

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Lexington Land Developers Corporation	:	
	:	
v.	:	C-2024-3052541
	:	
FirstEnergy Pennsylvania Electric Company	:	

PREHEARING ORDER #1
*Granting in Part and Denying in Part
Complainant’s Motion to Compel*

On December 16, 2024, Lexington Land Developers Corporation (Lexington or Complainant) filed a Formal Complaint against FirstEnergy Pennsylvania Electric Company – Met-Ed Rate District (FE PA or Respondent), alleging that Lexington cannot get electric from FE PA for a development project. As relief, Lexington requests that the Commission order FE PA provide a date when the ILS study will be completed; when the plans will be completed; and when installation will be completed. If FE PA cannot provide these dates, Lexington requests that FE PA sell off territory to another provider that is able to provide electric service in a timely manner.

On January 6, 2025, FE PA filed an Answer and New Matter. FE PA’s New Matter included a notice to plead. FE PA denied it has not timely processed Complainant’s request for new service. In its New Matter, FE PA requested that this matter be referred to the Office of Administrative Law Judge’s Mediation Unit (OALJ Mediation Unit).

On January 22, 2025, Lexington filed a Reply to New Matter. In its Reply, Lexington agreed with the request that this matter be referred to the OALJ Mediation Unit.

On January 30, 2025, an Interim Order Setting Resolution Conference was issued.

On October 24, 2025, Lexington filed an Amended Formal Complaint. The Amended Formal Complaint was served on FE PA on October 28, 2025. Lexington states that it is in the process of developing Morgan's Crossing, a residential community within FE PA's service territory that, when built out, will consist of more than 100 homes in Carlisle, PA. Lexington avers that FE PA issued an initial load study estimating costs in excess of \$270,000 and informed Lexington that, as a precondition of extending a supply line and alleged system changes or improvements engendered by the request to serve Morgan's Crossing, Lexington must bear all of FE PA's costs; all land developers requesting service to developments within FE PA's service territory must bear all of FE PA's costs associated with a line extension and alleged upgrades to FE PA's system; and FE PA has no obligation to incur any costs of the line extension and alleged system changes. Lexington avers that FE PA's attempt to shift all costs of line extensions and system upgrades to Lexington is unlawful, unreasonable, and discriminatory in violation of the Public Utility Code (Code) and the Commission's regulations. As relief, Lexington requests that the Commission issue a declaratory order that FE PA's actions violated the Code and Commission regulations, and impose civil penalties.

On November 17, 2025, FE PA filed an Answer to Lexington's Amended Formal Complaint. FE PA denied that it violated the Code, Commission regulations or its Commission-approved tariff regarding the request of Complainant for new underground service to its development. FE PA also denied that its tariff violates the Code or Commission regulations.

On December 5, 2025, the Commission issued a Telephonic Prehearing Conference Notice, setting this proceeding for a Prehearing Conference on January 30, 2026 at 10:00 a.m. Also on December 5, 2025, and in accordance with the provisions of 66 Pa.C.S. §333 and 52 Pa.Code §§5.221-5.223, a Prehearing Conference Order was issued outlining various procedural matters to be addressed at the Prehearing Conference scheduled for January 30, 2026.

On January 16, 2026, Lexington issued a Notice of Deposition of James B. Ensminger. No objections to the Notice of Deposition were received.

On January 27, 2026, parties submitted prehearing memoranda outlining their respective positions on various procedural matters. The Prehearing Conference convened on January 30, 2026, as scheduled. George A. Bibikos, Esquire, appeared for Lexington, and Margaret A. Morris, Esquire, appeared for FE PA.

On February 2, 2026, I issued a Scheduling Order, setting forth the procedural matters addressed during the Prehearing Conference.

On February 25, 2026, Lexington and FE PA filed a Joint Motion for Protective Order.

On February 27, 2026, I issued a Protective Order.

On April 27, 2026, Lexington filed a Combined Motion to Compel Responses to Discovery Requests and For Sanctions (Motion).

Answers to motions to compel and motions for sanctions may be answered within five days of service. 52 Pa. Code §§ 5.342(g)(1); 5.371(b). Therefore, FE PA's response to the Motion was due by May 4, 2026. FE PA has not filed a response to the Motion.

For the reasons discussed below, FE PA's Motion is granted in part and denied in part.

DISCUSSION

On January 16, 2026, Lexington served its First Set of Interrogatories and Requests for Production of Documents (Discovery Requests).

On January 26, 2026, Respondent filed objections to the Discovery Requests.

As an initial matter, Commission regulations provide that motions to compel responses to interrogatories and requests for documents are due within 10 days of the filing of objections. 52 Pa. Code §§ 5.342(g); 5.349(d). Lexington filed its Motion three months after the objections. However, the presiding officer may also vary provisions of the Commission's discovery rules as justice requires. 52 Pa. Code § 5.321(b). As parties were directed in the February 2, 2026 Scheduling Order, parties are encouraged to resolve their discovery disputes informally. Counsel for Lexington has diligently attempted to secure responses to discovery. Motion, Tab C. I do not believe it would serve the interests of justice to deny the Motion as untimely given that Lexington's counsel has actively sought informal resolution of the dispute, and counsel for Lexington continues to seek responses to its discovery. Additionally, the exchanges between counsel at Tab C of the Motion demonstrate multiple instances where counsel for Lexington plausibly believed discovery responses were forthcoming. Therefore, I will review the Motion on its merits and will not treat the Motion as untimely filed.¹

Section 5.321(c) of the Commission's Rules of Administrative Practice and Procedure, 52 Pa. Code § 5.321(c), specifically provides that "a party may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action." Discovery is permitted regardless of whether the information sought "relates to the claim or defense of the party seeking discovery or to the claim or defense of another party or participant." *Id.* Information may be discoverable, even if it would be inadmissible at a hearing. "It is not ground for objection that the information sought will be inadmissible at hearing if the information sought appears reasonably calculated to lead to the discovery of admissible evidence." *Id.* Consistently, the Commission has allowed participants wide latitude in discovery matters. *Pa. Pub. Util. Comm'n v. Peoples Nat. Gas Co.*, 62 Pa. PUC 56 (Aug. 26, 1986); *Pa. Pub. Util. Comm'n v. Equitable Gas Co.*, 61 Pa. PUC 468 (May 16, 1986).

¹ While informal resolution of discovery disputes is preferred, parties are also encouraged to seek formal resolution of discovery disputes as early as possible. As counsel for Lexington notes, procedural deadlines are fast approaching. Motion, ¶ 4. If Lexington had served its Motion sometime earlier than three months after FE PA's objections, it may have received relief more promptly.

The Commission’s regulations place limitations on the scope of discovery. Discovery that would cause unreasonable burden or expense or require an unreasonable investigation by a party is not permitted. 52 Pa. Code § 5.361(a)(2), (4). “The law is [] clear that the Commission has the right to limit discovery that would place an unreasonable burden upon a participant in litigation.” *Application of Newtown Artesian Water Co. and Indian Rock Water Co.*, Docket No. A-212070, 1990 Pa. PUC LEXIS 83 (June 20, 1990) *citing City of Pittsburgh v. Pa. Pub. Util. Comm’n*, 526 A.2d 1243, 1249-50 (Pa. Cmwlth. 1987).

A party may seek discovery through use of written interrogatories and requests for documents. 52 Pa. Code §§ 5.342, 5.349.

FE PA’s January 26, 2026 objections provided no responses to Lexington’s discovery requests. Motion, ¶ 14, Tab B. On April 19, 2026, FE PA provided a further response, that is the subject of the current Motion. Motion ¶ 30, Tab E. Based on the response received on April 19, 2026, Lexington requests that I compel fulsome and complete responses to the following discovery requests:

- Interrogatories 1, 5, 6, 7, 8, 9, 10, 11, 12, 13, 19, 20, 21, 22, 23, 24, 25, 26, 28, 31, 32, and 33.
- Document Requests 1-14, 22-25, 26-29.

Motion, ¶ 72.

Before addressing specific interrogatories and document requests, I agree that FE PA’s general objections are improper. As Lexington cites, Commission regulations require that objections include restatement of the interrogatory and the *specific* ground for the objection. 52 Pa. Code § 5.342(c)(2). The requirements are the same for requests for production of documents. 52 Pa. Code § 5.349(d). Therefore, only FE PA’s specific objections will be addressed, where appropriate.

INTERROGATORY 1

Interrogatory and Response:

Identify all persons with knowledge of the facts and circumstances relating to Lexington's request for electric service to Morgan's Crossing, including but not limited to the application, load studies, cost estimates, invoices, and communications with Lexington.

RESPONSE:

Horis Kahrmanovic, Designer
Jim Ensminger, Supervisor Engineering Services
Divin Ipe, Planning Engineer
Kathy Allen, Engineering Supervisor
Marissa Costi, Project manager

Basis of Motion to Compel:

Lexington did not provide a specific basis to its Motion regarding this interrogatory.

Disposition:

Lexington did not provide a basis for its Motion regarding this interrogatory. Individuals are identified and no apparent deficiencies are found with the response. Therefore, Lexington's Motion regarding this interrogatory is denied.

INTERROGATORY 5

Interrogatory and Response:

Identify by name, title, and business address all persons who participated in preparing the Initial Load Study dated December 30, 2024 (Complaint Exhibit A) and/or the Revised Initial Load Study dated February 27, 2025 (Complaint Exhibit B) for Morgan's Crossing.

OBJECTION:

In addition to its General Objections, FE PA objects that the request is overly broad.

RESPONSE:

Divin Ipe
Planning Engineer
2800 Pottsville Pike
Reading PA

Kathy Allen
Engineering Supervisor
2800 Pottsville Pike
Reading PA

Response By: Jim Ensminger
Position: Supervisor Engineering Services

Basis of Motion to Compel:

Lexington did not provide a specific basis to its Motion regarding this interrogatory.

Disposition:

Lexington did not provide a basis for its Motion regarding this interrogatory. Individuals are identified and no apparent deficiencies are found with the response. Therefore, Lexington's Motion regarding this interrogatory is denied.

INTERROGATORY 6

Interrogatory and Response:

Identify by name, title, and business address all persons who participated in preparing any cost estimate, invoice, or billing statement sent to Lexington in connection with the

Morgan's Crossing line-extension request, including but not limited to the invoices attached to the Complaint as Exhibits C and D.,

OBJECTION:

In addition to its General Objections, FE PA objects that the Request is overly broad.

RESPONSE:

See Response to # 5

Response By: Jim Ensminger

Position: Supervisor Engineering Services

Basis of Motion to Compel:

Lexington did not provide a specific basis to its Motion regarding this interrogatory.

Disposition:

Lexington did not provide a basis for its Motion regarding this interrogatory. Individuals are identified and no apparent deficiencies are found with the response. Therefore, Lexington's Motion regarding this interrogatory is denied.

INTERROGATORY 7

Interrogatory and Response:

Describe in detail the methodology, formulas, and/or calculations used by Respondent to arrive at the cost estimate of \$270,004 (+/- 50%) in the Initial Load Study dated December 30, 2024.

OBJECTION:

In addition to its General Objections, FE PA objects that the Request requires FE PA to provide a lengthy narrative and is an abuse of the discovery process. The Request contains proprietary material and FE PA will only produce the document to a party subject to a Protective Order consistent with 52 Pa. Code § 5.362.

RESPONSE:

The Respondent used a historical 2 year average.

Response By: Jim Ensminger

Position: Supervisor Engineering Services

Basis of Motion to Compel:

The protective order resolves objections regarding requests for proprietary material, and the presiding officer should overrule all of FE PA's "lengthy narrative," "legal opinion," "undue burden," and "abuse of discovery" objections. Motion, ¶¶ 43-48, 57-70.

Disposition:

I agree with Lexington that FE PA's objection regarding producing proprietary information is not valid since a Protective Order has been issued. FE PA has not otherwise persuasively articulated how this discovery request is improper. 52 Pa. Code § 5.361. Answers to interrogatories must be fully and completely made. 52 Pa. Code § 5.342(a)(4). FE PA's one-sentence answer clearly is not responsive to Lexington's request for detailed information. Therefore, Lexington's Motion regarding this interrogatory is granted.

INTERROGATORY 8

Interrogatory and Response:

Describe in detail the methodology, formulas, and/or calculations used by Respondent to arrive at the cost estimate of \$7,005 (+/- 50%) in the Revised Initial Load Study dated February 27, 2025.

OBJECTION:

In addition to its General Objections, FE PA objects that the Request requires FE PA to provide a lengthy narrative and is an abuse of the discovery process. The Request contains proprietary material and FE PA will only produce the document to a party subject to a Protective Order consistent with 52 Pa. Code § 5.362.

RESPONSE:

The Respondent used a historical 2 year average.

Response By: Jim Ensminger
Position: Supervisor Engineering Services

Basis of Motion to Compel:

The protective order resolves objections regarding requests for proprietary material, and the presiding officer should overrule all of FE PA's "lengthy narrative," "legal opinion," "undue burden," and "abuse of discovery" objections. Motion, ¶¶ 43-48, 57-70.

Disposition:

I agree with Lexington that FE PA's objection regarding producing proprietary information is not valid since a Protective Order has been issued. FE PA has not otherwise persuasively articulated how this discovery request is improper. 52 Pa. Code § 5.361. Answers to interrogatories must be fully and completely made. 52 Pa. Code § 5.342(a)(4). FE PA's one-

sentence answer clearly is not responsive to Lexington's request for detailed information. Therefore, Lexington's Motion regarding this interrogatory is granted.

INTERROGATORY 9

Interrogatory and Response:

Explain in detail why the invoice dated April 14, 2025 (Invoice No. 90964132) in the amount of \$49,446.53 exceeded the Revised Initial Load Study estimate of \$7,005 (+/- 50%) by approximately 700%.

OBJECTION:

In addition to its General Objections, FE PA objects that the Request requires FE PA to provide a lengthy narrative and is an abuse of the discovery process. The Request contains proprietary material and FE PA will only produce the document to a party subject to a Protective Order consistent with 52 Pa. Code § 5.362.

RESPONSE:

Upon review of the equipment in the field, no new assets were required.

Response By: Jim Ensminger

Position: Supervisor Engineering Services

Basis of Motion to Compel:

The protective order resolves objections regarding requests for proprietary material, and the presiding officer should overrule all of FE PA's "lengthy narrative," "legal opinion," "undue burden," and "abuse of discovery" objections. Motion, ¶¶ 43-48, 57-70.

Disposition:

I agree with Lexington that FE PA's objection regarding producing proprietary information is not valid since a Protective Order has been issued. FE PA has not otherwise persuasively articulated how this discovery request is improper. 52 Pa. Code § 5.361. Answers

to interrogatories must be fully and completely made. 52 Pa. Code § 5.342(a)(4). FE PA's one-sentence answer clearly is not responsive to Lexington's request for detailed information. Therefore, Lexington's Motion regarding this interrogatory is granted.

INTERROGATORY 10

Interrogatory and Response:

Explain in detail why the invoice dated May 6, 2025 (Invoice No. 90967830) in the amount of \$17,735.24 exceeded the Revised Initial Load Study estimate of \$7,005 (+/- 50%) by approximately 75%.

OBJECTION:

In addition to its General Objections, FE PA objects that the Request requires FE PA to provide a lengthy narrative and is an abuse of the discovery process. The Request contains proprietary material and FE PA will only produce the document to a party subject to a Protective Order consistent with 52 Pa. Code § 5.362.

RESPONSE:

Response By: Jim Ensminger
Position: Supervisor Engineering Services

Basis of Motion to Compel:

The protective order resolves objections regarding requests for proprietary material, and the presiding officer should overrule all of FE PA's "lengthy narrative," "legal opinion," "undue burden," and "abuse of discovery" objections. Motion, ¶¶ 43-48, 57-70.

Disposition:

I agree with Lexington that FE PA's objection regarding producing proprietary information is not valid since a Protective Order has been issued. FE PA has not otherwise persuasively articulated how this discovery request is improper. 52 Pa. Code § 5.361. FE PA

has not answered this interrogatory. Therefore, Lexington's Motion regarding this interrogatory is granted.

INTERROGATORY 11

Interrogatory and Response:

Identify each component cost included in the invoice dated April 14, 2025 (Invoice No. 90964132), including but not limited to labor costs, material costs, contractor costs, equipment costs, overhead, taxes, and any other charges, and state the dollar amount for each component.

OBJECTION:

In addition to its General Objections, FE PA objects that the Request contains proprietary material and FE PA will only produce the document to a party subject to a Protective Order consistent with 52 Pa. Code § 5.362.

RESPONSE:

Response By: Jim Ensminger

Position: Supervisor Engineering Services

Basis of Motion to Compel:

The protective order resolves objections regarding requests for proprietary material. Motion, ¶¶ 43-48.

Disposition:

I agree with Lexington that FE PA's objection regarding producing proprietary information is not valid since a Protective Order has been issued. FE PA has not otherwise persuasively articulated how this discovery request is improper. 52 Pa. Code § 5.361. FE PA

has not answered this interrogatory. Therefore, Lexington's Motion regarding this interrogatory is granted.

INTERROGATORY 12

Interrogatory and Response:

Identify each component cost included in the invoice dated May 6, 2025 (Invoice No. 90967830), including but not limited to labor costs, material costs, contractor costs, equipment costs, overhead, taxes, and any other charges, and state the dollar amount for each component.

OBJECTION:

In addition to its General Objections, FE PA objects that the Request contains proprietary material and FE PA will only produce the document to a party subject to a Protective Order consistent with 52 Pa. Code § 5.362.

RESPONSE:

Response By: Jim Ensminger

Position: Supervisor Engineering Services

Basis of Motion to Compel:

The protective order resolves objections regarding requests for proprietary material. Motion, ¶¶ 43-48.

Disposition:

I agree with Lexington that FE PA's objection regarding producing proprietary information is not valid since a Protective Order has been issued. FE PA has not otherwise persuasively articulated how this discovery request is improper. 52 Pa. Code § 5.361. FE PA's has not answered this interrogatory. Therefore, Lexington's Motion regarding this interrogatory is granted.

INTERROGATORY 13

Interrogatory and Response:

Identify all Respondent personnel or other authorized persons who communicated with Lexington or its representatives (including Philip Garland and counsel) regarding the Morgan's Crossing line-extension request at any time from September 2023 to the present, and for each person identified, state their title and the general subject matter of their communications.

OBJECTION:

In addition to its General Objections, FE PA objects that the Request is repetitive of prior requests. FE PA objects that the information sought is equally available to the Complainant.

RESPONSE:

Response By: Jim Ensminger
Position: Supervisor Engineering Services

Basis of Motion to Compel:

Lexington did not clearly set forth its basis for seeking a motion to compel regarding this interrogatory.

Disposition:

Although Lexington did not clearly articulate its basis for seeking a motion to compel regarding this interrogatory, answers to interrogatories must be fully and completely made. 52 Pa. Code § 5.342(a)(4). FE PA has otherwise persuasively articulated how this discovery request is improper. 52 Pa. Code § 5.361. Therefore, Lexington's Motion regarding this interrogatory is granted.

INTERROGATORY 19

Interrogatory and Response:

State the date on which Respondent received Lexington's initial request for service to Morgan's Crossing, the date on which Lexington paid the engineering fee, and the date on which Respondent issued the Initial Load Study and explain any delays that occurred between these dates.

OBJECTION:

In addition to its General Objections, FE PA objects that the Request requires FE PA to provide a lengthy narrative and is an abuse of the discovery process. FE objects to the Request to the extent that the information is equally available to the Complainant.

RESPONSE:

Response By: Jim Ensminger

Position: Supervisor Engineering Services

Basis of Motion to Compel:

The presiding officer should overrule all of FE PA's "lengthy narrative," "legal opinion," "undue burden," and "abuse of discovery" objections. Motion, ¶¶ 57-70

Disposition:

FE PA has not persuasively articulated how this discovery request is improper. 52 Pa. Code § 5.361. FE PA's has not answered this interrogatory. Therefore, Lexington's Motion regarding this interrogatory is granted.

INTERROGATORY 20

Interrogatory and Response:

Identify all instances in the past five (5) years in which Respondent issued a final invoice for developer line-extension work that exceeded the initial load study estimate by more than 50%, and for each instance, state the project name, estimated cost, actual invoiced amount, and percentage by which the invoice exceeded the estimate.

OBJECTION:

In addition to its General Objections, FE PA objects to the Complainant's lack of standing to request the information. FE PA objects to the extent that the Request is overly broad, exceed the required timeframe to maintain records and is unduly burdensome. The Request is not relevant to the underlying Complaint and would not be admissible at hearing and thus the Request will not lead to the discovery of admissible evidence.

RESPONSE:

This information is not stored by the Respondent.

Response By: Jim Ensminger

Position: Supervisor Engineering Services

Basis of Motion to Compel:

The presiding officer should overrule all of FE PA's relevance and purported "inadmissibility" objections. Motion, ¶¶ 49-56.

Disposition:

Although I do not agree that FE PA provided valid bases to its objections, a response ultimately was provided that FE PA does not store the information sought by Lexington. Therefore, there does not appear to be any further information to compel, and Lexington's Motion regarding this interrogatory is denied.

INTERROGATORY 21

Interrogatory and Response:

Describe in detail Respondent's interpretation of Tariff Rule 4 as applied to land developers seeking underground electric service in new residential developments, including the basis for requiring developers to pay all costs for line extensions and system upgrades.

OBJECTION:

In addition to its General Objections, FE PA objects to the extent that the Request requires FE PA to create and provide a detailed narrative. FE PA objects to the extent it seeks a legal conclusion.

RESPONSE:

Tariff Rule 4 speaks for itself.

Response By: Jim Ensminger
Position: Supervisor Engineering Services

Basis of Motion to Compel:

The presiding officer should overrule all of FE PA's relevance and purported "inadmissibility" objections. Motion, ¶¶ 49-56.

Disposition:

A response was provided by FE PA. I also agree with FE PA that the information sought arguably seeks a legal interpretation. Therefore, Lexington's Motion regarding this interrogatory is denied.

INTERROGATORY 22

Interrogatory and Response:

Identify all provisions of the Public Utility Code, Commission regulations, and/or Commission orders that Respondent contends authorize the tariff provisions requiring developers to pay all costs for line extensions and system upgrades.

OBJECTION:

In addition to its General Objections, FE PA objects that the Request seeks a legal conclusion.

RESPONSE:

Tariff Rule 4 was reviewed and approved by the PUC and speaks for itself.

Response By: Jim Ensminger

Position: Supervisor Engineering Services

Basis of Motion to Compel:

Lexington did not clearly set forth its basis for seeking a motion to compel regarding this interrogatory.

Disposition:

A response was provided by FE PA. I also agree with FE PA that the information sought seeks a legal conclusion. Therefore, Lexington's Motion regarding this interrogatory is denied.

INTERROGATORY 23

Interrogatory and Response:

State whether Respondent has ever refunded any portion of line-extension costs to a developer based on revenues received from new customers in the development, and if so, identify each instance and the amount refunded.

OBJECTION:

In addition to its General Objections, FE PA objects to the extent that the Request is overly broad, unlimited as to time and unduly burdensome. FE PA objects to the extent that the requested information is not relevant to the underlying Complaint and would not be admissible at hearing and thus the Request will not lead to the discovery of admissible evidence.

RESPONSE:

See responses to # 14-16.

Response By: Jim Ensminger
Position: Supervisor Engineering Services

Basis of Motion to Compel:

Lexington did not clearly set forth its basis for seeking a motion to compel regarding this interrogatory.

Disposition:

Although I do not agree that FE PA provided valid bases to its objections, a response ultimately was provided by FE PA. Lexington did not clearly articulate the basis for its request to compel further response to this interrogatory. Therefore, Lexington's Motion regarding this interrogatory is denied.

INTERROGATORY 24

Interrogatory and Response:

Identify all formal or informal complaints filed with the Commission in the past five (5) years alleging that Respondent improperly allocated line-extension costs to developers, and for each complaint, state the docket number, complainant name, and disposition.

OBJECTION:

In addition to its General Objections, FE PA objects that the information requested is publicly available on PUC website, www.puc.pa.gov and imposes unnecessary cost and burden on FE PA if required to answer. FE PA objects to the Complainant's lack of standing to request the information.

RESPONSE:

There are no complaints, formal or informal, that were filed alleging improper allocated line-extension costs to a developer.

Response By: Jim Ensminger
Position: Supervisor Engineering Services

Basis of Motion to Compel:

The presiding officer should overrule all of FE PA's relevance and purported "inadmissibility" objections. Motion, ¶¶ 49-56.

Disposition:

Although I do not agree that FE PA provided valid bases to its objections, a response ultimately was provided by FE PA. Lexington did not clearly articulate the basis for its request to compel further response to this interrogatory. Therefore, Lexington's Motion regarding this interrogatory is denied.

INTERROGATORY 25

Interrogatory and Response:

State whether Respondent's Tariff Rule 4 has been the subject of any Commission proceeding, investigation, or audit in the past ten (10) years, and if so, identify each proceeding by docket number and describe the outcome.

OBJECTION:

In addition to its General Objections, FE PA objects that the information requested is publicly available on PUC website, www.puc.pa.gov and imposes unnecessary cost and burden on FE PA if required to answer.

RESPONSE:

There has not been any Commission proceeding, investigation or audit regarding Tariff Rule 4.en

Response By: Jim Ensminger
Position: Supervisor Engineering Services

Basis of Motion to Compel:

The presiding officer should overrule all of FE PA's relevance and purported "inadmissibility" objections. Motion, ¶¶ 49-56.

Disposition:

Although I do not agree that FE PA provided valid bases to its objections, a response ultimately was provided by FE PA. Lexington did not clearly articulate the basis for its request to compel further response to this interrogatory. Therefore, Lexington's Motion regarding this interrogatory is denied.

INTERROGATORY 26

Interrogatory and Response:

Describe all training materials, internal guidance documents, or standard operating procedures used by Respondent's employees in evaluating and processing line-extension requests from developers.

OBJECTION:

FE PA objects that the Request requires FE PA to provide a lengthy narrative and is an abuse of the discovery process. The Request contains proprietary material and FE PA will only provide the information subject to a Protective Order consistent with 52 Pa. Code § 5.362.

RESPONSE:

Response By: Jim Ensminger

Position: Supervisor Engineering Services

Basis of Motion to Compel:

The protective order resolves objections regarding requests for proprietary material, and the presiding officer should overrule all of FE PA's "lengthy narrative," "legal opinion," "undue burden," and "abuse of discovery" objections. Motion, ¶¶ 43-48, 57-70.

Disposition:

I agree with Lexington that FE PA's objection regarding producing proprietary information is not valid since a Protective Order has been issued. FE PA has not otherwise persuasively articulated how this discovery request is improper. 52 Pa. Code § 5.361. FE PA did not answer this interrogatory. Therefore, Lexington's Motion regarding this interrogatory is granted.

INTERROGATORY 28

Interrogatory and Response:

State how Respondent applies Tariff Rule 4 to developers and other applicants for new service (such as individual residential customers or commercial customers), describe the differences, and the basis for any differences.

OBJECTION:

FE PA objects to the extent that the Interrogatory is neither direct, nor simple or unambiguous. In addition to its General Objections, FE PA objects that the Request requires FE PA to provide a lengthy narrative and is an abuse of the discovery process.

RESPONSE:

Tariff Rule 4 speaks for itself.

Response By: Jim Ensminger
Position: Supervisor Engineering Services

Basis of Motion to Compel:

The presiding officer should overrule all of FE PA's "lengthy narrative," "legal opinion," "undue burden," and "abuse of discovery" objections. Motion, ¶¶ 57-70.

Disposition:

Although I do not agree that FE PA provided valid bases to its objections, a response ultimately was provided by FE PA. Additionally, this interrogatory arguably seeks a legal interpretation. Therefore, Lexington's Motion regarding this interrogatory is denied.

INTERROGATORY 31

Interrogatory and Response:

Describe the scope of work actually performed by Respondent in connection with the Morgan's Crossing line-extension, including all work on Respondent's system (such as pole maintenance, conductor replacement, fuse upgrades, and regulator settings changes).

OBJECTION:

In addition to its General Objections, FE PA objects to the extent that the Interrogatory is neither direct, nor simple or unambiguous. The Interrogatory requires FE PA to provide a lengthy narrative and is an abuse of the discovery process.

RESPONSE:

See response to #17

Response By: Jim Ensminger
Position: Supervisor Engineering Services

Basis of Motion to Compel:

The presiding officer should overrule all of FE PA's "lengthy narrative," "legal opinion," "undue burden," and "abuse of discovery" objections. Motion, ¶¶ 57-70.

Disposition:

Although I do not agree that FE PA provided valid bases to its objections, a response ultimately was provided by FE PA. Lexington did not clearly articulate the basis for its request to compel further response to this interrogatory. Therefore, Lexington's Motion regarding this interrogatory is denied.

INTERROGATORY 32

Interrogatory and Response:

State whether any of the work charged to Lexington involved maintenance, repairs, or upgrades that Respondent would have been required to perform regardless of Lexington's line-extension request, and if so, identify such work and the basis for charging it to Lexington.

OBJECTION:

In addition to its General Objections, FE PA objects to the extent that the Interrogatory is neither direct, nor simple or unambiguous. The Interrogatory requires FE PA to provide a lengthy narrative and is an abuse of the discovery process.

RESPONSE:

See response to #17

Response By: Jim Ensminger

Position: Supervisor Engineering Services

Basis of Motion to Compel:

The presiding officer should overrule all of FE PA's "lengthy narrative," "legal opinion," "undue burden," and "abuse of discovery" objections. Motion, ¶¶ 57-70.

Disposition:

Although I do not agree that FE PA provided valid bases to its objections, a response ultimately was provided by FE PA. Lexington did not clearly articulate the basis for its request to compel further response to this interrogatory. Therefore, Lexington's Motion regarding this interrogatory is denied.

INTERROGATORY 33

Interrogatory and Response:

Identify the person(s) most knowledgeable about Respondent’s policies and practices for (a) evaluating line-extension requests from developers; (b) calculating cost estimates for line extensions; (c) preparing and issuing invoices for line-extension work; and (d) applying Tariff Rule 4 to developers.

OBJECTION:

In addition to its General Objections, FE PA objects that the Interrogatory is overly broad, unlimited as to time and unduly burdensome. The Request is also repetitive.

RESPONSE:

Jim Ensminger

Response By: Jim Ensminger

Position: Supervisor Engineering Services

Basis of Motion to Compel:

The presiding officer should overrule all of FE PA’s “lengthy narrative,” “legal opinion,” “undue burden,” and “abuse of discovery” objections. Motion, ¶¶ 57-70.

Disposition:

FE PA has not persuasively articulated how this discovery request is improper. 52 Pa. Code § 5.361. FE PA did not provide any response to this interrogatory. Therefore, Lexington’s Motion regarding this interrogatory is granted.

DOCUMENT REQUESTS 1-14, 22-25²

² No responses to any document requests were provided with the April 19, 2026 discovery responses. Therefore, the objections cited below all are from FE PA’s original January 26, 2026 objections.

Document Request and Response:

FE PA objected to document requests 1-14 and 22-25 all on the basis that the requested document contains proprietary material and FE PA will only produce the document to a party subject to a Protective Order consistent with 52 Pa. Code § 5.362.

Basis of Motion to Compel:

The protective order resolves objections regarding requests for proprietary material. Motion, ¶¶ 43-48.

Disposition:

I agree with Lexington that FE PA's objection regarding producing proprietary information is not valid since a Protective Order has been issued. Therefore, Lexington's Motion regarding these document requests is granted.

DOCUMENT REQUEST 26

Document Request and Response:

All documents reflecting Respondent's treatment of other developers requesting underground electric service in new residential developments in the past five (5) years, including cost estimates and invoices.

OBJECTION:

In addition to its General Objections, FE PA objects that the documents requested exceed Commission regulations for retention of document. FE PA objects that the Complaint lacks standing. The requested document contains confidential material and FE PA will only produce the document to a party subject to a Protective Order consistent with 52 Pa. Code § 5.362.

Basis of Motion to Compel:

The protective order resolves objections regarding requests for proprietary material, and the presiding officer should overrule all of FE PA's relevance and purported "inadmissibility" objections. Motion, ¶¶ 43-56.

Disposition:

I agree with Lexington that FE PA's objection regarding producing proprietary information is not valid since a Protective Order has been issued. FE PA has not otherwise persuasively articulated how this discovery request is improper. 52 Pa. Code § 5.361. FE PA has not answered this request for documents. Therefore, Lexington's Motion regarding this request for documents is granted.

DOCUMENT REQUEST 27

Document Request and Response:

All internal memoranda, analyses, or reports prepared by or for Respondent regarding the lawfulness or reasonableness of Tariff Rule 4's provisions requiring developers to pay all line-extension costs.

OBJECTION:

In addition to its General Objections, FE PA objects that the documents requested the requested document contains confidential/proprietary material and FE PA will only produce the document to a party subject to a Protective Order consistent with 52 Pa. Code § 5.362.

Basis of Motion to Compel:

The protective order resolves objections regarding requests for proprietary material. Motion, ¶¶ 43-48.

Disposition:

I agree with Lexington that FE PA's objection regarding producing proprietary information is not valid since a Protective Order has been issued. FE PA has not otherwise persuasively articulated how this discovery request is improper. 52 Pa. Code § 5.361. FE PA's has not answered this request for documents. Therefore, Lexington's Motion regarding this request for documents is granted in part. However, and although not provided as a basis for FE PA's objections, I am concerned that this request may possibly seek privileged material. Therefore, to the extent Lexington's request seeks privileged material, the Motion is denied.

DOCUMENT REQUEST 28

Document Request and Response:

All documents reflecting any revenue guarantees calculated or considered by Respondent in connection with developer line-extension requests in the past five (5) years.

OBJECTION:

In addition to its General Objections, the requested document contains proprietary material and FE PA will only produce the document to a party subject to a Protective Order consistent with 52 Pa. Code § 5.362.

Basis of Motion to Compel:

The protective order resolves objections regarding requests for proprietary material. Motion, ¶¶ 43-48.

Disposition:

I agree with Lexington that FE PA's objection regarding producing proprietary information is not valid since a Protective Order has been issued. FE PA's has not answered this

request for documents. Therefore, Lexington's Motion regarding this request for documents is granted.

DOCUMENT REQUEST 29

Document Request and Response:

Respondent's organizational chart showing the personnel and departments responsible for processing line-extension requests and preparing cost estimates and invoices.

OBJECTION:

In addition to its General Objections, the requested document contains confidential/proprietary material and FE PA will only produce the document to a party subject to a Protective Order consistent with 52 Pa. Code § 5.362. FE PA further objects that the requested information is not relevant and would not be admissible at hearing and thus the Request does not lead to the discovery of admissible evidence.

Basis of Motion to Compel:

The protective order resolves objections regarding requests for proprietary material, and the presiding officer should overrule all of FE PA's relevance and purported "inadmissibility" objections. Motion, ¶¶ 43-56.

Disposition:

I agree with Lexington that FE PA's objection regarding producing proprietary information is not valid since a Protective Order has been issued. FE PA has not otherwise persuasively articulated how this discovery request is improper. 52 Pa. Code § 5.361. Additionally, whether information sought will be admissible at a hearing is not the applicable discovery standard. 52 Pa. Code § 5.321(c). FE PA has not answered this request for documents. Therefore, Lexington's Motion regarding this request for documents is granted.

CONCLUSION

FE PA will be directed to provide responses to Lexington as outlined above by Tuesday, May 12, 2026. I decline to grant the Motion as regards the request for sanctions at this time. FE PA is expected to provide timely and adequate responses in the future, unless there are valid bases for objections. If further failure to provide timely and adequate responses occurs, sanctions may be merited upon further motion.

ORDER

THEREFORE,

IT IS ORDERED:

1. That Lexington Land Developers Corporation's Combined Motion to Compel Responses to Discovery Requests and For Sanctions is granted in part and denied in part consistent with the above discussion.

2. That FirstEnergy Pennsylvania Electric Company is directed to answer the Lexington Land Developers Corporation's Interrogatories Nos. 7, 8, 9, 10, 11, 12, 13, 19, 26, 33 and Request for Production of Documents Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 22, 23, 24, 25, 26, 27, 28, 29 consistent with the above discussion by no later than May 11, 2026.

Date: May 7, 2026

/s/
John M. Coogan
Administrative Law Judge

**C-2024-3052541 - LEXINGTON LAND DEVELOPERS CORP v. FIRSTENERGY
PENNSYLVANIA ELECTRIC COMPANY**

Revised February 27, 2026

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