

PENNSYLVANIA PUBLIC UTILITY COMMISSION
Harrisburg, Pennsylvania 17105-3265

Gerard G. and Jean H. Johnson
Joseph E. and Janet M. Dolan
v.
Metropolitan Edison Company

1206740-OSA
Public Meeting held March 26, 2009
Docket No. C-20077995
Docket No. C-2008-2029081

Motion of Commissioner Wayne E. Gardner

This matter involves two Complaints filed against Metropolitan Edison Company (Met-Ed) by property owners alleging that the Company's high voltage transmission lines that cross the Complainants' property are not energized, have not been maintained, and are a safety hazard. A hearing was held on the matter and the Administrative Law Judge issued an Initial Decision on November 7, 2008, sustaining both Complaints and directing Met-Ed to either remove or maintain the transmission lines in question. The ALJ also assessed a \$50,000 civil penalty against Met-Ed. Met-Ed filed Exceptions on December 15, 2008, contesting the Initial Decision.

The record evidence of this case convinces me that Met-Ed has not maintained its transmission lines and towers in reasonable condition. As such, I agree with the ALJ's decision to sustain the Complaints. I would, however, modify the amount of the civil penalty assessed against the Company. As noted by the ALJ, the Commission could impose a civil penalty of up to \$1,000 per day pursuant to 66 Pa. C.S. § 3301(a). Based on the Company's admission that the line has been out of service and not maintained for at least four years, the possible civil penalty could be extraordinarily high. The ALJ reasoned that a \$50,000 civil penalty would get the attention of the Met-Ed's office in Ohio which designates which lines are to be maintained. I agree with the ALJ's rationale, but believe that the civil penalty should be reduced to \$25,000. I will reiterate the ALJ's recommendation that Met-Ed use the remainder of what could have been a very substantial civil penalty for actual maintenance of facilities, or for the cost of their removal.

Therefore, I move that:

1. The Exceptions of Metropolitan Edison Company to the Initial Decision of Administrative Law Judge Susan D. Colwell are denied.
2. That the Initial Decision of Administrative Law Judge Susan D. Colwell be modified to reduce the civil penalty consistent with this Motion, and sustained in all other respects.
3. The Office of Special Assistants prepare an Opinion and Order consistent with this Motion.

Dated: March 26, 2009



Commissioner Wayne E. Gardner