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UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Charles B. Curtis, Chairman;
Don S. Smith, Matthew Holden, Jr.,
and George R. Hall.

Metropolitan Edison Company) Docket No. ER79-58

ORDER ACCEPTING FOR FILING AND SUSPENDING
PROPOSED RATE INCREASE, DENYING MOTION, GRANTING INTERVENTION,
PROVIDING FOR HEARING, AND ESTABLISHING PRICE SQUEEZE
PROCEDURES

(Issued January 12, 1979)

On November 13, 1978, Metropolitan Edison Company (Met Ed) tendered for filing a proposed rate increase for five full requirements and one partial requirements customer. ^{1/} The proposed rate would result in increased revenues of approximately \$3,637,944 (39.59%) for the full requirements customers and \$1,134,552 (37.0%) for the partial requirements customer. This total \$4,772,496 increase (38.9%) is based on the twelve month test period ending December 31, 1979. Met Ed requests an effective date of January 12, 1979, 60 days after filing.

Notice of the instant filing was issued on November 24, 1978, with protests or petitions to intervene due on or before December 18, 1978. Four such petitions have been submitted.

Allegheny Electric Cooperative, Inc. (Allegheny) and the Borough of Goldsboro (Goldsboro) protest the proposed rate as excessive. ^{2/} In addition, their petition sets forth a number of specific objections to Met Ed's cost of service and cost allocations, including the use of the superseded 48% federal income tax rate and the inclusion of a tax adjustment clause in the proposed rate schedule for Allegheny, which the petition states should be rejected.

^{1/} See Attachment A.

^{2/} In support of their petition, filed December 18, 1978, the parties state that they are customers of Met Ed whose interests will be directly affected by Commission action and are not adequately represented by any other parties.

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The petition requests that the Commission suspend the proposed rates for the full five month statutory period, set the matter for hearing and grant the parties intervention in the proceeding.

The Borough of Kutztown (Kutztown) filed a protest and petition to intervene ^{3/}, claiming that the proposed return on common equity is excessive and that the cost of service is substantially overstated. Furthermore, the petition alleges that the proposed increase will create an illegal price squeeze. Kutztown also asserts that the proposed increase exceeds the President's recently announced wage/price guidelines. The petition urges the Commission to suspend Met Ed's proposed rate schedules for five months and grant Kutztown leave to intervene in the proceeding.

On December 19, 1978, Hershey Electric Company (Hershey Electric) filed an untimely petition to intervene. The petition states that Hershey Electric is a customer of Met Ed whose interests would not be adequately represented by any other party. Hershey Electric also petitions the Commission to exercise its discretion to suspend the proposed rates for five months.

On December 18, 1978, Hershey Foods Corporation (Hershey) filed a protest and petition to intervene. In support of its petition, Hershey asserts that it is a retail customer of Hershey Electric and that any increase in the rates Met Ed charges Hershey Electric will be passed through to Hershey.

Our review indicates that the proposed rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential, or otherwise unlawful. In light of this review and our determination that the allegations presented in the submitted petitions present questions of law and fact more appropriately considered at hearing, the Commission shall accept the submittal for filing and suspend the rates for five months, to become effective June 13, 1979, subject to refund.

With respect to the tax adjustment clause included in the proposed rate schedule for Allegheny, we note that any adjustment the Company may wish to make in its rate schedule

^{3/} Filed December 18, 1978. Kutztown states that, as a customer of Met Ed, it has a substantial interest in Commission action in this Docket.

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to implement this clause shall be treated as a proposed rate change under Section 35.13 of our Rules; it must be tendered for filing with appropriate cost support and is subject to Commission approval. However, the request for rejection of this clause shall be denied.

We also note the Company's use of a 48% federal income tax rate rather than the current 46% rate. The 46% figure is the appropriate one and Met Ed shall be required to file within 60 days revised rates and accompanying cost support incorporating the 46% tax rate. Although we are mindful that this refiling will place some burden on the Company, this burden is outweighed by the fact that the cost of refiling is far less than that amount of excess revenue which would be generated through the use of the 48% tax rate.

Pursuant to the policy set forth in Order No. 563, and in Section 2.17 of our Regulations, we find it is appropriate that price squeeze procedures be initiated in this case.

The Commission finds that participation in this proceeding by Allegheny, Goldsboro, Kutztown, Hershey Electric and Hershey may be in the public interest. ^{4/}

The Commission orders:

(A) The rates proposed by Metropolitan Edison Company are hereby accepted for filing and suspended for five months, to become effective as of June 13, 1979, subject to refund.

(B) Pursuant to Section 2.17 of the Commission's Regulations, we hereby order initiation of price squeeze procedures.

(C) The petitioners, Allegheny Electric Cooperative, Inc., the Borough of Goldsboro, the Borough of Kutztown, Hershey Electric Company and Hershey Foods Corporation, are hereby permitted to intervene in this proceeding subject to the Rules and Regulations of the Commission; Provided, however, that participation by such intervenors

^{4/} Despite Hershey Electric's untimely filing, the Commission finds that, since participation by Hershey Electric may be in the public interest, it is appropriate to grant it leave to intervene.

shall be limited to the matters set forth in their petitions to intervene; and Provided, further, that the admission of such intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(D) The motion to reject the proposed tax adjustment clause is hereby denied.

(E) Metropolitan Edison is hereby ordered to refile within 60 days of the issuance of this order new rates and cost support incorporating the 46% federal income tax rate.

(F) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 402(a) of the DOE Act and by the Federal Power Act and pursuant to the Commission's Rules of Practice and Procedure and the Regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of the rates proposed by the Metropolitan Edison Company.

(G) The Staff shall serve top sheets in this proceeding on or before June 17, 1979.

(H) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge shall convene a conference in this proceeding to be held within ten (10) days of the serving of top sheets in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D. C. 20426. The designated Law Judge is authorized to establish procedural dates and to rule upon all motions (except motions to consolidate or sever and motions to dismiss), as provided for in the Commission's Rules of Practice and Procedure. The Presiding Administrative Law Judge shall convene a prehearing conference with fifteen (15) days of the issuance of this order for the purpose of hearing intervenors' requests for data required to present their case, including prima facie showing, on price squeeze issues.

(I) The Secretary shall cause prompt publication of this order to be made in the Federal Register.

By the Commission.

(S E A L)

Kenneth F. Plumb,
Secretary.

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Attachment A

METROPOLITAN EDISON COMPANY
TARIFF AND RATE SCHEDULE DESIGNATIONS
DOCKET NO. ER79-58

<u>Designation</u>	<u>Description</u>
Met Ed Electric Tariff,	Original Volume No. 1
Fourth Revised Sheet No. 13 (Supersedes Third Revised Sheet No. 13)	Rate RP
Third Revised Sheet No. 14 (Supersedes Second Revised Sheet No. 14)	
Fourth Revised Sheet No. 15 (Supersedes Third Revised Sheet No. 15)	Rate RT
Fourth Revised Sheet No. 16 (Supersedes Third Revised Sheet No. 16)	
Fifth Revised Sheet No. 17 (Supersedes Fourth Revised Sheet No. 17)	Fuel Clause
Supplements for Service to Allegheny Electric Cooperative	
Supplement No. 16 to Rate Schedule FPC No. 43	Supplemental Power and Energy
Supplement No. 17 to Rate Schedule FPC No. 43	Fuel Clause
Supplement No. 18 to Rate Schedule FPC No. 43	Wheeling of Authority Power

Full Requirements

Boroughs of Goldsboro,
Lewisberry, Roy ton, and
Kutztown and the Hershey
Electric Company *

Partial Requirements

Allegheny Electric
Cooperative, Inc.

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