

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Verizon Pennsylvania LLC and	:	
Verizon North LLC	:	
	:	
v.	:	C-2020-3019347
	:	
Metropolitan Edison Company, Pennsylvania	:	
Electric Company and Penn Power Company	:	

REMAND PREHEARING ORDER #1

Denying Verizon’s Motion to Amend Pole Attachment Complaint

On November 19, 2019, Verizon Pennsylvania LLC and Verizon North LLC (Verizon) filed a Pole Attachment Complaint (Complaint) against Metropolitan Edison Company, Pennsylvania Electric Company, and Penn Power Company (FE PA) with the Federal Communications Commission (FCC). On March 23, 2020, the FCC issued a Transfer Order, transferring the proceeding concerning Verizon’s Complaint to the Pennsylvania Public Utility Commission (Commission).

On December 18, 2020, the Commission issued an Opinion and Order, granting in part and denying in part Verizon’s Complaint. On April 15, 2021, the Commission issued an Opinion and Order, denying Verizon’s Petition for Partial Reconsideration of the Commission’s December 18, 2020 Opinion and Order.

On September 21, 2023, the Pennsylvania Commonwealth Court issued an Opinion and Order affirming the Commission’s April 15, 2021 Opinion and Order.

On January 8, 2026, the Pennsylvania Supreme Court issued an Opinion, vacating the Commonwealth Court’s Order dated September 21, 2023, and remanded to the Commonwealth Court to remand to the Commission for further proceedings consistent with the

Pennsylvania Supreme Court's Opinion. On January 30, 2026, the Commonwealth Court remanded to the Commission for further proceedings consistent with the Pennsylvania Supreme Court's Opinion.

Consistent with the remand directives to hold further proceedings in this matter, on February 17, 2026, the Commission issued a Further Call-In Telephonic Prehearing Conference Notice, setting this proceeding for a Prehearing Conference on March 17, 2026 at 10:00 a.m. On February 17, 2026 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.

In response to the Prehearing Conference Order, the parties submitted prehearing memoranda outlining their respective positions on various procedural matters. The Prehearing Conference convened on March 17, 2026, as scheduled. Counsel appeared on behalf of the parties. During the conference, various procedural matters were discussed. On March 23, 2026, a Scheduling Order was issued, setting forth the procedural matters addressed during the Prehearing Conference, as well as further directions to the parties concerning the remand phase of this proceeding.

On April 9, 2026, Verizon filed a Motion to Amend Pole Attachment Complaint (Motion to Amend). Verizon's Motion to Amend stated that an amendment to the Complaint will focus the remand proceedings on the issues identified by the Pennsylvania Supreme Court and causes no prejudice to FE PA. An Amended Pole Attachment Complaint was attached to the Motion to Amend.

On April 29, 2026, FE PA filed an Answer to Verizon's Motion to Amend.

Section 5.483 of the Commission's regulations provides presiding officers with the authority to regulate the course of proceedings. 52 Pa.Code § 5.483(a). Presiding officers are required to conduct fair and impartial hearings and maintain order. 52 Pa.Code § 5.485(a).

The Commission's Regulations at 52 Pa. Code §§ 5.91-5.94 govern the amendment and withdrawal of pleadings.

I agree with FE PA that, at this stage in this proceeding, Verizon should not now be permitted to amend its Complaint.

Verizon's Complaint was first filed in 2019. As detailed above, this case has been through years of both Commission and appellate review regarding the original Complaint and the record developed from that filing. Verizon asserts that an amendment will "clarify the record, simplify the pleadings, and focus the remand proceedings on the issues the Supreme Court identified." Motion to Amend, ¶ 13. FE PA challenges that assertion, stating that Verizon is attempting to "start over from scratch". Answer at 1.

I do not fully agree with FE PA, but I believe that to allow an amendment nearly seven years after the initial filing jeopardizes the record when it would have the potential to expand the scope of the proceeding, as well as the potential to create unnecessary delay. FE PA presented *Commonwealth v. Sepulveda*, 144 A.3d 1270, 1279 (Pa. 2016) (*Sepulveda*) as support for its proposition that no amendment to pleadings is permitted unless permitted by the remand order. Answer, ¶ 15. *Sepulveda* was decided in a very different context than this proceeding, but I agree with FE PA that *Sepulveda* at least lends support to the proposition that lower courts should exercise caution not to expand the scope of issues contemplated by the remand order.¹ Verizon confirms the expansive effect of granting the Motion to Amend in its separately filed Motion to Suspend May 18, 2026 Deadline for Supplemental Direct Testimony and Set a Deadline for the Parties to Propose an Amended Procedural Schedule and Request for Expedited Motion Answer Deadline and Ruling filed on May 5, 2026 (Motion to Suspend), where, if an amended complaint is accepted, and FE PA files responsive pleadings, "Verizon should have enough time to review those pleadings, seek discovery about them, pursue discovery disputes as needed, and prepare testimony addressing [FE PA's] arguments."² Although Verizon avers that

¹ See *Sepulveda* at 1280, fn. 19.

² Motion to Suspend, ¶ 16.

an amended complaint would conform the scope of this proceeding to the issues raised by the Pennsylvania Supreme Court, I am concerned that the practical effect of allowing an amended complaint may be to expand the scope of this proceeding.

I also disagree with Verizon's assertion that its amendment to the Complaint is timely because the evidentiary hearings are scheduled for August 2026. Motion to Compel, ¶ 4. Verizon argues 52 Pa. Code § 5.91(c) only requires leave to file an amendment if filed 5 days before a hearing. *Id.* Although this section does not explicitly differentiate remand proceedings, I believe the fact that we are now in the remand phase of this proceeding requires extra scrutiny of Verizon's assertion. Administrative Law Judge Joel Cheskis issued his Recommended Decision on September 15, 2020. Any amendment to the pleadings could have been, and was, addressed before issuance of Judge Cheskis's Recommended Decision in this proceeding.³

Additionally, Verizon's Motion was only served after the prehearing conference in the remand phase of this proceeding. This is further reason why it is inappropriate to grant the Motion. Verizon did not raise the prospect of amending its Complaint at the prehearing conference,⁴ and parties are already operating per the procedural schedule established at the prehearing conference on March 17, 2026. As noted above, allowing an amendment to the Complaint would trigger the need to allow responsive pleadings, placing the established procedural schedule at risk. As was discussed during the prehearing conference, my intention is for this proceeding to advance as expeditiously as possible.

Finally, there is no indication that an amendment to the Complaint is either required or necessary to hold further proceedings pursuant to the Pennsylvania Supreme Court's direction. The Pennsylvania Supreme Court did not detail limitations on how the remand

³ Judge Cheskis did not find merit in the argument that Verizon be required to amend its Complaint to allege violations of the Public Utility Code or a Commission order or regulation in order to aver a violation of the Public Utility Code or a Commission order or regulation. Recommended Decision at 47.

⁴ Counsel for Verizon appeared to dispute FE PA's argument regarding the necessity of amending the Complaint during the prehearing conference. Tr. 22-26.

proceeding should operate, and there is no indication that an amendment to the Complaint is required. Verizon itself seems unconvinced of the necessity of the amendment.⁵

I cannot fully predict how parties will present their positions in this remand proceeding. However, parties are fully aware of the issues raised by the Pennsylvania Supreme Court, and I expect parties to address these issues through testimony and briefs. I am unconvinced that Verizon will be unable to do so without amending its Complaint.

ORDER

THEREFORE,

IT IS ORDERED:

1. That Verizon Pennsylvania LLC and Verizon North LLC's Motion to Amend Pole Attachment Complaint is denied.

Date: May 11, 2026

_____/s/
John M. Coogan
Administrative Law Judge

⁵ Motion, ¶ 2 (“Throughout its six-year history, the core dispute has never changed: [FE PA’s] pole attachment rates are unjust, unreasonable, and discriminatory; must be reduced; and Verizon’s prior overpayments must be refunded”); ¶ 13 (“*Although an amended complaint is not required to remedy [FE PA’s] unlawful rates under Pennsylvania law, one is now warranted to clarify the record, simplify the pleadings and focus the remand proceedings on the issues the Supreme Court identified*”) (emphasis added); ¶ 14 (“And, because this case has always been about the lawfulness of [FE PA’s] rates under federal and Pennsylvania law, Verizon’s amended complaint does not broaden the issues”).

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METROPOLITAN EDISON COMPANY, PENNSYLVANIA ELECTRIC COMPANY AND
PENN POWER COMPANY**

(Revised 03/19/2026)

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