

**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 #2
Granting Verizon’s Motion to Compel

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 30, 2026, the Verizon filed a Motion to Dismiss FirstEnergy's Objections and Compel Responses to Verizon's Fourth Set of Interrogatories and Requests for Production of Documents (Motion to Compel).

On May 5, 2026, FE PA filed its Answer to Verizon's Motion to Compel (Answer), arguing that the Motion to Compel should be denied.

DISCUSSION

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). Relevancy in discovery is broader than the standard used for admission of evidence at a hearing. *Com. v. TAP Pharm. Prods., Inc.*, 904 A.2d 986 (Pa.Cmwlth. 2006) .

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).

Verizon’s Motion to Compel seeks full and complete responses to Request Nos. 1-4, 6-8, 11-12, 14, and 16 of Verizon’s Fourth Set of Interrogatories and Requests for Production of Documents (VZ to FE PA Set IV).

For the reasons detailed below, Verizon’s Motion to Compel will be granted.

INTERROGATORY VZ TO FE PA SET IV, NO. 1

VZ to FE PA Set IV, No. 1 requests the following information:

For each year beginning with 2020 for Met-Ed, Penelec, and Penn Power, and each year beginning with 2024 for FirstEnergy Pennsylvania, provide the New Telecom Rate for a communications provider’s use of one foot of space on (a) Met-Ed’s

poles, (b) Penelec's poles, (c) Penn Power's poles, and (d) FirstEnergy Pennsylvania's poles. In answering this question, provide for each New Telecom Rate FirstEnergy's calculation of the rate and identify all inputs, assumptions, and source data used to calculate the rate, the person(s) who calculated the rate, and the date the rate was calculated. If FirstEnergy has not calculated a New Telecom Rate, provide all inputs and identify all source data required to calculate the rate. Provide all documents concerning all calculations and inputs, including all source data, if they are not publicly available. Separately present the information for poles owned by Met-Ed, Penelec, Penn Power, and FirstEnergy Pennsylvania.

FE PA objected to VZ to FE PA Set IV, No. 1 as follows:

FE PA objects to this request on the grounds that it is overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence.

FE PA has four rate divisions, each of which corresponds to one of the former Pennsylvania utility operating companies that were merged to create FE PA: Met-Ed, Penelec, Penn Power, and West Penn.

The instant proceeding, however, only involves three of those rate divisions, namely the Met-Ed, Penelec, and Penn Power Rate Divisions.

As posited, VZ to FE PA Set IV, No. 1 requests information about the "New Telecom Rate for a communications provider's use of one foot of space" on "FirstEnergy Pennsylvania's poles," which would encompass West Penn Rate Division's rates and poles.

Therefore, by requesting this information about the West Penn Rate Division, the request is overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence.

Motion to Compel, ¶ 14.

Verizon avers that the Commission should dismiss FE PA's objection to VZ to FE PA Set IV, No. 1. Verizon asserts that Company-wide information is reasonably tailored and reasonably calculated to lead to admissible evidence. FE PA filed company-wide FERC Form 1s for 2024 and 2025 that publicly reported company-wide pole cost data—not data at an individual rate district level. Verizon argues it is entitled to the additional information needed to convert that company-wide data into per-pole cost figures and to calculate rates under the Commission's regulations. The Pennsylvania Supreme Court expected such rate calculations would be part of

the remand record. *See FirstEnergy Pa.*, 349 A.3d at 189 (holding that the “presumptive maximum rate” in the Commission’s regulations “can be evidence of unreasonableness”). Motion to Compel, ¶ 15.

FE PA Answer reiterates its position that it is inappropriate to seek information related to FE PA’s West Penn Rate Division. Answer, ¶¶ 19-27.

For the reasons articulated by Verizon, I agree that the information sought appears reasonably calculated to lead to the discovery of admissible evidence. I recognize that West Penn was not one of the originally named respondents in this proceeding. However, I am persuaded by Verizon that the information it seeks could be relevant to its Complaint. As is stated above, the Commission allows participants wide latitude in discovery matters, and relevancy in discovery is broader than the standard used for admission of evidence at a hearing.

INTERROGATORY VZ TO FE PA SET IV, NO. 2

VZ to FE PA Set IV, No. 2 requests the following information:

For each year beginning with 2020 for Met-Ed, Penelec, and Penn Power, and each year beginning with 2024 for FirstEnergy Pennsylvania, provide:

- (a) the rental or deficiency rate that FirstEnergy contends applies to Verizon’s use of FirstEnergy’s poles under the Joint Use Agreements and, if different, the rental or deficiency rate that FirstEnergy charged Verizon;
- (b) the number of FirstEnergy poles governed by the Joint Use Agreements that FirstEnergy contends have Verizon facilities attached;
- (c) the number of deficiency poles owned by Met-Ed that FirstEnergy contends are subject to a deficiency rate under the Joint Use Agreements;
- (d) the rental rate that FirstEnergy contends applies to FirstEnergy’s use of Verizon’s poles under the Joint Use

Agreements and, if different, the rental rate reflected in a rental invoice issued by FirstEnergy; and

(e) the number of Verizon poles governed by the Joint Use Agreements that FirstEnergy contends have FirstEnergy facilities attached.

In answering this question, provide for each rental or deficiency rate FirstEnergy's calculation of the rate and identify all inputs, assumptions, and source data used to calculate the rate, the person(s) who calculated the rate, and the date the rate was calculated. If FirstEnergy has not calculated the rental or deficiency rate that it contends applies to Verizon's use of FirstEnergy's poles and/or the rental rate that FirstEnergy contends applies to FirstEnergy's use of Verizon's poles under the Joint Use Agreements, provide all inputs and identify all source data required to calculate the rate. Provide all documents concerning all rate calculations and inputs, including all source data, if they are not publicly available. Separately present the information for poles owned by Met-Ed, Penelec, Penn Power, and FirstEnergy Pennsylvania.

FE PA objected to VZ to FE PA Set IV, No. 2 as follows:

FE PA objects to this request on the grounds that it is overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence.

As explained in Section I.A., supra, which is incorporated by reference herein, discovery into the West Penn Rate Division is overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence.

Motion to Compel, ¶ 16.

Verizon avers that the Commission should dismiss FE PA's objection to VZ to FE PA Set IV, No. 2. Verizon asserts that Company-wide information is reasonably tailored and reasonably calculated to lead to admissible evidence. Verizon states that since January 1, 2024, FE PA has sought to enforce the challenged contract rates as successor-in-interest to the contracts of its prior operating companies, but has not invoiced Verizon for them. *See, e.g.*, Motion to Compel, Ex. B at 1 n.1 ("all references to the three prior respondents in this matter should, instead, be made to FE PA as their successor in interest"). Verizon argues it is entitled to learn what rates FE PA seeks to enforce. Motion to Compel, ¶ 17.

FE PA Answer reiterates its position that it is inappropriate to seek information related to FE PA's West Penn Rate Division. Additionally, FE PA states that, on May 4, 2026, it served its response to VZ to FE PA Set IV, No. 2 for Met-Ed, Penelec, and Penn Power for the years 2020 through 2023 and for the Met-Ed, Penelec, and Penn Power Rate Divisions for the year 2024 and forward. FE PA argues that an inquiry into the rates of West Penn Rate Division is beyond the scope of this proceeding and is not needed to inform Verizon about "what rates FirstEnergy Pennsylvania seeks to enforce" under the Joint Use Agreements at issue in this proceeding. Answer, ¶¶ 29-33.

For the reasons articulated by Verizon, I agree that the information sought appears reasonably calculated to lead to the discovery of admissible evidence. I recognize that West Penn was not one of the originally named respondents in this proceeding. However, I am persuaded by Verizon that the information it seeks could be relevant to its Complaint. As is stated above, the Commission allows participants wide latitude in discovery matters, and relevancy in discovery is broader than the standard used for admission of evidence at a hearing.

INTERROGATORY VZ TO FE PA SET IV, NO. 3

VZ to FE PA Set IV, No. 3 requests the following information:

For each year beginning with 2011 for Met-Ed, Penelec, and Penn Power, and with 2024 for FirstEnergy Pennsylvania, state whether FirstEnergy did not charge pole attachment rent to any entity with facilities attached to its poles and/or whether FirstEnergy did not collect the full amount of pole attachment rent it invoiced. In answering this question, if FirstEnergy did not charge pole attachment rent and/or did not collect the full amount of pole attachment rent it invoiced, identify the relevant entity and describe for each such entity: (a) whether FirstEnergy did not charge pole attachment rent and/or did not collect the full amount of invoiced pole attachment rent; (b) the rental years for which FirstEnergy did not charge pole attachment rent and/or did not collect the full amount of invoiced pole attachment rent; (c) the amount of pole attachment rent FirstEnergy contends that it did not charge and/or did not collect; (d) the reason why FirstEnergy did not charge and/or collect pole attachment rent; (e) how FirstEnergy treated the unbilled or uncollected revenue in a base rate proceeding filed by FirstEnergy under 66 Pa.C.S. § 1308(d), and (f) the docket number for the base rate proceeding. Identify and provide all non-privileged documents concerning FirstEnergy's treatment of the unbilled or

uncollected revenue in a base rate proceeding. Separately present the information for poles owned by Met-Ed, Penelec, Penn Power, and FirstEnergy Pennsylvania, if possible.

FE PA objected to VZ to FE PA Set IV, No. 3 as follows:

FE PA objects to this request on the grounds that it is overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence.

As explained in Section I.A., supra, which is incorporated by reference herein, discovery into the West Penn Rate Division is overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence.

Also, this request is overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence due to its expansive temporal scope.

Verizon's discovery request would require FE PA to review an extensive amount of records and documents for all the attachers to its facilities for the Met-Ed, Penelec, and Penn Power Rate Divisions for the past 15 years, and then compile such information in the manner requested by Verizon.

Consequently, due to the expansive temporal scope of this request and the amount of records implicated by it, the request is overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence.

Motion to Compel, ¶ 31.

Verizon avers that the Commission should dismiss FE PA's objection to VZ to FE PA Set IV, No. 3. Verizon asserts that temporal scope of Request No. 3 is reasonably tailored and reasonably calculated to lead to admissible evidence. The Pennsylvania Supreme Court remanded for further "analysis by the PUC as to the effects on FirstEnergy's customers." *FirstEnergy Pa.*, 349 A.3d at 189. Verizon states it is entitled to learn whether, and to what extent, other pole attachment revenue reductions have affected electric rates, including any reductions experienced by FE PA post-merger. Verizon avers the timeframe starting in 2011 is reasonable for three reasons. First, the Commission already considered evidence pre-dating 2011 in this case. Second, the Pennsylvania Supreme Court described 2011 as the time of a "major milestone . . . that is directly relevant to the present matter." *Id.* at 168. Third, presumably there are few instances where FE PA fails to bill or collect pole attachment rent, so a sufficient time

period is needed to test FE PA's claim that pole attachment revenue reductions result in equivalent increases to electric rates based on a review of the few base rate proceedings (2014, 2016, 2024) that occurred since 2011. Motion to Compel, ¶ 32.

FE PA reiterated its objections to Verizon's request. FE PA also states that this is a remand proceeding with limited scope, and Verizon cannot use this as an opportunity to engage in expansive discovery that goes beyond that scope. FE PA submits that a request that would require FE PA to undertake a manual review and compilation of every uncollected or unbilled pole attachment rent going back 15 years goes well beyond that scope. FE PA further submits that Verizon's presumption that "there are few instances where FirstEnergy Pennsylvania fails to bill or collect pole attachment rent" undercuts its argument. Even if there were only a "few instances" of failing to bill or collect pole attachment rent, FE PA would still be required to go account by account to confirm that the Company never failed to bill or collect pole attachment rent from each attacher. FE PA states Verizon appears to anticipate FE PA to dedicate a significant amount of time and resources to analyze individual accounts for 15 years, only to produce a "few instances" that are supposedly relevant to its claims. Answer, ¶¶ 35-47.

For the reasons articulated by Verizon, I agree that the information sought appears reasonably calculated to lead to the discovery of admissible evidence. I recognize that West Penn was not one of the originally named respondents in this proceeding. However, I am persuaded by Verizon that the information it seeks could be relevant to its Complaint. As is stated above, the Commission allows participants wide latitude in discovery matters, and relevancy in discovery is broader than the standard used for admission of evidence at a hearing. Regarding the alleged burden in responding to this request, it is not clear that answering the question as written requires such effort that is disproportionately unreasonable when compared to the burden required in answering discovery generally.

INTERROGATORY VZ TO FE PA SET IV, NO. 6

VZ to FE PA Set IV, No. 6 requests the following information:

To the extent not previously produced, for each year beginning with 2009 for Met-Ed and Penelec, for each year beginning with 1999 for Penn Power, and for each year beginning with 2024 for FirstEnergy Pennsylvania, identify all entities that had a Pole Attachment Agreement with FirstEnergy and state whether the entity was an ILEC, CLEC, cable company, wireless provider, or other entity. For each entity and each year, describe in detail the pole attachment rent collected from the entity, including whether rent was calculated as a lump sum amount, a net rental amount, a gross rental amount, a deficiency amount, using rental rates, and/or in some other manner. In answering this question, provide (a) the manner for calculating the pole attachment revenue, (b) the rate and/or amount that FirstEnergy charged the entity, (c) the rate and/or amount that FirstEnergy collected from the entity, if different, (d) the number of poles and/or attachments for which pole attachment rent was charged, (e) the total gross rental amount FirstEnergy collected from the entity and, if applicable, (f) the rate and/or amount that applied to FirstEnergy's use of the entity's poles, (g) the number of the entity's poles used by FirstEnergy, and (h) the total net rental amount collected from the entity. Provide all documents concerning FirstEnergy's response to this Request, including all source data and workpapers. Separately present the information for poles owned by Met-Ed, Penelec, Penn Power, and FirstEnergy Pennsylvania.

FE PA objected to VZ to FE PA Set IV, No. 6 as follows:

FE PA objects to this request on the grounds that it is overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence.

As explained in Section I.A., supra, which is incorporated by reference herein, discovery into the West Penn Rate Division is overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence.

Additionally, this request is overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence due to its expansive temporal scope.

Verizon's request would require FE PA to compile extensive information and documents for every year going back 27 years for the Penn Power Rate Division and 17 years for the Met-Ed and Penelec Rate Divisions.

Information and documents dating back decades for any "Pole Attachment Agreement with FirstEnergy" and any "ILEC, CLEC, cable company, wireless provider, or other entity" is not relevant to the matters in dispute, nor is it reasonably calculated to lead to the discovery of admissible evidence.

Finally, FE PA notes that information and documents requested in this discovery request are confidential and competitively-sensitive.

The Company reserves the right to seek a Protective Order to protect against the unwarranted public disclosure of such information and documents should this request be permitted in full or in part.

Motion to Compel, ¶ 25.

Verizon avers that the Commission should dismiss FE PA's objection to VZ to FE PA Set IV, No. 6. Verizon asserts that the request is reasonably tailored and reasonably calculated to lead to admissible evidence. Verizon will accept the information under the parties' Stipulated Protective Agreement. *See* Motion to Compel, Section IV.D. Verizon states that FE PA already produced similar information for 2011-2019 in the first phase of this case under the Stipulated Protective Agreement and stipulated to its admission into evidence. *See* Verizon Statement 1.0, Ex. MSC-20; Joint Motion to Admit Stipulated Items into Record of Proceeding at 2 (July 7, 2020). Verizon avers that the remaining information requested is equally relevant to Verizon's claim that FE PA and its prior operating companies have long charged Verizon far higher pole attachment rates for comparable pole space. Verizon argues this relevance is heightened because the Pennsylvania Supreme Court remanded for further consideration of the rates FE PA demands under Pennsylvania statutes requiring just, reasonable, and non-discriminatory rates. *See, e.g., FirstEnergy Pa.*, 349 A.3d at 176–78. Verizon states that Company-wide information about FE PA post-merger is relevant regardless of rate district because it is calculated to lead to admissible evidence about the company's pole attachment practices, disparate rates, and recovery of pole costs compared to publicly reported data. Further, Verizon asserts that information about changes in attacher identity, number of attachers on poles, and pole attachment revenues collected since the challenged rates were adopted in 1999 (Penn Power) and 2009 (Met-Ed and Penelec) is also relevant. Verizon bears the burden to "prove that existing rates are unjust and unreasonable by showing a change in facts and circumstances since the rates were originally fixed." *Id.* at 189. Verizon states that it is entitled to discovery about network changes and FE PA's pole revenues since the challenged rates were adopted. Motion to Compel, ¶ 27.

FE PA reiterated its objections to Verizon's request. FE PA also states that, if Verizon's intent really were to "supplement the record to the extent needed to account for the Supreme Court decision" and the "more relevant facts that have developed since the last record" as it represented at the prehearing conference on remand, then Verizon's discovery requests would be focused on the past six years (i.e., 2020 to present), which would provide the information and materials that were created or gathered since discovery closed in the original proceeding. Answer, ¶¶ 49-58.

For the reasons articulated by Verizon, I agree that the information sought appears reasonably calculated to lead to the discovery of admissible evidence. I recognize that West Penn was not one of the originally named respondents in this proceeding. However, I am persuaded by Verizon that the information it seeks could be relevant to its Complaint. I similarly find that the information Verizon seeks regarding Pole Attachment Agreements could be relevant to its Complaint. As is stated above, the Commission allows participants wide latitude in discovery matters, and relevancy in discovery is broader than the standard used for admission of evidence at a hearing. Regarding the alleged burden in responding to this request, it is not clear that answering the question as written requires such effort that is disproportionately unreasonable when compared to the burden required in answering discovery generally. Parties are also not to withhold information prior to issuance of a protective order if a party agrees to treat information as if it were covered by a protective order, pending issuance of a protective order. 52 Pa. Code § 5.365(c)(4).

INTERROGATORY VZ TO FE PA SET IV, NO. 7

VZ to FE PA Set IV, No. 7 requests the following information:

For each year beginning with 2020 for Met-Ed, Penelec, and Penn Power, and each year beginning with 2024 for FirstEnergy Pennsylvania, describe in detail the method or formula FirstEnergy used to calculate the pole attachment rate(s) it charged cable companies and CLECs. For each pole attachment rate charged, provide FirstEnergy's calculation of the rate and identify all inputs, assumptions, and source data, the person(s) who calculated the rate, and the date the rate was calculated. To the extent that a rate identified in response to this Request differs

from the rate identified in response to Request 1 for the same pole owner and same year, describe in detail the reason for the difference. Provide all documents concerning all calculations and inputs, including all source data, if they are not publicly available. Separately present the information for poles owned by Met-Ed, Penelec, Penn Power, and FirstEnergy Pennsylvania.

FE PA objected to VZ to FE PA Set IV, No. 7 as follows:

As explained in Section I.A., supra, which is incorporated by reference herein, discovery into the West Penn Rate Division is overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence.

Motion to Compel, ¶ 18.

Verizon avers that the Commission should dismiss FE PA's objection to VZ to FE PA Set IV, No. 8. Verizon asserts that Company-wide information is reasonably tailored and reasonably calculated to lead to admissible evidence. The Pennsylvania Supreme Court remanded for further consideration of the rates FE PA demands from Verizon under Pennsylvania statutes requiring just, reasonable, and non-discriminatory rates. *See, e.g., FirstEnergy Pa.*, 349 A.3d at 176–78. Verizon states that the rates FE PA charges other entities for comparable pole space are relevant regardless of rate district. They shed light on FE PA's pole attachment practices, its disparate rates, and its recovery of pole costs compared to its publicly reported company-wide data. Motion to Compel, ¶ 18.

FE PA Answer reiterates its position that it is inappropriate to seek information related to FE PA's West Penn Rate Division. Answer, ¶¶ 60-61.

For the reasons articulated by Verizon, I agree that the information sought appears reasonably calculated to lead to the discovery of admissible evidence. I recognize that West Penn was not one of the originally named respondents in this proceeding. However, I am persuaded by Verizon that the information it seeks could be relevant to its Complaint. As is stated above, the Commission allows participants wide latitude in discovery matters, and relevancy in discovery is broader than the standard used for admission of evidence at a hearing.

INTERROGATORY VZ TO FE PA SET IV, NO. 8

VZ to FE PA Set IV, No. 8 requests the following information:

For each year beginning with 2020 for Met-Ed, Penelec, and Penn Power, and each year beginning with 2024 for FirstEnergy Pennsylvania, provide FirstEnergy's state-authorized weighted average cost of capital and/or weighted cost of equity, FirstEnergy's cost of debt, FirstEnergy's cost of equity, and FirstEnergy's capital structure. Identify in your response the formula, calculations, inputs, assumptions, and source data used to determine FirstEnergy's state-authorized weighted average cost of capital and/or weighted cost of equity, FirstEnergy's cost of debt, FirstEnergy's cost of equity, and FirstEnergy's capital structure. Separately present the information for poles owned by Met-Ed, Penelec, Penn Power, and FirstEnergy Pennsylvania.

FE PA objected to VZ to FE PA Set IV, No. 8 as follows:

As explained in Section I.A., supra, which is incorporated by reference herein, discovery into the West Penn Rate Division is overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence.

Motion to Compel, ¶ 19.

Verizon avers that the Commission should dismiss FE PA's objection to VZ to FE PA Set IV, No. 8. Verizon asserts that Company-wide information is reasonably tailored and reasonably calculated to lead to admissible evidence. To calculate a rate under the Commission's formula, Verizon states it requires a cost of capital input that correlates to the company-wide pole cost data in FE PA's 2024 and 2025 FERC Form 1s. Verizon argues it is entitled to this company-wide information to analyze FE PA's rates and to calculate rates under the "presumptive maximum rate" formula, which the Pennsylvania Supreme Court found may serve as "evidence of unreasonableness." *See FirstEnergy Pa.*, 349 A.3d at 189. Motion to Compel, ¶ 20.

FE PA Answer reiterates its position that it is inappropriate to seek information related to FE PA's West Penn Rate Division. Answer, ¶ 65.

For the reasons articulated by Verizon, I agree that the information sought appears reasonably calculated to lead to the discovery of admissible evidence. I recognize that West Penn was not one of the originally named respondents in this proceeding. However, I am persuaded by Verizon that the information it seeks could be relevant to its Complaint. As is stated above, the Commission allows participants wide latitude in discovery matters, and relevancy in discovery is broader than the standard used for admission of evidence at a hearing.

INTERROGATORY VZ TO FE PA SET IV, NO. 11

VZ to FE PA Set IV, No. 11 requests the following information:

For each year beginning with 2019 for Met-Ed, Penelec, and Penn Power, and each year beginning with 2024 for FirstEnergy Pennsylvania, identify the rate for a communications provider's use of one foot of space on (a) Met-Ed's poles, (b) Penelec's poles, (c) Penn Power's poles, and (d) FirstEnergy Pennsylvania's poles using the formula " $RR = E + ROR(RB)$ " that is referenced on page 42 of FirstEnergy's Initial Brief. For each rate, provide FirstEnergy's calculation of the rate and identify all inputs, assumptions, and source data used to calculate the rate, the person(s) who calculated the rate, and the date the rate was calculated. If FirstEnergy has not calculated a rate using the formula " $RR = E + ROR(RB)$," identify all inputs and source data required to calculate the rate. Provide all documents concerning the calculations and inputs, including all source data, if they are not publicly available. Separately present the information for poles owned by Met-Ed, Penelec, Penn Power, and FirstEnergy Pennsylvania.

FE PA objected to VZ to FE PA Set IV, No. 11 as follows:

As explained in Section I.A., supra, which is incorporated by reference herein, discovery into the West Penn Rate Division is overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence.

Motion to Compel, ¶ 21.

Verizon avers that the Commission should dismiss FE PA's objection to VZ to FE PA Set IV, No. 11. Verizon asserts that Company-wide information is reasonably tailored and reasonably calculated to lead to admissible evidence. Verizon states that FE PA included the " $RR = E + ROR(RB)$ " formula in its Initial Brief without explanation, after testimony was

submitted. Verizon argues it is entitled to test FE PA's argument, including by asking whether FE PA has ever calculated a rate using the formula and, if so, what the rate is. Verizon asserts that the merger of four prior operating companies does not justify denying Verizon discovery targeted to the issues presented on remand. Motion to Compel, ¶ 22.

FE PA Answer reiterates its position that it is inappropriate to seek information related to FE PA's West Penn Rate Division. Answer, ¶ 69.

For the reasons articulated by Verizon, I agree that the information sought appears reasonably calculated to lead to the discovery of admissible evidence. I recognize that West Penn was not one of the originally named respondents in this proceeding. However, I am persuaded by Verizon that the information it seeks could be relevant to its Complaint. As is stated above, the Commission allows participants wide latitude in discovery matters, and relevancy in discovery is broader than the standard used for admission of evidence at a hearing.

INTERROGATORY VZ TO FE PA SET IV, NO. 12

VZ to FE PA Set IV, No. 12 requests the following information:

To the extent not previously produced, provide FirstEnergy's Pole Attachment Agreements.

FE PA objected to VZ to FE PA Set IV, No. 12 as follows:

FE PA objects to this request on the grounds that it is overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence.

As defined in the Instructions accompanying VZ to FE PA Set IV, "Pole Attachment Agreements" means "an agreement between FirstEnergy and any entity for use of space on FirstEnergy's poles and includes, without limitations, Joint Use Agreements and License Agreements."

This remand proceeding is limited in scope to the Joint Use Agreements in place between Verizon and FE PA's Met-Ed, Penelec, and Penn Power Rate Divisions and the rates under those agreements.

An inquiry into and production of every “Pole Attachment Agreement” for FE PA is far beyond the scope of this proceeding.

In fact, the request encompasses any agreement governing the attachment of facilities to FE PA’s poles, including those entities that are not similarly-situated to Verizon, which is an Incumbent Local Exchange Carrier (“ILEC”).

Furthermore, as explained in Section I.A., supra, which is incorporated by reference herein, discovery into the West Penn Rate Division is overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence.

The Company also reserves the right to seek a Protective Order to protect against the unwarranted public disclosure of any confidential or competitively-sensitive information and documents should this request be permitted in full or in part.

Motion to Compel, ¶ 28.

Verizon avers that the Commission should dismiss FE PA’s objection to VZ to FE PA Set IV, No. 12. Verizon states that it will accept the information under the parties’ Stipulated Protective Agreement. *See* Motion to Dismiss, Section IV(D). Verizon states that FE PA produced about 200 of the requested agreements in the first phase of this case under the Stipulated Protective Agreement and stipulated to the admission of some into evidence. *See* Verizon Statement 1.0, Exs. SCM-3, SCM-11; Joint Motion to Admit Stipulated Items into Record of Proceeding at 2 (July 7, 2020). Verizon argues that the remaining agreements are equally discoverable to update the record for remand and to shed light on FE PA’s company-wide pole attachment practices post-merger. Verizon avers the agreements and their rate provisions are reasonably calculated to lead to admissible evidence supporting Verizon’s claim that FE PA and its prior operating companies subjected Verizon to disparate treatment and charged Verizon far higher rates for comparable pole space. Motion to Compel, ¶ 29.

FE PA reiterated its objections to Verizon’s request. FE PA further stated that Verizon’s Complaint is framed around the theory that FE PA’s rates charged to Verizon are unjust and unreasonable because FE PA’s Met-Ed, Penelec, and Penn Power Rate Divisions charge cable companies and CLEC lower rates. FE PA argues an inquiry into the rates charged

to other attachers besides cable companies and CLECs are beyond the scope of discovery in this proceeding, and Verizon's request for joint use agreements would implicate a wide range of disparate attachers, including, but not limited to, information-service-only entities operating under negotiated agreements. Answer, ¶¶ 71-81.

For the reasons articulated by Verizon, I agree that the information sought appears reasonably calculated to lead to the discovery of admissible evidence. I recognize that West Penn was not one of the originally named respondents in this proceeding. However, I am persuaded by Verizon that the information it seeks could be relevant to its Complaint. I similarly find that the information Verizon seeks regarding Pole Attachment Agreements could be relevant to its Complaint. As is stated above, the Commission allows participants wide latitude in discovery matters, and relevancy in discovery is broader than the standard used for admission of evidence at a hearing. Regarding the alleged burden in responding to this request, it is not clear that answering the question as written requires such effort that is disproportionately unreasonable when compared to the burden required in answering discovery generally. Parties are also not to withhold information prior to issuance of a protective order if a party agrees to treat information as if it were covered by a protective order, pending issuance of a protective order. 52 Pa. Code § 5.365(c)(4).

INTERROGATORY VZ TO FE PA SET IV, NO. 14

VZ to FE PA Set IV, No. 14 requests the following information:

State each and every instance since 2009 in which FirstEnergy was expressly required by the Public Utility Commission to refund amounts to any entity. Describe in detail each such refund, including (a) the docket number in which the refund was required; (b) how much FirstEnergy was required to refund, why, to, whom, and when; (c) whether, and if so, when and by how much FirstEnergy sought to increase the rates it charges its electric customers on a gross and per customer basis because of the refund; and (d) whether and, if so, what increase to the rates FirstEnergy charges its electric customers was authorized by the Public Utility Commission and the impact of that increase on a per-customer basis. Identify and provide all filings at the Commission that reference the refund and/or a rate increase authorized by the Public Utility Commission because of the refund.

Separately present the information for poles owned by Met-Ed, Penelec, Penn Power, and FirstEnergy Pennsylvania, if possible.

FE PA objected to VZ to FE PA Set IV, No. 14 as follows:

FE PA objects to this request on the grounds that it is overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence.

As explained in Section I.A., supra, which is incorporated by reference herein, discovery into the West Penn Rate Division is overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. In addition, Verizon's request asks for extensive information, stretching back over 17 years, for "each and every instance . . . in which FirstEnergy was expressly required by the Public Utility Commission to refund amounts to any entity."

As written, Verizon's request would encompass any Commission proceeding, including pro se customer complaints, where FE PA was directed to issue a refund to an entity.

Such refunds have no bearing on the instant proceeding, which involves pole attachment agreements and rates.

Nevertheless, FE PA would be willing answer this request if the scope were limited to the past 10 years and to refunds involving pole attachment rates.

Motion to Compel, ¶ 33.

Verizon avers that the Commission should dismiss FE PA's objection to VZ to FE PA Set IV, No. 14, and compel a complete response to Request No. 14, excluding refunds ordered in pro se complaint proceedings. The Pennsylvania Supreme Court remanded for further "analysis by the PUC as to the effects on FirstEnergy's customers." *FirstEnergy Pa.*, 349 A.3d at 189. Verizon states it is entitled to learn whether, and to what extent, other Commission-ordered refunds have affected electric rates, including any refunds required of FE PA post-merger. Verizon submits that the timeframe starting in 2009 is reasonable for at least two reasons. First, the Met-Ed and Penelec contract rates were adopted that year, so the Commission will be considering evidence dating back to 2009. Second, there are presumably few instances where the Commission has ordered FE PA to refund amounts outside of pro se complaint proceedings. Verizon states that a sufficient time period is thus required to test FE PA's claim

that refunds in this case will increase its electric rates, by considering refunds that could have affected rates in FE PA's 2014, 2016, and 2024 base rate proceedings. Regarding FE PA's offer to produce information "limited to the past 10 years and to refunds involving pole attachment rates," FE PA argues such limitation would render the Request a nullity. Verizon states that FE PA has had just one base rate proceeding in the last 10 years (2024), and this is the sole pole attachment case in which the Commission has ordered refunds since it assumed jurisdiction over pole attachment cases in 2020. Verizon contends that due process and fundamental fairness require the Commission to compel FE PA to produce the information requested. Motion to Compel, ¶¶ 34-35.

FE PA reiterated its objections to Verizon's request. FE PA also stated that, although Verizon is willing to exclude *pro se* customer complaints, FE PA would still have to scour its records for every Commission proceeding over the past 17 years and evaluate which, if any, resulted in a Commission-ordered refund. Also, such refunds have no bearing on the instant proceeding, which involves pole attachment agreements and rates. Nevertheless, FE PA remains willing answer this request if the scope were limited to the past 10 years and to refunds involving pole attachment rates. FE PA also states that Verizon's claim that a 10 year limitation would only encompass one base rate case. Answer, ¶¶ 83-92.

For the reasons articulated by Verizon, I agree that the information sought appears reasonably calculated to lead to the discovery of admissible evidence. I recognize that West Penn was not one of the originally named respondents in this proceeding. However, I am persuaded by Verizon that the information it seeks could be relevant to its Complaint. As is stated above, the Commission allows participants wide latitude in discovery matters, and relevancy in discovery is broader than the standard used for admission of evidence at a hearing. Regarding the alleged burden in responding to this request, it is not clear that answering the question as written requires such effort that is disproportionately unreasonable when compared to the burden required in answering discovery generally. However, since Verizon agreed to limit its request to exclude *pro se* customer complaints, FE PA will not be compelled to provide information regarding *pro se* customer complaints.

INTERROGATORY VZ TO FE PA SET IV, NOS. 4 AND 16

FE PA's Answer also states that it will answer VZ to FE PA Set IV, Nos. 4 and 16. Answer at 2. To avoid any doubt, this order memorializes FE PA's commitments and will grant Verizon's Motion to Compel regarding these interrogatories, consistent with FE PA's Answer.

ORDER

THEREFORE,

IT IS ORDERED:

1. That Verizon Pennsylvania LLC and Verizon North LLC's Motion to Dismiss Objections and Compel Answers to Verizon's Fourth Set of Interrogatories and Requests for Production of Documents is granted consistent with the above discussion.

2. That First Energy Pennsylvania Electric Company is directed to answer Verizon Pennsylvania LLC and Verizon North LLC's Fourth Set of Interrogatories and Requests for Production of Documents, Nos. 1-4, 6-8, 11-12, and 14 by no later than May 18, 2026.

3. That First Energy Pennsylvania Electric Company is directed to answer Verizon Pennsylvania LLC and Verizon North LLC's Fourth Set of Interrogatories and Requests for Production of Documents, No. 16, within two business days after the date First Energy Pennsylvania Electric Company's Supplemental Direct Testimony is served in this remand proceeding.

Date: May 11, 2026

/s/
John M. Coogan
Administrative Law Judge

**C-2020-3019347 - VERIZON PENNSYLVANIA LLC AND VERIZON NORTH LLC v.
METROPOLITAN EDISON COMPANY, PENNSYLVANIA ELECTRIC COMPANY AND
PENN POWER COMPANY**

(Revised 03/19/2026)

SUZAN D PAIVA ESQUIRE
VERIZON
900 RACE STREET 6TH FLOOR
PHILADELPHIA PA 19107
267.768.6184
suzan.d.paiva@verizon.com
Served via eService May 11, 2026

CURTIS GROVES ESQUIRE
VERIZON
1300 1 STREET NORTHWEST
SUITE 500 EAST
WASHINGTON DC 20005
202.515.2179
curtis.groves@verizon.com
Served via email May 11, 2026

CHRISTOPHER S HUTHER ESQUIRE
CLAIRE J EVANS ESQUIRE
FRANK SCADUTO ESQUIRE
1776 K STREET NORTHWEST
WASHINGTON DC 20006
202.719.7000
chuther@wiley.law
cevans@wiley.law
fscaduto@wiley.law
Served via email May 11, 2026

TORI L GIESLER ESQUIRE
JESSICA RHEA ESQUIRE
FIRSTENERGY
2800 POTTSVILLE PIKE
PO BOX 16001
READING PA 19612-6001
610.921.6658
tgiesler@firstenergycorp.com
jrhea@firstenergycorp.com
Served via eService May 11, 2026

DAVID B MACGREGOR ESQUIRE
ANTHONY D KANAGY ESQUIRE
DEVIN T RYAN ESQUIRE
GARRETT P LENT ESQUIRE
POST & SCHELL PC
17 NORTH SECOND STREET
12TH FLOOR
HARRISBURG PA 17101-1601
717.731.1970
dmacgregor@postschell.com
akanagy@postschell.com
dryan@postschell.com
glent@postschell.com
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