

IN THE MATTER OF THE COMMISSION'S \*  
INVESTIGATION INTO THE POTOMAC \*  
EDISON COMPANY'S METER READING \*  
FREQUENCY, ESTIMATION OF BILLS, \*  
AND COMPLIANCE WITH TARIFF. \*

BEFORE THE  
PUBLIC SERVICE COMMISSION  
OF MARYLAND

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CASE NO. 9319  
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May 5, 2016

**PROPOSED ORDER OF PUBLIC UTILITY LAW JUDGE**

**Appearances:**

F. William Dubois, Jeffrey P. Trout, and John L. Munsch, for Potomac Edison Company.

Richard Tufts, Pro Se, The Sugarloaf Conservancy Pro Se, Kenneth Sanders and Patricia Sanders, Pro Se, Melvin Mallonee, Pro Se, and Rehana Bachus, Pro Se

Jennifer Grace, for the Staff of the Public Service Commission of Maryland.

Joseph G. Cleaver, for the Maryland Office of People's Counsel.

**BACKGROUND AND PROCEDURAL HISTORY**

In mid-2012, numerous complaints were filed with the Public Service Commission ("PSC" or "Commission") against Potomac Edison Company ("PE" or "Company") alleging a failure to comply with its meter reading tariffs and the resulting harm to its customers. After studying PE's reply, the Commission, by Order No. 85485, dated April 9, 2013, delegated this matter to the

Public Utility Law Judge Division for further inquiries. That Order consolidated the customer complaints and ordered an investigation into PE's meter reading frequency, estimation of bills and compliance with its tariff. The full scope and issues to be undertaken were left to the Judge's discretion.

A Pre-Hearing Conference was held on May 16, 2013 at which the parties were directed to file issues list. On June 24, 2013, the following issues list was accepted:

1. Did Potomac Edison ("PE") violate its tariff or any applicable laws or regulations as a result of the frequency of its meter reading, and if so, which provision of its tariff or laws or regulations did it violate?
2. What steps has PE taken since May 18, 2012--the date on which the Commission notified PE of a Formal Complaint from Mr. Richard Tufts, concerning the frequency of PE's meter reading--to ensure that its customers' meters are read in accordance with its tariff and with all applicable laws and regulations?
3. What additional steps, if any, should PE be required to take to further ensure that its customers' meters are read in accordance with its tariff and with all applicable laws and regulations? Should PE's performance be monitored going forward, and if so, how?
4. What is/are the method(s) used by PE to estimate its customers' bills to ensure that they are reasonable, accurate and utilize industry best practices? How does the meter reading process and associated cost compare to those used by other power companies?
5. If PE failed to perform actual meter readings on a timely basis did this

failure impose burdens on customer, including(a) service terminations that occurred because of overcharges on estimated bills;(b)service terminations that occurred because of true-up adjustments to reconcile prior estimated bills; or (c) costs associated with the time value?

6. If PE failed to perform actual meter readings on a timely basis, what steps has PE taken to remedy negative impacts (if any) on PE's customers resulting from PE's failures to comply with meter-reading provisions of its tariff and/or any applicable laws of regulations?
7. What customer feedback mechanism does PE have to appropriately address customers' concerns about estimated bills or meter reading, and are PE employees properly trained to address these concerns?
8. If PE failed to comply with the meter-reading provisions of its tariff and/or any applicable laws or regulations, what changes, if any, should be made to PE's tariff?
9. If PE failed to perform actual meter readings on a timely basis, what additional actions, if any, should the Commission take?

At the suggestion of the Public Utility Law Judge, mediation was attempted. The efforts of the parties proved to be unsuccessful. On June 15, 2015, pursuant to the procedural schedule, Potomac filed the direct testimony of Charity A. Emert, Manager-Meter Reading, and Gary W. Grant Jr., Director, Customer Contact Centers for FirstEnergy Service Corporation ("FirstEnergy"). On July 22, 2015, Staff filed the Direct Testimony of Mikhail Rutushny, Public Service Commission

Engineer. On that same date the Office of People's Counsel filed the testimony of Michael J. Majoros, President of Snavely King Majoros and Associates, Inc., and the testimony of Nancy Brockway, Esq., and exhibits thereto. On September 18, 2015, Potomac filed the reply testimony of Charity A. Emert, Gary W. Grant Jr., James W. Painter, Director Operations Support of PE, and of Kevin G. Wise, Director, Rates and Regulatory Affairs for Maryland and West Virginia of FirstEnergy.

Hearings were held on October 14-16, 2015 and on December 11, 2015. April 1, 2016, an incomplete Proposed Order was inadvertently filed in this case. By Order No. 87470, issued on April 5, 2016, that inadvertently filed Proposed Order was reversed and a completed, corrected Proposed Order was ordered to be issued, with a new 30-day appeal period.

#### **POSITION OF THE PARTIES**

##### **Potomac**

PE reports that during the years 2011 and 2012, PE experienced unusual and severe weather conditions in its service territory and an unusual and unforeseen level of employee turnover in its meter reading staff. These events combined to cause a short-term problem with the frequency of its actual meter readings (PE's tariff requires an actual bi-monthly meter reading and a bi-monthly estimated reading). The staffing issue was exacerbated when PE found it necessary, for a short period of

time, to shift personnel from meter reading duties to other duties. This shift was associated with providing service restorations of outages, caused by severe weather. PE considered restorations of services to have priority over the reading of meters. In addition to the unexpected level of turnover of staff in the meter reading unit, the problem was made worse by the fact that it takes some time to hire and train new workers before they can be sent out to cover a meter reading route. The time period needed to fill the meter reading positions contributed to the time spacing between the actual meter readings. PE asserts that these issues were short in duration, and its current performance is now even stronger than it was prior to the period of 2011 and 2012 when the two short-term issues caused numerous customers to complain about the lack of actual meter reads and the financial and bill payment issues caused by inaccurate estimated usages.

PE states that it now has in place an updated and more accurate meter reading software algorithm which will increase the accuracy of the billings generated by an estimated reading. It further states that the evidence fails to prove that any customers were harmed by the use of estimated consumption for billing purposes. It states that no customer ever paid for more than that customer's actual usage. PE states that its use of an effective usage estimation algorithm does not place an undue burden on its customers since the billing produced by the use of the algorithm is an accurate reflection of that month's actual usage. This algorithm is monitored and checked for accuracy and

it has proven to be an improvement over the prior software. The software produces accurate billing for the estimated months and the level of accuracy meets industry standards. PE states that history has shown that the use of its long standing and Commission-approved meter reading tariff, with an estimated read followed by an actual read, has worked well for decades and has produced a level of accuracy that meets all standards. PE asserts that the evidence shows that no Commission regulation or order was violated during the period of its short- term challenges.

PE asserts that the printed notice on the customer's bill, which notifies the customer that the reading that month was based upon an estimate, gives the customer the information he needs to be an informed and noticed customer. PE does not agree with those parties who assert that PE's customers are not made aware that a particular month's reading is based upon an estimate.

PE also has in place a Call Center which can help a customer with billing or meter reading issues. The Call Center staff is trained to help customers who have payment issues and its staff's interactions with customers are monitored for performance standards. Updates are made to its staff's training, when needed, to ensure that, the level of customer service is kept high. PE states that no change to its policies on training, staffing, or to its tariff is warranted or needed. PE is confident that no Public Service Commission regulation or order was violated during the time when PE was addressing the short-

term problems it faced, and no corrective actions or financial penalty is warranted.

### **Complainants**

A large number of PE's customers complained to PE because of the continued failure by PE to do an actual read of a meter every other month, as required by its tariff. The complaints allege that the over use by PE of estimated meter reading caused inaccurate billings which eventually resulted in large monthly catch up bills, after an actual meter reading was done. The complaints state that this caused both financial and emotional harm to the customers. Further, the complaints allege that the issues raised in the complaints, were not rectified or even addressed by PE, when first presented to PE. The nature of the complaints mostly alleges harm of a financial nature as a result of the grossly incorrect billings causing excessively large bills, and the problems associated with making the payment demanded. The most extreme of the cases in the complaints involved a large billing that followed a series of several monthly, estimated billings. It was alleged to be common that several months passed between actual meter reads, which increased the severity of the financial consequences. This type of failing to produce accurate bill amounts may have resulted in a termination of service of a low income customer, due to an inability to pay the accurate but unexpectedly large billing amount.

The Complainants state that these complaints were met with very poor customer service. When a customer complained to PE, often it was alleged in the complaints, that the customers were being supplied with incorrect information; met with a failure to follow-up on a complaint; or there was a failure to take any corrective action. Further, many customers sensed that PE's customer service representatives had no interest in responding to its customer's complaints, or to fix the meter reading issues. The complaints allege that customers were not advised as to the availability of payment plans, or other options, to mitigate the problem of the large and unexpected billings. They also allege that customers were not given instructions as to how to call in an actual reading done by the customer to PE, to prevent any additional consecutive bills being based upon another estimate. In addition, the lack of accurate usage information, it was alleged, harms a customer's ability to manage usage or spot potential issues of usage anomalies. Information by way of an actual reading of usage, if an anomaly of usage amounts was demonstrated, would raise a red flag as of potential malfunction of a customer's equipment, and help to prevent the continuation of the malfunction. Customers were not able to modify usage levels when the information, as to the usage level, was so inaccurate. This lack of useful information was another failing cited in some complaints. The customers state that they were injured if the total of the estimates were too low, which caused an impossibly high catch up bill after an



actual reading, or if the total of the estimate was too high, causing there to be a premature payment to PE for the over-estimated usage. The Complainants assert that this prepayment amounts to an involuntary loan to the Company by its customers.

The Complainants want corrective action taken which will set an acceptable meter read rate that must be achieved at a customer cost comparable with that of other electric utilities in Maryland. They also want set a metric for an acceptable level of estimation accuracy with a set of actions to be required to be taken by PE if the metric is not met. The Complainants also assert that a change to an actual monthly tariff reading schedule is needed. They state that a monthly readings schedule functions well for other utilities in Maryland. This change will help mitigate the damage to customers caused by a missed read because, if an actual read is missed, the lag time to the next actual read is shorter than that currently experienced by PE's customers under the existing tariff's read schedule.

### OPC

OPC has issues with what it characterizes as a reversal of PE's position during this proceeding as to what, if any, responsibility falls upon PE for its meter reading rates in 2011-2012. OPC points out that in PE's initial reply to the Commission,<sup>1</sup> it acknowledged a failure to meet standards and it

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<sup>1</sup> OPC EX. 4 ( The Trout Letter)

outlined several reasons why the failure occurred. PE asserted that corrective actions were being taken; however, according to OPC, PE now seems to have back tracked from any responsibility for its poor past performance. OPC argues that the testimony of PE's witnesses downplays the seriousness of the harm done to its customers and fails to appreciate the gravity of what occurred. OPC argues that PE no longer takes seriously the problems it previously acknowledged and does not want to apply the lessons learned from the experience of that time period.

OPC indicates that it is not advocating a change to an actual monthly tariffed reading requirement or requesting a financial penalty be imposed. OPC asserts that it is necessary that the history of causes of the complaints be a part of the Commission's analysis as to how the future meter readings of PE should be evaluated. OPC wants specific safeguards going forward.

They are:

1. The Commission should order PE to revise its "Must Read" policy to require an actual read the month after a missed read.
2. The Commission should require PE to continue to update its response to staff DR IV-6<sup>2</sup> for 24 months after the close of this docket, including reasons for missed reads that clearly stated the reasons for the absence.
3. The Commission should direct PE to continue to train its Billing Group

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<sup>2</sup> This Data Request (DR) requires PE to provide updated monthly missed reads data to allow monitoring of ongoing read levels.

customer service representatives in Potomac's Maryland meter reading practices and estimated billing, continue to monitor their performance, and to alert customers to the Billing Group's<sup>3</sup> availability.

4. The Commission should direct PE to offer a payment plan to certain customers who received high "true up" bills following consecutive estimates.
5. The Commission should direct PE to provide additional information regarding estimated reads on customer's bills.
6. The Commission should direct PE to provide monthly reports concerning its average aggregate accuracy metric to the Office of People's Counsel.

### **Staff**

Staff's position is that PE has failed to comply with its Tariff and has not implemented good engineering practices in conducting its meter reading obligations. Staff does not believe that the causes asserted by PE, for the consecutive months of estimated read rates, are valid. Staff asserts that other utilities<sup>4</sup> in PE's general geographic area outperformed Potomac in meter reading rates and these utilities' service territories are reasonably similar enough in geographic and demographic characteristics to allow a valid statistical comparison. Staff states that storms, employee turnover and accidents are not uncommon in the utility industry and should have been accommodated in PE's meter reading practices. The policy of not

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<sup>3</sup> This is a subgroup in the Customer Service Department of PE.

<sup>4</sup> See Attachment 3, Direct Testimony Ratushny, Staff ex.13

doing a follow up actual reading, after a missed read, can cause as much as an 180 day gap between actual reads, which is not in compliance with COMAR 20.50.05.05 or PE's Tariff.<sup>5</sup> Staff asserts that its analysis of read rates has PE as one of the worst performing utility in Maryland.<sup>6</sup>

Staff asserts that these failures by PE have directly caused financial harm to its customers, as well as reduced the flow of information that is useful to a customer's energy management. Staff also asserts that these harms are made worse by the bi-monthly meter read tariff and by the Company's management failures. In addition, Staff asserts that PE has failed to do timely remedial readings, which are used by other utilities, to reduce the impact of a missed actual read. Staff recommends that, due to the failings by PE, the imposition of a large financial penalty is justified. Staff witness Ratushny computed a requested penalty amount of \$300,000.<sup>7</sup> Witness Ratushny computed this penalty amount by taking the number of missed reads reported by PE for years 2011-2012 (239,245), and multiplied that figure by what he computed to be the cost to PE to do each meter read (on average \$1.24), to reach the requested penalty amount. Staff also recommends that PE be ordered to revise its tariff to one requiring monthly meter reads to insure

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<sup>5</sup> Order No. 57101, effective date April 1, 1968. Electric Service Tariff, P.4-12, Sec.10 (b).This provision allows monthly or bimonthly meter reads.

<sup>6</sup> See Attachment 13, Ratushny testimony.

<sup>7</sup> Ratushny Direct testimony at page 14, lines 4-9.

compliance with the COMAR 20.50.05 requirements, and to require PE to file, with the Commission, a Corrective Action Plan ("CAP") detailing how it will make the transition to a monthly read schedule.

#### DISCUSSION AND FINDINGS

I find that PE's initial acknowledgment of the substandard meter reading history was an appropriate and an accurate reply to the Commission's correspondence. Its later reversal on the issue of accepting some responsibility for the substandard performance is troubling and counterproductive for the proper resolution of these issues.

PE is faced with a unique set of demographic and geographic realities with which it is obligated to factor into its tariffs and business policies, as are all electric utilities, in order to properly perform its meter reading obligations under COMAR and to its customers. It is not a legitimate excuse to blame the weather (which PE can't control) or the staffing issues it faced (which it can control), as neither of these factors is unique to PE as an electrical utility, nor are they unusual or unknown factors.

I find that the comparisons of PE, made by Staff, to the other utilities in the same general area as served by Potomac, as to meter reading policies and read rates, is not well founded. PE, as an electric utility with a large service area, must service all of its customers in all of its geographically

diverse territory and under all weather conditions. The comparison to much smaller electric utilities or to gas utilities is not informative as to what should be the level of read rates because the characteristics of the issues facing those utilities are not on the same magnitude as those facing PE. PE is obligated to make its decisions as to how to manage and staff its Meter Reading Division in a manner and to a level of industry standards, and I find that PE failed to do so during the time period under review.

I find that the facts demonstrate that the meter reading rate of Potomac fell below an acceptable level of reading for the years 2011-2012,<sup>8</sup> and that was in violation of its tariff and of good engineering practices as required of a utility. I conclude that the failings were due to an inadequate level of staffing and of a failure to have adequate contingency plans in place when PE faced unusual weather events. I also find that the duration of the worst of the failings was relatively short, although the balance of the time frame under investigation was not at a stellar level of performance.<sup>9</sup>

The issue list in this case will be addressed in combination with the discussion addressed as a whole, as the issues overlap in facts and solutions.

The effectiveness of PE's long standing tariff, which provides for a bi-monthly actual meter reading schedule, was

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<sup>8</sup> Ratushny Direct Testimony P.4, L.3 (missed read rate in 2012 of 25.1%)

<sup>9</sup> See footnote 7.

extensively impacted when the management failures of PE occurred. These failures compounded the negative consequences of the bi-monthly schedule by causing a high level of missed actual meter readings. There is strong disagreement between the parties as to what changes to PE's tariff, if any, are needed to avoid the kinds of failings demonstrated to have occurred. The decade's long history of read rates with the bi-monthly reading tariff shows that the timing of readings, allowed under the tariff provisions, was not the main cause of the problems that occurred during 2011-2012. I find that it was the management of PE and PE's implementation of the tariff that was the cause of the high level of missed actual reads. I find that the current levels of actual monthly scheduled read rates, during a period of normal weather conditions, appears to have achieved an acceptable level as demonstrated by the statistics provided by Potomac. I find that the past poor level of missed actual read rates resulted from poor management of personnel and poor planning for major weather events by PE.

Even if PE's tariff required an actual monthly meter read that would not have prevented the drop in reading rates which was caused by the factors just enumerated. I find that the cause of the high number of missed actual reads was not the timing of the scheduled reads but with the policy of not deviating from its monthly meter read schedule to ensure an actual meter read was conducted instead of an estimated meter read following the month a missed actual read occurred. This

resulted in a number of consecutive monthly estimated usage for the bill that a customer received. I therefore find that PE violated its existing tariff provisions because no actual meter read was scheduled to follow an estimated read that was done in place of a scheduled actual read. This finding demonstrates that the tariff must be revised to prevent a reoccurrence of the unacceptable time lag between actual reads under the existing tariff provisions. I therefore find that PE violated COMAR 20.50.05.05 because repeated consecutive estimated reads were never authorized by the Commission under PE's tariff. The Commission had never authorized PE to perform actual meter reads any less frequently than approximately every other month.

As requested by Staff and the pro se parties, I find that PE's meter reading tariff must be modified to require an actual reading on a monthly schedule and requiring a "must read"<sup>10</sup> in any month in which an estimated read was utilized. The required change in tariff language is needed to shorten the time between actual reads to a length that does not create billings based upon estimates that are out of the customer's normal usage pattern. PE will need to do an evaluation of its staffing requirements and personnel policies to ensure that it will comply with the new tariffed requirements of an actual monthly meter reading.

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<sup>10</sup> A "Must Read is an unscheduled by tariff attempt to do an actual reading prior to a monthly billing being generated if an attempt to do an actual read that month did not result in an actual read being done.



There are a wide variety of additional steps the Interveners (Melvin Mallonee and Richard Tufts) want that are in addition to their being in agreement with some of OPC's proposals. They want PE to be directed to implement a monthly meter reading schedule (as was discussed above) and that the Commission set a metric for the acceptable level of estimation reading accuracy that PE must meet. They also want specific actions ordered to be taken if the metric is not met by PE. The Staff also is advocating for the change to a monthly reading schedule as well as requesting that a civil penalty be imposed.

I do not find that a specific metric, for PE alone, is needed for its estimation accuracy as there is a demonstrated increased accuracy of the estimation software now being used; in addition, there will be a greatly reduced number of estimates under the new monthly read requirements. Further, the Staff has an ongoing duty to be aware of the levels of all Maryland's electric utility's performance which requires that all of them comply with good engineering practices. If the level of accuracy of the estimations falls to a substandard level, the Staff can direct that action be taken to address that failing.

There are several proposals made by OPC which I find have merit and which will be discussed below. These proposals (Section D, "Safeguards for the Future" OPC's Initial Brief, at pages 17-25) are designed to monitor the performance of PE and of PE's processes. The OPC proposals are as follows:

**Potomac Edison should continue to respond to Staff Data Request IV-6 for 24 months after the close of the Docket, including reasons for missed reads that clearly state the reasons for the absence.<sup>11</sup>**

I find that this is not the correct method to meet the objective that OPC is seeking, but instead find that the Commission will require from PE a monthly report for 24 months following a final Order in this case, of the total number of and the percentage of the total number of actual reads that were not done but instead had an estimated read for billing purposes. This will ensure that PE continues to comply with the applicable provisions of its newly ordered tariff changes and with good engineering practices. This will be a tool to help PE with its internal company supervision of the meter reading staff, and I further find that this requirement will not be a large burden on PE. PE shall submit its report to the Commission on a monthly schedule. In addition, I direct that PE publish the results of these reports twice yearly on PE's website.

**Potomac Edison should to continue to train its Billing Group customer Service Representatives in Potomac Edison's Maryland meter reading practices and estimated billings; continue to monitor their performance and alert customers to the Billing Group's availability.**

I find that this recommendation is a reasonable method to continue the pattern of improved customer services that PE has undertaken. These efforts should focus on customer support and

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<sup>11</sup> P. 20, OPC initial brief.

increased information to be supplied to customers in response to customer inquiries. In Mr. Grant's direct testimony,<sup>12</sup> he outlined the training being done. I find that PE should have some flexibility in determining the type and level of its employee's training. I find that that training should continue and PE's management should monitor the training for its effectiveness.

OPC also recommended that the availability of the Billing Group to address bill and meter reading issues be highlighted in PE's annual Customer's Rights Pamphlet. I find that this is a reasonable request and it is therefore ordered to be done.

**Potomac Edison should be required to offer a payment plan to certain customers who receive high "true up"<sup>13</sup> bills following consecutive estimates.**

I find that it is reasonable to order that PE offer a payment plan, of up to twelve months in length, to any customer affected, if a true up bill exceeds the last estimated bill by 50 percent or more. This offer of a payment plan should reduce the economic impact of the bill for the customer's actual usage, caused by of the lack of accuracy of the estimated usage previously billed. Consecutive estimated reads will be rare once the "Must Read" policy is implemented, which should limit the time period and usage amounts subject to a true up bill. This

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<sup>12</sup> See P.4, L13-P.5 L30, PE Ex. 1.

<sup>13</sup> A billing that reconciles the prior estimated usage with the actual usage amounts.

also should result in the need for a payment plan being a rare situation.

**Potomac Edison should be required to provide additional information regarding estimated reads on customer bills.**

The current bill format has two obscure notations that indicate that the bill is based upon an estimated read, and has no highlighting of the word "estimated." This information is there to be seen by a customer, but it is easy to overlook and therefore not informative. I find that PE should change its bill format to draw attention by highlighting the word "estimated"; thus, alerting the customer that a bill is based upon an estimated reading.<sup>14</sup> This information may aid a customer in monitoring of the type of reading done in any given month. In the event that the reason for issuing a bill based upon estimated usage is the result of a scheduled missed meter read,<sup>15</sup> which was the result of an omission or co-omission by a customer, the bill should also notify the customer of self-read or self-reporting options available to allow a customer to be proactive in the meter readings of his account.<sup>16</sup> The reason for the missed read should be included to educate the customer on issues that the

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<sup>14</sup> COMAR 20. 50.04.03A(9) and 20.50.05 06(E)

<sup>15</sup> For example, if the meter was unread due to a dog in the yard, the customer can prevent that from repeating as an implement to a meter reading.

<sup>16</sup> COMAR 20.50.04.01.E.

customer can address to help avoid another monthly read being based upon an estimate.

**Potomac Edison should provide monthly reports concerning the average aggregate accuracy metric, of its estimation software, to the Office of People's Counsel.**

I find that a report on the accuracy of the software used by PE to produce an estimate usage amount for billing based upon an estimated meter read should be provided to the entire service list for a period of 24 months following a final Order in this case. This reporting will allow the new software currently being used to demonstrate its accuracy and to demonstrate that it produced billing that are accurate estimates as well as to allow for comparisons with the prior software's results. I have found that the proposal of Staff and of the pro se parties for monthly readings by a change of the tariff is needed. With the information the reports will provide, there should be safeguards in place to prevent the re-occurrence of the issue of inaccurate consecutive estimated bills that caused customers to complain. The costs of providing the above-ordered changes and reports may be substantial and will continue to act as a reminder to PE of the need to manage its operations with good standards of engineering and in compliance with its new tariff requirements.

### Recommendation of a Civil Penalty

The Staff recommended that a large financial penalty should be imposed as a result of the violations of COMAR by PE. Staff's witness' penalty amount formula multiplies the number of missed reads for years 2011-2012 by Staff's calculations of the cost per meter read. The result of this calculation is the amount of the penalty Staff requests be imposed. Staff's formula contains several assumptions; the values of which I find are not supported by the evidence in the record. For example, the formula assumes that all missed reads caused harm in every case, and that the harm caused is of an equal amount for all missed reads. There is no evidence to support this element of Staff's formulation. Some misreads probably did adversely impact a customer, which can vary in severity based upon a customer's individual circumstances, but there is nothing in the record to prove that all missed reads resulted in either an adverse financial impact or other-wised harmed a customer.

There was no testimony in this case from any of the customers who filed a complaint or who alleged that they were harmed by the failings of PE as to actual damage of an economic or emotional nature. There was discussion of harm being inflicted and an assumption that it occurred; however, assumptions unsupported by actual testimony lacks the due process protections that evidence requires. The records of complaints were admitted into the evidentiary record with the limitation that they were

being admitted for the effect that they had or the actions that they generated, but not for the truth of the facts contain in those records. It was unfortunate that the record in this case was not completed by witness testimony which was subject to cross-examination. Without testimonial evidence of a quantifiable nature as to the economic harm alleged to have occurred, it is impossible to justify this element of support for Staff's request. I, therefore, find that the basis for the formulation of the financial penalty Staff would impose is not valid and has no basis upon which to rely. No other party in this case has requested that a financial penalty be ordered.

I have found that PE's actions were a violation of its tariff and therefore of COMAR. These findings require that some penalty be ordered to ensure that PE's backtracking from responsibility for its past failings and its violations are addressed.<sup>17</sup> PE was authorized by the Commission to perform either a monthly or bi-monthly meter read, as reflected by its tariff language. Its failure to comply with the tariff language results in a violation of COMAR 20.50.05.05. I also find a violation of the COMAR section covering good engineering practices <sup>18</sup>(i.e. PE's poor management of personnel and poor pre-storm planning), bill format,<sup>19</sup> and customer service interactions (i.e. lack of follow

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<sup>17</sup>See PUA Section 13-201(d).

<sup>18</sup> COMAR 20.50.02.01.

<sup>19</sup> COMAR 20.50.04.03 (9).

up on complaints)<sup>20</sup> was committed. I find that a civil penalty is necessary, and I order that a civil penalty of \$25,000 is the appropriate amount for these past violations. This amount is only set at \$25,000 in recognition of the short timeframe of the worst of the violations and the fact that the unusual weather and staffing problems were a unique set of factors which contributed to the problems which PE failed to appropriately rectify. It should be noted that violations of a similar nature in the future will not be so leniently addressed.

IT IS THEREFORE this 5th day of May in the year Two Thousand Sixteen,

ORDERED: (1) That Potomac Edison Company shall implement the changes ordered herein and is directed to file the reports as set forth in the Proposed Order.

(2) That a civil penalty of \$25,000 shall be paid within 30 days of the date of a Final Order being entered in this matter.

(3) That any open motions not specifically addressed herein are denied.

(4) That this Proposed Order will become a final order of the Commission on June 7, 2016, unless before that date an appeal is noted with the Commission by any party to this proceeding as provided in Section 3-113(d)(2) of the Public Utilities Article, or the Commission modifies or reverses the

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<sup>20</sup> COMAR 20.50.01E and COMAR 20.50.01F



Proposed Order or initiates further proceedings in this matter as provided in Section 3-114(c)(2) of the Public Utilities Article.

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Dennis H. Sober  
Public Utility Law Judge  
Maryland Public Service Commission