added), accommodation, and convenience of the public.”⁵¹

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

⁵¹ RMB, p. 6.