
GA BIBIKOS LLC

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VIA ELECTRONIC FILING

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Secretary Matthew L. Homsher
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

January 27, 2026

Re: Lexington Land Developers Corp. vs. FirstEnergy Pennsylvania Electric Co.,
Docket No. C-2024-3052541

Dear Secretary Homsher:

I have enclosed for filing with the Commission in the above matter the prehearing memorandum of Lexington Land Developers Corp. I have served a copy of this document in accordance with the attached certificate of service.

Should you have any questions, please feel free to contact me.

Very truly yours,


GA BIBIKOS LLC

George A. Bibikos
PA Attorney I.D. No. 91249
Counsel for Lexington Land Developers Corp.

Enclosures

c: Administrative Law Judge John M. Coogan (via email w/encl.)
Certificate of Service (via email w/encl.)
Client (via email w/encl.)
File

3. After Lexington indicated it would inquire with PP&L regarding whether the project fell within PP&L's territory, FE PA removed Lexington from its design queue without notice. Lexington confirmed the project was in FE PA's territory in December 2023.

4. On or about April 2, 2024, Lexington formally requested that FE PA provide an initial load study for a 640 kVA load addition and paid the required \$1,024 engineering fee.

5. Due to unreasonable delays, Lexington filed an informal complaint with the Bureau of Consumer Services.

6. On December 30, 2024, FE PA issued an Initial Load Study estimating costs of \$270,004 (+/- 50%) and stated that Lexington "is responsible for paying for all upgrades to the Met-Ed electrical system."

7. Lexington subsequently requested a revised load study for a reduced 185 kVA load addition (37 lots). On February 27, 2025, FE PA issued a Revised Initial Load Study estimating costs of \$7,005 (+/- 50%).

8. Despite the \$7,005 estimate with +/- 50% tolerance (maximum \$10,507.50), FE PA issued invoices that dramatically exceeded this amount: first an Original Invoice for \$49,446.53 (approximately 700% over the maximum estimate), then, after objection, a Final Invoice for \$18,435.74 (still approximately 75% over the maximum estimate).

9. Lexington paid all amounts under protest in order to receive service. Some service has now been extended to Morgan's Crossing.

10. The parties participated in informal mediation and a formal mediation session on July 16, 2025. Lexington believed the parties reached an agreement in principle on all but one issue, but FE PA subsequently indicated the terms were not acceptable.

11. On October 24, 2025, Lexington filed its Amended Complaint seeking declaratory, affirmative, and further administrative relief, including the imposition of civil penalties for FE PA's violations of the Code, PUC regulations, and the company's tariff.

12. On November 17, 2025, FE PA filed its answer to the amended formal complaint generally denying the vast majority of allegations.

13. On December 5, 2025, Administrative Law Judge John M. Coogan issued a Prehearing Conference Order scheduling a Prehearing Conference for January 30, 2026. This is Lexington's prehearing conference memorandum.

II.

ISSUES TO BE PRESENTED

Lexington intends to present the following issues at hearing:

A. Whether FE PA's Practice of Shifting All Line-Extension Costs to Developers Violates the Public Utility Code and Commission Regulations

Whether FE PA violated 66 Pa.C.S. §§ 1501 and 1505(a) and the Commission's line-extension regulations at 52 Pa. Code § 57.19 (overhead extensions) and 52 Pa. Code §§ 57.81-57.87 (underground extensions) by attempting to shift all costs of extending service to Morgan's Crossing to Lexington without any analysis of the factors required by law, including without limitation revenue guarantees, projected customer revenues, and benefits to the utility system.

B. Whether FE PA's Tariff (Rule 4) Violates the Public Utility Code and Commission Regulations

Whether the provisions of FE PA's Tariff Rule 4, to the extent they (i) purport to authorize FE PA to shift all line-extension and system upgrade costs to developers without the economic analysis required by law and violate 66 Pa.C.S. §§ 1501 and 1502 and the

Commission's line-extension regulations; and (ii) whether such tariff provisions should be declared unlawful on their face or as applied.

C. Whether FE PA Engaged in Unlawful Discrimination Against Land Developers

Whether FE PA's practice of automatically shifting all line-extension costs to developers while allegedly applying different standards to other service applicants constitutes unreasonable discrimination in violation of 66 Pa.C.S. § 1502.

D. Whether FE PA's Application Process, Cost Estimates, and Invoicing Practices Are Unreasonable

Whether FE PA violated the Code and Commission regulations by: (1) failing to issue cost estimates and invoices with sufficient detail to determine whether costs were lawfully allocated; (2) issuing invoices that exceeded its own estimates by 75% to 700%, well outside the stated +/- 50% tolerance; and (3) engaging in unreasonable delays throughout the approximately two-year application process.

E. Whether Civil Penalties Should Be Imposed

Whether civil penalties should be assessed against FE PA pursuant to 66 Pa.C.S. § 3301 for violations of the Code and Commission regulations, and if so, in what amounts.

F. Remedies

What declaratory, injunctive, monetary, and other relief should be awarded to Lexington, including (without limitation): refunds for amounts unlawfully collected; tariff revisions; itemized accounting and reconciliation of all costs; and prospective relief prohibiting FE PA from imposing all line-extension costs on developers without proper analysis.

III.
PROPOSED PLAN AND SCHEDULE OF DISCOVERY

Pursuant to 52 Pa. Code §§ 5.321-5.372, Lexington proposes the following discovery plan and schedule:

A. Scope of Discovery

Lexington anticipates conducting discovery on the following topics (without limitation): (1) FE PA's policies, procedures, and practices for evaluating line-extension requests from developers; (2) FE PA's application of Tariff Rule 4 to developers generally and to Lexington specifically; (3) the basis for all cost estimates and invoices issued to Lexington; (4) FE PA's treatment of similarly situated applicants; (5) the economic analysis (if any) performed by FE PA in connection with Lexington's request; (6) communications between FE PA personnel regarding Lexington's application; and (7) FE PA's tariff provisions and their consistency with the Code and Commission regulations.

B. Discovery Methods + Status

Lexington intends to utilize the following discovery methods: (1) written interrogatories pursuant to 52 Pa. Code § 5.342; (2) requests for production of documents pursuant to 52 Pa. Code § 5.346; and (3) depositions upon oral examination pursuant to 52 Pa. Code § 5.341. Lexington reserves its right to pursue all methods if necessary.

Lexington is amenable to the exchange of exhibits prior to hearing, the obtaining of stipulations of fact, and other similar steps to facilitate the conduct of the hearing. Lexington is agreeable to reasonable deadlines for discovery, as well as reasonable modifications to the Commission's regulations regarding discovery. Lexington consents (and prefers) to accept electronic service of all documents on the deadlines for their delivery without the need for

service of hard copies. Lexington would be agreeable to a protective order for the case for confidential/proprietary information.

Lexington served its first set of interrogatories and document requests on January 16, 2026. FirstEnergy has objected on January 26, 2026. Lexington plans to file a motion to compel responses and would be willing to discuss FirstEnergy's objections to resolve them.

C. Proposed Discovery Schedule

Lexington proposes the following discovery schedule:

Event	Proposed Date
Service of Initial Discovery Requests	February 9, 2026
Responses to Initial Discovery Requests	March 11, 2026
Service of Follow-Up Discovery	March 25, 2026
Responses to Follow-Up Discovery	April 24, 2026
Depositions	May 4-15, 2026
Close of Discovery	May 29, 2026

Lexington proposed the discovery schedule to counsel for FirstEnergy on January 16, 2026. FE PA did not respond and, so, the proposed discovery schedule has not been agreed upon. Lexington is prepared to discuss modifications at the Prehearing Conference.

D. Service of Documents

Lexington requests service upon the following counsel of all documents only by email or other electronic delivery.

George A. Bibikos
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Lexington will serve counsel via email or other electronic delivery unless otherwise ordered by the Presiding Officer. Counsel will provide access to his firm's secure portal for delivery of any voluminous electronic documents that cannot be delivered via email.

IV.

PROPOSED WITNESSES AND SUBJECT MATTER OF TESTIMONY

Lexington anticipates presenting the following witnesses at hearing:

1. Mr. Philip Garland

Mr. Garland is President of Lexington Land Developers Corp., 336 West King Street, Lancaster, PA 17603. Mr. Garland intends to testify regarding (without limitation): (a) Lexington's application for electric service to Morgan's Crossing; (b) communications with FE PA personnel throughout the application process; (c) the delays encountered; (d) the various cost estimates and invoices received; (e) payments made under protest; (f) the impact of FE PA's practices on Lexington's development activities; and (g) damages sustained.

2. Mr. James Ensminger

Lexington intends to call Mr. Ensminger, Staff Technical Specialist for FirstEnergy, as on cross-examination or as an adverse witness to testify regarding (without limitation): (a) his position and responsibilities at FE PA and his involvement in matters relating to Lexington's line-extension request; (b) the factual basis for each denial in FE PA's answer, including the denials that FE PA violated the Code, Commission regulations, or its tariff; (c) his knowledge of FE PA's policies and practices for evaluating developer line-extension requests and applying Tariff Rule 4; (d) his knowledge of the preparation of the Initial Load Study, Revised Initial Load Study, and the invoices issued to Lexington; (e) his knowledge of

any economic analysis, revenue projections, or revenue guarantee calculations performed (or not performed) in connection with Lexington's request; (f) his knowledge of any communications within FE PA regarding Lexington's application and this litigation; and (g) the basis for FE PA's contention that 52 Pa. Code §§ 57.19 and 57.81-87 are "not applicable" to Lexington's request for service.

3. Expert Witness

Lexington reserves the right to designate an expert witness on (without limitation) utility regulation, rate design, and/or line-extension cost allocation to testify regarding: (a) the requirements of the Code and Commission regulations concerning line extensions; (b) industry standards for cost allocation between utilities and developers; (c) the reasonableness of FE PA's tariff provisions and practices; and (d) appropriate remedies.

Lexington reserves the right to call additional witnesses based on information obtained during discovery and to call rebuttal witnesses as necessary.

V. **PROPOSED LITIGATION SCHEDULE**

Lexington proposes the following litigation schedule:

Event	Proposed Date
Prehearing Conference	January 30, 2026
Close of Discovery	May 29, 2026
Complainant's Direct Testimony	June 12, 2026
Respondent's Direct/Rebuttal Testimony	June 26, 2026
Complainant's Rebuttal Testimony	July 10, 2026
Respondent's Surrebuttal Testimony	July 17, 2026
Evidentiary Hearing	July 28-29, 2026
Main Briefs	September 11, 2026
Reply Briefs	September 25, 2026

Lexington proposed the litigation schedule to counsel for FirstEnergy on January 16, 2026. FE PA did not respond and, so, the proposed litigation schedule has not been agreed upon. Lexington is prepared to discuss modifications at the Prehearing Conference.

VI.
SETTLEMENT DISCUSSIONS


As noted above, the parties participated in a formal mediation session on July 16, 2025. Lexington remains willing to engage in settlement discussions and believes that further discussions may be productive. However, in light of the history of this matter, Lexington requests that litigation proceed on a parallel track if/while any settlement discussions occur.

VII.
CONCLUSION

For the foregoing reasons, Lexington respectfully requests that the Administrative Law Judge adopt the proposed litigation schedule set forth herein, or such other schedule as the Judge deems appropriate, and proceed with this matter expeditiously.

Respectfully submitted,

GA BIBIKOS LLC


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Counsel for Lexington Land Developers Corp.

Dated: January 27, 2026