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February 10, 2026

VIA ELECTRONIC FILING

Matthew L. Homsher, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

Re: Verizon Pennsylvania LLC and Verizon North LLC v. Metropolitan Edison Company, Pennsylvania Electric Company, and Pennsylvania Power Company; Docket No. C-2020-3019347 – FEDERAL COMMUNICATIONS COMMISSION OPPOSITION TO MOTION TO REOPEN

Dear Secretary Homsher:

Enclosed is a copy of FirstEnergy Pennsylvania Electric Company’s (“FE PA” or the “Company”) Opposition to the Motion to Reopen of Verizon Pennsylvania LLC and Verizon North LLC (together, “Verizon”) filed before the Federal Communications Commission (“FCC”) on February 3, 2026 (“Verizon Motion”). FE PA filed its Opposition to the Verizon Motion with the FCC today.

Stated succinctly, the Verizon Motion is an affront to the Pennsylvania Public Utility Commission (“PUC”), the Pennsylvania appellate courts, and the Commonwealth as a whole. As explained in detail in FE PA’s Opposition, the Verizon Motion has no merit under Pennsylvania law, federal law or FCC precedent, and seeks to fundamentally undermine (a) the PUC’s lawful authority to reconsider a “final order” and (b) the authority of Pennsylvania appellate courts to review a “final order” of the PUC. The PUC should not accede to any of Verizon’s requests. Instead, it must carry out the lawful directives of both the Supreme Court¹ and the Commonwealth

¹ *FirstEnergy Pa. Elec. Co. v. Pa. PUC*, Nos. 42 MAP 2024 and 43 MAP 2024, 2026 Pa. LEXIS 34, *59-60 (Pa. Jan. 8, 2026) (“...we vacate the Commonwealth Court's order affirming the PUC and remand to the Court to remand to the PUC for further proceedings consistent with our Opinion. “).

Court of Pennsylvania,² and undertake a remand proceeding consistent with the directives of the Supreme Court.

Under Pennsylvania law, a “final order” is a final adjudication that terminates a proceeding and determines the rights of the parties to such proceeding.³ On December 18, 2020, the PUC entered a final order in this matter.⁴ The December 2020 Order disposed of the parties’ right and terminated this proceeding when it was issued.

Verizon does not dispute this reality.⁵ Instead, it attempts to argue that a reversal and remand of the December 2020 Order somehow deprives it of the “finality” required to federal law.⁶ This is false, and absurd, for several reasons.

First, Verizon cites zero federal or FCC precedent, or Pennsylvania or PUC precedent for this proposition. That is because there is none.

The only authority Verizon cites for its position is *Shaffer v. Smith*, 673 A.2d 872, 874 (Pa. 1996). Verizon’s incomplete quotation, however, misrepresents this case. Indeed, the complete quote referenced by Verizon is “[a] judgment is deemed final for purposes of ***res judicata* or collateral estoppel** unless or until it is reversed on appeal.”⁷ The cases relied upon by *Shaffer* are similarly limited.⁸ Neither the rule of *res judicata* or collateral estoppel have any relevance to whether the PUC’s December 2020 Order is a “final action” under 47 U.S.C. § 224(c)(3)(B)(ii).

Second, **at no time during the more than five-year period this matter has been under intensive appellate litigation and review**, conducted at great cost in both time and resources to the parties, the PUC, and Pennsylvania’s courts, did Verizon question whether, or assert that, the

² Verizon Pa. LLC and Verizon North, LLC v. Pa. PUC, No. 521 C.D. 2021; Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company, No. 530 C.D. 2021 (Order dated Jan. 30, 2026) (per curiam) (“...the Supreme Court reversed and remanded these matters to this Court for this Court to remand to the Pennsylvania Public Utility Commission (PUC), these matters are hereby REMANDED to the PUC for further proceedings consistent with the Supreme Court’s opinion.”).

³ 2 Pa. C.S. § 101 (“Adjudication”); 2 Pa. C.S. § 702; Pa. R.A.P. 341.

⁴ Verizon Pennsylvania LLC and Verizon North LLC v. Metropolitan Edison Company, Pennsylvania Electric Company, and Pennsylvania Power Company, Docket No. C-2020-3019347 (Opinion and Order entered Dec. 18, 2020) (“December 2020 Order”).

⁵ Verizon Letter, at p. 2 (“Verizon recognizes that the Commission originally decided this matter within the federal statutory deadline, which is 270 days in this case.”).

⁶ Verizon Letter, at pp. 2-3.

⁷ *Shaffer*, 673 A.2d at 874 (emphasis added). Verizon omitted the specific language emphasized herein.

⁸ *Helmig v. Rockwell Mfg. Co.*, 131 A.2d 622 (Pa. 1957) cert. denied, 355 U.S. 832 (1957) (quoting *In re Wallace’s Estate*, 174 A. 397 (Pa. 1934, which explained that “[b]roadly stated, **the rule of res judicata** is that when a court of competent jurisdiction has determined a litigated cause on its merits, the judgment entered, until reversed, is, forever and under all circumstances, final and conclusive as between the parties to the suit and their privies, in respect to every fact which might properly be considered in reaching a judicial determination of the controversy, and in respect to all points of law there adjudged, as those points relate directly to the cause of action in litigation and affect the fund or other subject-matter then before the court.” (emphasis added)); *Bassett v. Civil Service Com.*, 514 A.2d 984, 986 (Pa. Cmwlth. 1986) (discussing the finality of a judgment for purposes of res judicata and collateral estoppel).

December 2020 Order was inconsistent with the requirements of 47 U.S.C. § 224(c)(3)(B)(ii) or somehow did not qualify as a “final action.” Verizon’s claim otherwise is contrary to (1) its prior acknowledgment that acknowledgment that the PUC’s decision would be a “final action” if it is issued within 270 days of the March 23, 2020 filing date of Verizon’s Pennsylvania complaint;⁹ and (2) both its petition for reconsideration filed with the PUC and its petition for review filed with the Commonwealth Court.

Third, the relief sought in the Verizon Motion will eviscerate the “reverse preemption” ability of Pennsylvania, and other states, to regulate pole attachments if it is granted. As explained in FE PA’s Opposition, Verizon is contending that that in order to retain jurisdiction over a pole attachment complaint, the Pole Attachment Act requires a State commission to take the following actions within 180 days (or up to 360 days if the PUC grants more time): (1) conduct a pole attachment complaint proceeding and render a decision; (2) await and act on any reconsideration of that decision; (3) await any requests for court review and await the decision of one or more courts on appeal; and then (4) issue another order on any remand ordered by the applicable court ruling. And even this four-step process assumes the process would not be further drawn out by some appeal of the State commission decision is issued on remand. Such a deadline could never be met.

Fourth, Verizon’s latent attempt to strip this matter from the PUC is blatant judgment shopping. Indeed, Verizon has only now claimed for the first time that the PUC can no longer issue a final action because the 270-day period has expired, after it received an adverse decision from the Supreme Court of Pennsylvania. The audacity of this claim is that, while Verizon maintains in its Motion that “[b]ecause the Pennsylvania Supreme Court has vacated the order affirming the PUC’s decision and required additional proceedings, Pennsylvania has not taken ‘final action’ on Verizon’s complaint within the mandatory 270-day deadline,”¹⁰ **Verizon specifically sought to overturn (in part) the PUC’s and then the Commonwealth Court orders beyond the 270-day deadline as a part of its appeals.**¹¹ One questions whether Verizon would be seeking to run back to the FCC if the Supreme Court of Pennsylvania had remanded this matter for further proceedings on the issue Verizon appealed.

Fifth, Verizon’s argument that the December 2020 Order is not a “final action” is belied by its suggestion that the FCC should disregard its own complaint process and legal conclusions in favor of those in the December 2020 Order. If that order is no longer final by operation of the remand, as Verizon claims, it has no dispositive effect upon the parties or issues in this case; conversely, if it does have some dispositive effect, as Verizon claims, then it is a final order and

⁹ *Verizon Pennsylvania LLC, et al. v. Metropolitan Edison Company, et al.*, PUC Docket No. C-2020-3019347 (Verizon Brief on Exceptions), p. 13 (“[T]he Commission’s regulations require ‘final action’ within 270 days of the March 23, 2020 transfer of this case to the Commission, meaning the Commission must issue a final order on the required rates and overpayments ‘no later than its Public Meeting on December 17, 2020.’”).

¹⁰ Verizon Motion, at p. 7.

¹¹ See *FirstEnergy Pa. Elec. Co.*, 2026 Pa. LEXIS 34, *22-23 (noting that Verizon asked the Pennsylvania Supreme Court to reverse the determinations below with respect to refunds); *Verizon Pa. LLC v. Pa. PUC*, 303 A.3d at 245 (denying Verizon’s request that the Commonwealth Court reverse the PUC’s determination on refunds).

jurisdiction must properly remain with the PUC. Again, either Verizon does not actually believe these contradictory arguments or they are being raised in bad faith.

Finally, Verizon's arguments that jurisdiction reverts to the FCC are meritless and will have troubling consequences if supported by the PUC as it requests. Specifically, if Verizon's arguments are given any credit:

- Verizon will be permitted to evade the lawful directives and requirements established by the Supreme Court of Pennsylvania that resulted from an appellate process that Verizon itself initiated;
- Verizon will have been permitted to waste the PUC's time and resources in administering the initial complaint proceeding in this matter, as well as the time and resources of the PUC, the Commonwealth Court of Pennsylvania, and the Supreme Court of Pennsylvania in litigating and disposing of the appeals taken in this matter, which were first initiated by Verizon;
- Verizon will be permitted to read a requirement that does not exist into a federal statute, i.e., that state court review of state agency determinations timely rendered under 47 U.S.C. § 224(c)(3)(B)(ii) are somehow precluded;¹² and
- the PUC's authority in this case specifically, and more generally in other cases that involve a statutory shot clock under Pennsylvania law will be fundamentally undermined, including, but not limited to, base rate proceedings under 66 Pa.C.S. § 1308(d) (requiring the PUC to issue a "final decision and order" within 9 months of the data of filing of a general rate increase, and placing the proposed rate increase into effect subject to refund if the PUC fails to do so), default service plans under 66 Pa.C.S. § 2807(e)(3.6) (requiring the PUC to issue a "final order" with respect to an electric distribution company's proposed default service plan within nine months of the date of filing, and deeming the plan to be approved if the PUC fails to do so), and fair market value acquisitions under 66 Pa.C.S. § 1329 (requiring the PUC to issue a "final order" on a fair market value acquisition application within six months of the filing data of an application meeting the requirements of the statute).¹³

For all of these reasons, and those set forth in its Opposition, FE PA requests that this Commission reject Verizon's request to make any filing before the FCC that supports the FCC

¹² Indeed, if Congress wanted to render such State court review meaningless, it would instead have precluded State court review over State commission pole attachment determinations entirely, as it did with respect to state utility commission review of interconnection agreements. *See* 47 U.S.C. § 252(e)(4) ("No State court shall have jurisdiction to review the action of a State commission in approving or rejecting an agreement under this section.").

¹³ Verizon's arguments, if adopted, would establish precedent whereby the filing of reconsideration or an appeal a "final order" issued within the stated statutory timeframes would cease to qualify as a "final order" and the additional statutory mechanisms are triggered. Such precedent would fundamentally alter how the PUC reviews such matters, and the impacts of reconsideration and/or appeals upon the same.

Matthew L. Homsher, Secretary
February 10, 2026
Page 5

exercising jurisdiction over this matter, and/or using any of the record and findings developed by the PUC in a matter before the FCC. Instead, the PUC should do as the Supreme Court of Pennsylvania commanded: conduct further proceedings on remand consistent with the Supreme Court's opinion.

Please contact the undersigned counsel should you have any questions.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Garrett P. Lent".

Garrett P. Lent

GPL/tjc
Enclosure

cc: Certificate of Service

CERTIFICATE OF SERVICE

(Docket No. C-2020-3019347)

I hereby certify that a true and correct copy of the foregoing has been served upon the following persons, in the manner indicated, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

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Date: February 10, 2026



Garrett P. Lent

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

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)	
Verizon Pennsylvania LLC and)	
Verizon North LLC,)	
<i>Complainants,</i>)	
)	
v.)	Proceeding Number 19-354
)	Bureau ID Number EB-19-MD-008
)	
Metropolitan Edison Company,)	
Pennsylvania Electric Company, and)	
Penn Power Company, now known as)	
FirstEnergy Pennsylvania Electric)	
Company,)	
<i>Defendants</i>)	
)	

**FIRSTENERGY PENNSYLVANIA ELECTRIC COMPANY’S OPPOSITION TO
VERIZON’S MOTION TO REOPEN**

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Dated: February 10, 2026

SUMMARY

Verizon's Motion should be denied because neither of its jurisdiction arguments is persuasive. The Motion's first argument fails because the Pennsylvania Public Utility Commission ("PUC") did take "final action" within the period specified by the Pole Attachment Act by issuing a "final action consisting of an order no later than 270 days from the filing of the formal complaint", consistent with 52 Pa. Code § 77.5(d). Verizon's second argument fails because the PUC issued and made effective pole attachment rules and regulations and there is no regulatory gap for the FCC to fill.

Verizon's ill-conceived arguments are unsupported and contrary to FCC and PUC rules and decisions, contrary to Verizon's own five-year participation in the reconsideration and court appeal process for this "final action," and would result in a nonsensical years-long waste of time and resources that would discourage entities from seeking any pole attachment relief at all from the State, fundamentally undermining the ability of any State to exercise reverse preemption of FCC pole attachment regulation.

Verizon's conduct in this years-long appeals process suggests Verizon either does not believe its newfound contention, or has been acting for more than five years in bad faith in these Pennsylvania proceedings.

Verizon is judgment shopping, and its unsupported legal maneuverings that are contrary to FCC and PUC rules are undermined even more by its ironic request that the Commission accept the factual findings and legal conclusions of the PUC's December 18, 2020 Order that Verizon claims is no longer in effect, and whose legal conclusions: (1) have been found to be contrary to Pennsylvania law; and (2) would be contrary to FCC precedent.

TABLE OF CONTENTS

SUMMARY	i
I. ARGUMENT	2
A. Verizon’s Jurisdiction Argument Fails Because the PUC Did Take "Final Action" Within 270 Days, as Required by the Pole Attachment Act	2
B. Verizon’s Second Jurisdiction Argument Fails Because the PUC Issued and Made Effective Pole Attachment Rules and Regulations and There Is No Regulatory Gap for the FCC To Fill	6
C. Verizon’s Contention That a “Final Action” Must Await the Reconsideration and Appeals Process Would Eviscerate the “Reverse Preemption” Ability of States To Regulate Pole Attachments	8
D. Verizon Is Inappropriately Seeking To “Judgment Shop”	9
E. Verizon’s Improper Legal Maneuvering is Exacerbated By Asking the Commission to Adopt PUC Determinations That Verizon Claims Are Moot	10

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

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Verizon Pennsylvania LLC and)	
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v.)	Proceeding Number 19-354
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Metropolitan Edison Company,)	
Pennsylvania Electric Company, and)	
Penn Power Company, now known as)	
FirstEnergy Pennsylvania Electric)	
Company,)	
<i>Defendants</i>)	
)	

**FIRSTENERGY PENNSYLVANIA ELECTRIC COMPANY’S OPPOSITION TO
VERIZON’S MOTION TO REOPEN**

Defendants Metropolitan Edison Company, Pennsylvania Electric Company, and Penn Power Company, now jointly known as FirstEnergy Pennsylvania Electric Company (“FE PA”),¹ pursuant to Section 1.729(e) of the Commission’s Rules, 47 C.F.R. §1.729(e), hereby oppose the Motion to Reopen (“Motion”) filed February 3, 2026, by Verizon Pennsylvania LLC and Verizon North LLC (“Verizon”) in the above-captioned proceeding.

As explained below, Verizon’s Motion should be denied because the Pennsylvania Public Utility Commission (“PUC”) did take “final action” within the period specified by the Pole

¹ Metropolitan Edison Company, Pennsylvania Electric Company, and Pennsylvania Power Company were the original Petitioners in this action. On December 7, 2023, the Pennsylvania Public Utility Commission (“PUC”) entered an Order at Docket Nos. A-2023-3038771, et al. approving, among other things, the merger of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company, and West Penn Power Company into FirstEnergy Pennsylvania Electric Company (“FE PA”) with FE PA as the surviving entity.

Attachment Act.² Verizon’s arguments are disingenuous and would remove the ability of States to “reverse preempt” pole attachment jurisdiction as Congress intended.

I. ARGUMENT

A. Verizon’s Jurisdiction Argument Fails Because the PUC Did Take "Final Action" Within 270 Days, as Required by the Pole Attachment Act

Following a State’s “reverse preemption” of Federal Communications Commission (“FCC” or “Commission”) jurisdiction over pole attachments, the Pole Attachment Act specifies that the State loses jurisdiction to regulate any pole attachment matter if the State does not take “final action” on a complaint regarding that matter within 180 days or such longer period (not to exceed 360 days) specified by the State.³ Pennsylvania established that period at 270 days.⁴

Verizon’s pole attachment complaint at the FCC was transferred to the PUC, and Verizon does not dispute that its complaint was deemed filed at the PUC on March 23, 2020. Nor does Verizon dispute that the PUC issued an order resolving the matter exactly 270 days later, on December 18, 2020 (“December 18, 2020 Order”).⁵

Rather, Verizon’s Motion claims that the PUC’s December 18, 2020 Order was not a “final action” because of a Pennsylvania Supreme Court decision released last month, on January 8, 2026, more than five years after the PUC’s December 18, 2020 Order. The Supreme Court’s January 8, 2026 decision vacated a 2023 Commonwealth Court of Pennsylvania decision which had affirmed the PUC’s December 18, 2020 Order, and remanded the case to the PUC for further proceedings.⁶ According to Verizon’s Motion: “Because the Pennsylvania Supreme Court has

² 47 U.S.C. § 224(c)(3)(B). The PUC issued a “final action consisting of an order no later than 270 days from the filing of the formal complaint” before the PUC, consistent with 52 Pa. Code § 77.5(d).

³ 47 U.S.C. § 224(c)(3)(B).

⁴ 52 Pa. Code § 77.5(d).

⁵ Motion at 4-5.

⁶ *FirstEnergy Pa. Elec. Co. v. Pa. PUC*, 2026 Pa. LEXIS 34, *59-60 (Pa. Jan. 8, 2026).

vacated the order affirming the PUC's decision and required additional proceedings, Pennsylvania has not taken "final action" on Verizon's complaint within the mandatory 270-day deadline."⁷

Stated simply, Verizon's Motion contends that a State PUC order such as the PUC's December 18, 2020 Order, which was issued within the Pole Attachment Act's statutory deadline period, does not qualify as a "final action" if, after years of appeals, a State court remands such an order to the State PUC for further proceedings.

Verizon cites no FCC or PUC rule or decision to support this contention. Moreover, Verizon's new contention is contrary to Verizon's earlier acknowledgment that the PUC's decision would be a "final action" if it is issued within 270 days of the March 23, 2020 filing date of Verizon's Pennsylvania complaint. As stated in Verizon's brief on exceptions before the PUC: "[T]he Commission's regulations require 'final action' within 270 days of the March 23, 2020 transfer of this case to the Commission, meaning the Commission must issue a final order on the required rates and overpayments 'no later than its Public Meeting on December 17, 2020.'"⁸ As required by Verizon's very own analysis of what constitutes a "final action," the PUC decided this matter at its December 3, 2020, Public Meeting, and released such a "final action" on December 18, 2020, exactly 270 days after March 23, 2020.

The PUC itself deems such an order to be a "final action." The PUC's pole attachment regulations themselves specifically contemplate that the PUC must take "final action" within the required time period, specifying that such "final action" will take the form of an order:

(d) The Commission will take final action consisting of an order that will issue within 180 days of the filing of a formal complaint initiating a pole attachment dispute as required by 47 U.S.C. §

⁷ Motion at 7.

⁸ *Verizon Pennsylvania LLC, et al. v. Metropolitan Edison Company, et al.*, PUC Docket No. C-2020-3019347 (Verizon Brief on Exceptions), p. 13.

224(c)(3)(b)(i) except for good cause shown. If the Commission determines that a final action will not issue within 180 days, the Commission will issue a final action consisting of an order no later than 270 days from the filing of the formal complaint as permitted by 47 U.S.C. § 224(c)(3)(b)(ii).⁹

The Commission was aware of this language when it transferred this matter to the PUC. The PUC certified to the FCC that it had assumed jurisdiction over pole attachment rate disputes.¹⁰ The Commission issued a Public Notice of the receipt of the PUC's certification pursuant to section 1.1405(c) of the Commission's rules.¹¹ In light of this certification, the FCC transferred the matter to the PUC.¹²

Furthermore, the PUC was mindful of this 270-day deadline when it issued its December 18, 2020 Order, explaining: "A litigation schedule was established so that the case would be completed within 270 days,"¹³ and "This Opinion and Order will issue to meet any 270-day deadline."¹⁴

For their part, FCC rules would also treat the PUC's December 18, 2020 Order as a "final action" that could later be subject to reconsideration or review. Section 1.104 of the Commission's rules even considers orders issued by its Bureaus on delegated authority from the full Commission to be "final actions" that may be appealed: "Any person desiring Commission consideration of a final action taken pursuant to delegated authority shall file either a petition for reconsideration or an application for review (but not both) within 30 days from the date of public

⁹ 52 Pa. Code § 77.5(d) (emphasis added).

¹⁰ Letter from Renardo L. Hicks, Chief Counsel, PUC, to Marlene Dortch, Secretary, FCC, *States That Have Certified That They Regulate Pole Attachments*, WC Docket No 10-101 (filed Mar. 18, 2020).

¹¹ *States That Have Certified That They Regulate Pole Attachments*, WC Docket 10-101, Public Notice, DA 20-302 (WCB Mar. 19, 2020).

¹² *Verizon Pa. v. Metropolitan Edison Co.*, Order, 35 FCC Rcd 2838 (EB 2020).

¹³ *Verizon Pa. v. Metropolitan Edison Co.* at 5, No. C-2020-3019347, 2020 WL 7682434 (Pa. PUC Dec. 18, 2020).

¹⁴ *Id.* at 3 n.7.

notice of such action.”¹⁵ Similarly, orders issued by the full Commission are “final actions” that are subject to reconsideration by the Commission.¹⁶

Following such reconsideration or review, the Commission does not then change its mind and rule that the “final action” it reviewed was never a “final action” to begin with. Such an illogical outcome would be inconsistent with Section 1.104 and the FCC’s reconsideration and review process, because the party seeking reconsideration or review would have had no grounds to seek such reconsideration or review of a non-final action.

At no time during the entire five-year period since the PUC issued its December 18, 2020 Order did Verizon question whether, or assert that, the PUC’s Order was inconsistent with the requirements of 47 USC Section 224(c)(3)(B) or somehow did not qualify as a “final action.” In fact, Verizon itself filed a petition for reconsideration of this “final action” after it was issued on the 270th day.¹⁷ Verizon moreover initiated appellate review of the December 18, 2020 Order before the Commonwealth Court of Pennsylvania,¹⁸ and participated fully in the appeals process over the past five years. Also at no point during those five years did Verizon or the PUC ever suggest that if a court required remand to the PUC, the PUC would lose jurisdiction and the entire proceeding would automatically revert to the FCC.

Verizon’s argument essentially renders the entire reconsideration and court review process meaningless, as any court decision to remand would ironically and senselessly cause the

¹⁵ 47 C.F.R. § 1.104(b).

¹⁶ 47 C.F.R. § 1.106(a)(1).

¹⁷ *Verizon Pennsylvania LLC, et al. v. Metropolitan Edison Company, et al.*, Docket No. C-2020-3019347 (Verizon Petition Reconsideration).

¹⁸ Verizon filed a Petition for Review of the December 18, 2020 Order before the Commonwealth Court of Pennsylvania on May 14, 2021. *See Verizon Pa. LLC v. Pa. PUC*, 303 A.3d 219, 230 (Pa. Cmwlth. 2023), *vacated*, *FirstEnergy Pa. Elec. Co. v. Pa. PUC*, 2026 Pa. LEXIS 34 (Pa. Jan. 8, 2026); Commonwealth Court of Pennsylvania No. 521 C.D. 2021 (Petition for Review filed May 14, 2021). FirstEnergy filed a Petition for Review of the December 18, 2020 Order before the Commonwealth Court of Pennsylvania on May 17, 2021. *See* Commonwealth Court of Pennsylvania No. 530 C.D. 2021 (Petition for Review filed May 17, 2021).

case not to be reviewed on remand. Before the PUC could reconsider the matter on remand as ordered by the court, such jurisdiction would automatically be taken away from the PUC and transferred to the FCC.

If Congress wanted to render such State court review meaningless, it would instead have precluded State court review over State commission pole attachment determinations entirely, as it did with respect to State PUC review of interconnection agreements.¹⁹

B. Verizon’s Second Jurisdiction Argument Fails Because the PUC Issued and Made Effective Pole Attachment Rules and Regulations and There Is No Regulatory Gap for the FCC To Fill

Verizon relegates to a footnote its second contention that jurisdiction over this proceeding automatically reverted to the FCC.²⁰ In that footnote, Verizon claims that the Pennsylvania Supreme Court’s decision “negated the effectiveness” of the PUC’s method for calculating the rates that electric utilities charge for pole attachments, and notes that the Pole Attachment Act requires Pennsylvania to have “*effective*” (emphasis by Verizon) pole attachment rules and regulations in place. Although not clear from its footnote, Verizon appears to claim that all jurisdiction by the PUC over all pole attachment matters must automatically revert to the FCC because the PUC no longer has in place “effective” rules and regulations. The footnote might even be read to suggest that the PUC never had any jurisdiction in the first place, because more than five years after the PUC promulgated its extensive regulations, the Pennsylvania Supreme Court ruled that a small portion of those regulations had all this time been inconsistent with Pennsylvania law.

¹⁹ See 47 U.S.C. § 252(e)(4) (“No State court shall have jurisdiction to review the action of a State commission in approving or rejecting an agreement under this section.”).

²⁰ Motion at 6, n.23.

Verizon’s interpretation of the Pole Attachment Act is misleading. Quoted correctly, the statute requires the state to have “issued and made effective rules and regulations implementing the state’s authority over pole attachments.”²¹ The statute does not require “effective” rules and regulations in the sense that no portion of those rules and regulations could ever later be ruled contrary to law. Instead, the statute required the PUC to place the rules and regulations into effect, which the PUC did and Verizon’s Motion acknowledged that fact.²²

Verizon’s footnote also quotes the Commission’s *Crown Castle v. Commonwealth Edison* decision.²³ In that decision, the Commission asserted jurisdiction over attachments by telecommunications provider Crown Castle even though the attachments were located in Illinois and Illinois had reverse preempted the FCC with its own pole attachment regulations. The Commission determined that the pole attachment rules in Illinois covered only attachments made by cable television systems and not by telecommunications providers, leaving jurisdiction for the FCC to regulate attachments made by telecommunications providers like Crown Castle. Oddly again, Verizon’s footnote draws no conclusion from this quote of the *Crown Castle* order, but Verizon could be suggesting that the Pennsylvania Supreme Court’s determination that the PUC’s method for calculating rates charged to incumbent local exchange carriers (“ILECs”) was defective left some sort of jurisdictional “hole” for the FCC to fill.

The Supreme Court, however, did not determine the PUC had no rule in place to calculate rates charged to ILECs. Instead, the court ruled that the PUC disregarded other currently-effective provisions of the Pennsylvania Public Utility Code and Pennsylvania law that the PUC should have used to calculate rates that an electric utility could charge to an ILEC for

²¹ 47 U.S.C. § 224(c)(3)(A) (emphasis added).

²² Motion at 3.

²³ *Id.* at 6, n.23, quoting *Crown Castle Fiber LLC v. Commonwealth Edison Co.*, 34 FCC Rcd 5959, 5960–61 (¶ 5) (2019).

pole attachments, and required the PUC on remand to apply that Pennsylvania law.²⁴

Accordingly, and even assuming the FCC would not give the PUC on remand any opportunity at all to fill such a regulatory “hole,” there currently is no regulatory “hole” for the FCC to fill, and there never was.

C. Verizon’s Contention That a “Final Action” Must Await the Reconsideration and Appeals Process Would Eviscerate the “Reverse Preemption” Ability of States To Regulate Pole Attachments

The Pole Attachment Act requires States to take final action on a pole attachment complaint within 180 days, or longer (up to 360 days) if required by the state.²⁵ These deadlines for the States to act on pole attachment complaints are very similar to the 180-day and 270-day deadlines the Commission sets for itself to render decisions in pole attachment complaint cases.²⁶ Such deadlines for rendering pole attachment decisions can be, and are, met by the Commission, and they can be, and are, met by State PUCs. But neither the FCC nor the State PUCs could meet such deadlines if their decisions must first await the reconsideration process at the commission and years of appeals with the courts. The December 18, 2020 Order in this proceeding, for example, was subject to a five-year reconsideration and appeals process that began with Verizon’s own reconsideration request, included appeals to the Commonwealth Court (initiated first by Verizon), and included further appeal to the Pennsylvania Supreme Court.

In effect, Verizon is contending that in order to retain jurisdiction over a pole attachment complaint, the Pole Attachment Act requires a State commission to take the following actions within 180 days (or up to 360 days if the PUC grants more time): (1) conduct a pole attachment complaint proceeding and render a decision; (2) await and act on any reconsideration of that

²⁴ *FirstEnergy Pa. Elec. Co. v. Pa. PUC*, 2026 Pa. LEXIS 34, *59-60 (Pa. Jan. 8, 2026).

²⁵ 47 U.S.C. § 224(c)(3)(B).

²⁶ See 47 C.F.R. §§ 1.1414 and 1.740.

decision; (3) await any requests for court review and await the decision of one or more courts on appeal; and then (4) issue another order on any remand ordered by the applicable court ruling. And even this four-step process assumes the process would not be further drawn out by some appeal of the State PUC decision issued on remand.

No State PUC in the country (or the FCC) could conceivably meet such a deadline Verizon's Motion proposes. Because such a deadline could never be met, any party disagreeing with a State PUC determination could easily seek to eliminate that State PUC jurisdiction entirely and nullify the decision by filing for reconsideration, appealing to the courts, and hoping the matter gets remanded on any issue at all years later, causing the matter to automatically transfer to the FCC.

Such a nonsensical waste of time and resources would discourage entities from seeking any pole attachment relief at all from the State, and would fundamentally undermine the ability of any State to exercise reverse preemption of FCC pole attachment regulation, contrary to Congress's obvious intent to enable such State jurisdiction.

D. Verizon Is Inappropriately Seeking To “Judgment Shop”

As explained, Verizon at all times treated the PUC's December 18, 2020 Order as the “final action” required by the Pole Attachment Act, and at no time raised the strange and illogical prospect that any potential remand by a court to the PUC would preclude the PUC from acting on remand.

Now that the Pennsylvania Supreme Court has rendered a decision that Verizon does not like, Verizon for the first time is making this peculiar claim that the PUC can no longer issue a final action because the 270-day period has expired. Verizon's failure to raise this contention earlier suggests that Verizon either: (1) does not actually believe this contention; or (2) for the

past several years has been engaging in the lengthy reconsideration process and court appeal process in Pennsylvania in bad faith. This is evident by the contradiction between the Verizon Motion's new claim that additional PUC proceedings beyond the 270-period renders the PUC action no longer a "final action,"²⁷ and Verizon's earlier posture when seeking to overturn (in part) the PUC's and then the Commonwealth Court orders beyond the 270-day deadline as a part of its appeals.²⁸ Regardless, Verizon's effort at this late stage to "judgment shop" subverts the principles of comity and reverse preemption, which are designed to respect state sovereignty, not to provide a strategic escape hatch for litigants who are unhappy with the substantive outcome of a state's review of the state's own regulatory scheme.

E. Verizon's Improper Legal Maneuvering is Exacerbated By Asking the Commission to Adopt PUC Determinations That Verizon Claims Are Moot

Verizon's forum shopping is made even more objectionable by Verizon's bold request for the Commission to disregard its own pole attachment complaint process and legal conclusions and adopt those of the PUC. Not only are the PUC's legal conclusions at odds with those of the Commission, Verizon's request to adopt such incompatible PUC legal conclusions is at odds with Verizon's own newfound claim that the PUC's process and rulings are now moot.

Unlike FCC proceedings, the PUC's process included an administrative law judge, extensive discovery, and the filing of exceptions to the ALJ's decision. The FCC has had no control over any of that process, and the PUC's decision is at odds with several other FCC orders adjudicating the rates electric utilities can charge ILECs.²⁹ The most notable of these is the

²⁷ Motion at 1.

²⁸ See *FirstEnergy Pa. Elec. Co.*, 2026 Pa. LEXIS 34, *22-23 (noting that Verizon asked the Pennsylvania Supreme Court to reverse the determinations below with respect to refunds); *Verizon Pa. LLC v. Pa. PUC*, 303 A.3d at 245 (denying Verizon's request that the Commonwealth Court reverse the PUC's determination on refunds).

²⁹ See, e.g., *Verizon Maryland LLC v. The Potomac Edison Co.*, Proceeding No. 19-355, Memorandum Opinion and Order, 35 FCC Rcd 13607 (2020); *Verizon Maryland LLC v. The Potomac Edison Co.*, Proceeding No. 19-355, Order on Reconsideration, FCC 22-26, 37 FCC Rcd 5304 (2022); *BellSouth Telecomms., LLC v. Florida Power &*

Verizon Maryland LLC v. The Potomac Edison Co. decision, which was rendered by the full Commission based on a Verizon Complaint, Potomac Edison Response, and Verizon Reply that were nearly identical to the complaint, response and reply filed simultaneously and by the same Verizon and FE PA counsel in this Commission's *Verizon Pennsylvania v. FirstEnergy Pennsylvania* proceeding before it was transferred to the PUC.³⁰

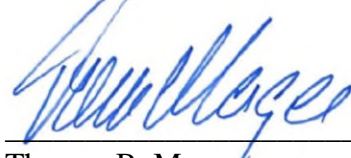
It is ironic at best that Verizon is now asking the Commission to accept the factual findings and legal conclusions of the PUC's December 18, 2020 Order that Verizon claims is no longer in effect, and whose legal conclusions: (1) have been found to be contrary to Pennsylvania law; and (2) would be contrary to FCC precedent. If that order is no longer final by operation of the remand, as Verizon claims, it has no dispositive effect upon the parties or issues in this case; conversely, if it does have some dispositive effect, as Verizon claims, then it is a final action and jurisdiction must properly remain with the PUC. Again, either Verizon does not actually believe these contradictory arguments or they are being raised in bad faith. Verizon cannot have it both ways, and Verizon's self-serving attempts to do so undermine its legal maneuvering even more.

Light Co., Proceeding No. 19-187, Memorandum Opinion and Order, 35 FCC Rcd 5321 (EB 2020); *BellSouth Telecomms., LLC v. Florida Power & Light Co.*, Proceeding No. 19-187, Memorandum Opinion and Order, 36 FCC Rcd 253 (EB 2021); *BellSouth Telecomms., LLC v. Florida Power & Light Co.*, Proceeding No. 19-187, Order on Review, FCC 22-45, 37 FCC Rcd 7259 (2022); *BellSouth Telecomms., LLC v. Duke Energy Progress, LLC*, Proceeding No. 20-293, Memorandum Opinion and Order, 36 FCC Rcd 13684 (EB 2021); *BellSouth Telecomms., LLC v. Duke Energy Progress, LLC*, Proceeding No. 20-293, Order on Reconsideration and Review, FCC 22-90, 37 FCC Rcd 13905 (2022); *BellSouth Telecomms., LLC v. Duke Energy Florida, LLC*, Proceeding No. 20-276, Memorandum Opinion and Order, 36 FCC Rcd 18252 (EB 2021).

³⁰ In *Verizon Maryland LLC v. The Potomac Edison Company*, Proceeding No. 19-355, Bureau ID No. EB-19-MD-009, Verizon's Complaint was filed on November 21, 2019, Potomac Edison's Answer on February 5, 2020, and Verizon's Reply on March 5, 2020. In *Verizon Pennsylvania LLC, et al. v. Metropolitan Edison Company, et al.*, Proceeding No. 19-354, Bureau ID No. EB-19-MD-008, Verizon's Complaint was filed on November 20, 2019, Potomac Edison's Answer on February 3, 2020, and Verizon's Reply on March 4, 2020. In both proceedings, these Verizon submissions were all filed by Curtis L. Groves of Verizon, and Christopher S. Huther and Claire J. Evans of Wiley Rein LLP. In both proceedings, these FirstEnergy submissions were all filed by Robert M. Endris of FirstEnergy Service Company, and Thomas B. Magee and Timothy A. Doughty of Keller and Heckman LLP.

WHEREFORE, FirstEnergy Pennsylvania Electric Company respectfully requests that the Commission deny Verizon's Motion for the reasons stated herein.

Respectfully submitted,



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Dated: February 10, 2026

CERTIFICATE OF SERVICE

I hereby certify that on February 10, 2026, I caused a copy of the foregoing FirstEnergy's Opposition to Motion to Reopen to be served on the following (service method indicated):

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