

**PENNSYLVANIA PUBLIC UTILITY COMMISSION
HARRISBURG, PENNSYLVANIA 17120**

Keith Hartman
and Rebecca Hartman

Public Meeting of February 22, 2024
3038465-ALJ
Docket No. C-2023-3038465

v.

Metropolitan Edison
Company

**JOINT MOTION OF CHAIRMAN STEPHEN M. DeFRANK AND VICE CHAIR
KIMBERLY M. BARROW**

Before the Pennsylvania Public Utility Commission (Commission) for consideration is the Initial Decision (ID) of Administrative Law Judge (ALJ) John M. Coogan, which dismissed the Formal Complaint (Complaint) filed by Keith and Rebecca Hartman¹ (Complainants) against the Metropolitan Edison Company (Met-Ed or Company). The Complainants allege that when Mrs. Hartman was driving home on December 12, 2022, her vehicle encountered a loose electric line on Oak Street in Lebanon, Pennsylvania. The fallen line damaged the vehicle. The Complainants allege negligence on the part of Met-Ed to secure the area and use proper traffic control, which they allege jeopardized public safety and resulted in the accident. For relief, they seek compensation for all damages sustained to the vehicle, personal time associated with the claim, vehicle mileage associated with the claim, lost time at work, lost time due to vehicle inspection delays, and rental vehicle costs.

Met-Ed filed an Answer and New Matter, and Preliminary Objections to the Complaint. On April 15, 2023, the ALJ issued an Order granting Met-Ed's Preliminary Objections and striking the request for monetary damages from the Complaint as such request is beyond the Commission's jurisdiction. The matter proceeded to an evidentiary hearing and the ALJ issued his ID subsequent to the close of the record.

The record in this matter reflects that a Met-Ed employee responded to a reported outage for a line coming off circuit 715-2.² The employee arrived at the fuse switch at approximately 6:31 pm on December 12, 2022,³ and after finding no cause for the outage, the employee reenergized the line upon receiving permission to do so.⁴ When the line was reenergized, it fell onto the road.⁵ Mrs. Hartman testified that her vehicle encountered the line at approximately 6:45 pm.⁶ The Met-Ed employee removed the loose line from laying in the street⁷ and when doing so, observed the

¹ Mr. Hartman filed the Complainant on February 23, 2023. By the ALJ's Order dated July 18, 2023, Mrs. Hartman was added as a Complainant to the proceeding.

² Tr. 102.

³ Tr. 116.

⁴ Tr. 103-4.

⁵ Tr. 107.

⁶ Tr. 56-7.

⁷ Tr. 106.

Complainants' vehicle parked on the road.⁸ However, the employee did not realize that the Complainants' vehicle had been hit by the line until a police officer informed him.⁹

Met-Ed determined that the cause of the line falling into the road was that the line was laying loosely against a steel pin and when reenergized, fell down.¹⁰ Although Met-Ed admits that the line became loose, *i.e.*, there was equipment failure, the ID finds that Met-Ed did not violate 66 Pa.C.S. § 1501 (requiring public utilities to furnish and maintain adequate, efficient, safe and reasonable service and facilities).

Based on the record, we disagree that Met-Ed provided safe and reasonable service in this incident on December 12, 2022. The Complainants established a *prima facie* case of unsafe and unreasonable service through Mrs. Hartman's testimony that their vehicle struck wires, which may have been energized, on the road.¹¹ The burden of going forward then shifted to Met-Ed to rebut the Complainants' evidence.¹² We find that Met-Ed did not sufficiently rebut the Complainants' evidence.

Met-Ed's own testimony demonstrates that sometime prior to energizing the line the wire had already become loose and was lying against a steel pin.¹³ The act of energizing the line ultimately caused it to fall onto the roadway.¹⁴ The Met-Ed employee who responded to the outage did not observe the loose wire when he patrolled the area prior to energizing the line.¹⁵ In our view, Met-Ed did not satisfactorily explain why the failure to observe the loose wire was reasonable. Therefore, we find that the Complainants met their burden of proof by establishing by a preponderance of the evidence¹⁶ that Met-Ed was responsible for providing unreasonable, unsafe, and inadequate service in violation of Section 1501 of the Public Utility Code on December 12, 2022.¹⁷

Based on Section 3301 of the Public Utility Code,¹⁸ the Commission is authorized to impose a civil penalty of \$1,000 per violation for each day's continuation of the violation. Noting the challenges that *pro se* individuals face when proving technical and/or engineering violations, the record in this case supports finding one violation of 66 Pa.C.S. § 1501, namely, the failure to observe the loose wire that fell onto the Complainants' vehicle on December 12, 2022. Accordingly, the statutory maximum civil penalty for this violation is limited to \$1,000.

The factors and standards used by the Commission to evaluate violations of the Public Utility Code support the imposition of a civil penalty in the amount of \$750.00.¹⁹ The conduct at issue was of a serious nature and the consequences of the fallen wire resulted in property damage.²⁰ Both of

⁸ Tr. 106-7.

⁹ Tr. 107-121.

¹⁰ Tr. 107.

¹¹ Tr. 56-57.

¹² *Milkie v. Pa. Pub. Util. Comm'n*, 768 A.2d 1217 (Pa. Cmwlth. 2001).

¹³ Tr. 107.

¹⁵ Tr. 105.

¹⁶ *Se-Ling Hosiery v. Margulies*, 70 A.2d 854 (Pa. 1950); *Patterson v. Bell Tel. Co. of Pa.*, 72 Pa.P.U.C. 196 (1990).

¹⁷ 66 Pa.C.S. § 1501.

¹⁸ 66 Pa.C.S. § 3301(a)-(b).

¹⁹ 52 Pa. Code § 69.1201.

²⁰ 52 Pa. Code § 69.1201(c)(1)-(2).

these factors support the imposition of a greater penalty. The fallen wire was not an intentional action – it was negligent – and the Met-Ed employee removed the wire shortly after it fell and struck Complainants’ vehicle.²¹ One member of the public was impacted by the violation and the duration of the violation as demonstrated in the record before the Commission was short, lasting approximately twenty minutes.²² These are mitigating factors. The sixth factor considers Met-Ed’s compliance history.²³ No evidence was presented that Met-Ed has a poor compliance record. However, we take note that the Commission imposed a \$1,000,000 civil penalty against Met-Ed in 2021 in connection with a fallen overhead conductor that resulted in a fatality and property damage.²⁴ This is an aggravating factor. The seventh factor considers whether the regulated entity cooperated with the Commission’s investigation.²⁵ There was no investigation by the Commission and therefore this factor does not mitigate or aggravate the penalty. The eighth factor considers the amount of the civil penalty necessary to deter violations.²⁶ Again, we note that the civil penalty amount here is limited to the record presented by the *pro se* Complainants who do not have expertise in this area of law or electric safety standards. Noting the significant safety issues raised in this matter, it is appropriate to refer the matter to the Commission’s Bureau of Investigation and Enforcement (I&E), Electric Safety Division for further review. Nonetheless, the combination of a \$750.00 civil penalty and referral to I&E should be sufficient to alert Met-Ed and deter future violations. This civil penalty is based only on the evidence as presented thus far regarding the single 1501 violation occurring on December 12, 2022, and does not encompass other potential regulatory violations such as those involving electric safety standards. Previous Commission decisions²⁷ in situations involving fallen electric facilities support the imposition of a greater civil penalty.²⁸

Additionally, we are referring this matter to the I&E Electric Safety Division to review: (a) the alleged unsafe and unreasonable service issues raised by the Complainants besides the singular violation of 66 Pa.C.S. § 1501 on December 12, 2022; and (b) Met-Ed’s practices and procedures as they relate to operating and maintaining unsecured wires or lines resting loose, as well as Met-Ed’s practices and procedures for re-energizing lines, and to take whatever further action may be warranted.

THEREFORE, WE MOVE THAT:

1. The Initial Decision of Administrative Law Judge John M. Coogan issued on December 18, 2023 is reversed.

2. The Complaint of Keith Hartman and Rebecca Hartman against the Metropolitan Edison Company at Docket No. C-2023-3038465 is granted, in part, and denied, in part.

²¹ 52 Pa. Code § 69.1201(c)(4)-(5).

²² 52 Pa. Code § 69.1201(c)(5).

²³ 52 Pa. Code § 69.1201(c)(6).

²⁴ *Pa. Pub. Util. Comm’n, Bureau of Investigation and Enforcement v. Metropolitan Edison Company*, Docket No. C-2019-3011675 (Order entered February 4, 2021).

²⁵ 52 Pa. Code § 69.1201(c)(7).

²⁶ 52 Pa. Code § 69.1201(c)(8).

²⁷ 52 Pa. Code § 69.1201(c)(9).

²⁸ *See Pa. Pub. Util. Comm’n, Bureau of Investigation and Enforcement v. Metropolitan Edison Company*, Docket No. C-2019-3011675 (Order entered February 4, 2021); *Pa. Pub. Util. Comm’n, Bureau of Investigation and Enforcement v. West Penn Power Company*, Docket No. C-2012-230724 (Order entered January 9, 2014).

3. In accordance with 66 Pa.C.S. § 3301, the Metropolitan Edison Company shall pay a civil penalty in the amount of \$750.00 within thirty (30) days of entry of a final Opinion and Order.
4. The matter be referred to the Commission's Bureau of Investigation and Enforcement, Electric Safety Division, for review and such further action as deemed appropriate.
5. The Office of Special Assistants prepare an Opinion and Order consistent with this Motion.

February 22, 2024
Date



Stephen M. DeFrank
Chairman

February 22, 2024
Date



Kimberly M. Barrow
Vice Chair