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May 18, 2011

VIA HAND DELIVERY

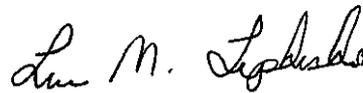
Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

Re: Jeremy W. Cook v. Metropolitan Edison Company
Docket No. C-2011-2238082

Dear Secretary Chiavetta:

On behalf of Commerce Energy, I have enclosed for filing the original and three (3) copies of the Answer and New Matter of Metropolitan Edison Company to the Complaint of Jeremy W. Cook and Preliminary Objections of Metropolitan Edison Company to Dismiss the Complaint of Jeremy W. Cook in the above-captioned matter. Copies have been served on all parties as indicated in the attached certificate of service.

Very truly yours,



Lauren M. Lepkoski

LML/kra
Enclosure
cc: Certificate of Service

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MAY 18 2011

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

JEREMY W. COOK

v.

METROPOLITAN EDISON COMPANY

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:
:
:

Docket No. C-2011-2238082

NOTICE TO PLEAD

TO: Jeremy W. Cook
4772 Wolfgang Road
Glennville, PA 17329

Pursuant to 52 Pa. Code § 5.62(b), you are hereby notified that, if you do not file a written response denying or correcting the enclosed Preliminary Objections of Metropolitan Edison Company, within **ten (10) days** from service of this Notice, the facts set forth by Metropolitan Edison Company in the Preliminary Objections may be deemed to be true, thereby requiring no other proof. All pleadings, such as a Reply to Preliminary Objections or Amended Complaint, must be filed with the Secretary of the Pennsylvania Public Utility Commission, with a copy served to counsel for Metropolitan Edison Company, and where applicable, the Administrative Law Judge presiding over the case.

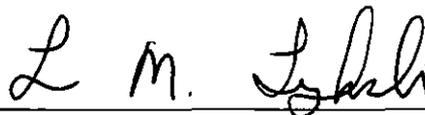
File with:

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
P.O. Box 3265
Harrisburg, PA 17105-3265

With a copy to:

Lauren M. Lepkoski, Esq.
Buchanan Ingersoll & Rooney PC
17 North Second Street, 15th Floor
Harrisburg, PA 17101-1503

Dated: May 18, 2011



Lauren M. Lepkoski, Esq.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

JEREMY W. COOK	:	
	:	
v.	:	Docket No. C-2011-2238082
	:	
	:	
METROPOLITAN EDISON COMPANY	:	

**PRELIMINARY OBJECTIONS OF METROPOLITAN EDISON COMPANY
TO DISMISS THE COMPLAINT OF JEREMY W. COOK**

TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

Metropolitan Edison Company (“Met-Ed” or the “Company”) by and through its counsel, Lauren M. Lepkoski, Alan Michael Seltzer, and Buchanan Ingersoll & Rooney PC, files these Preliminary Objections, pursuant to Section 5.101(a)(4) of this Commission’s regulations, 52 Pa. Code §5.101(a) (4), and in connection therewith avers as follows:

I. Introduction

1. Through these Preliminary Objections, Met-Ed seeks the dismissal a complaint filed by Jeremy W. Cook (“Complainant”) alleging that Met-Ed improperly removed the Complainant's name from an electric service account that was found to being serving foreign load. *Formal Complaint* ¶¶ 4.B and 5. Since applicable law expressly authorizes an electric distribution company like Met-Ed to change the name on an electric service account under the exact conditions prevailing in this case and the Complainant cannot show that the Company committed an act or omission in violation of a Commission statute, regulation or order, or violated its tariff, the Complaint be must be dismissed with prejudice.

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II. Background

2. Met-Ed is an Electric Distribution Company that is certificated as a public utility in Pennsylvania.

3. On or about April 12, 2011, the Complainant filed a Formal Complaint with the Commission against Met-Ed at the above docket. The Complainant alleges that Met-Ed improperly removed the Complainant's name from an existing electric service account. *Formal Complaint ¶¶ 4.B and 5.*

4. On April 28, 2011, the Complaint was served on Met-Ed via First Class Mail.

5. Met-Ed has filed its Answer and New Matter contemporaneously with these Preliminary Objections.

III. Argument

6. The Commission's Rules of Administrative Practice and Procedure permit the filing of preliminary objections. Specifically, the Commission's regulation at 52 Pa. Code § 5.101 permits a party to file a preliminary objection when a pleading filed with the Commission is legally insufficient such that the Commission cannot grant any relief in response to the Complaint. 52 Pa. Code § 5.101(a)(4). In addition, Section 703 of the Public Utility Code allows the Commission to dismiss a complaint if a hearing is not needed. 66 Pa. C.S. § 703(b).

7. The Commission has found that preliminary objections allowed by 52 Pa. Code § 5.101 are comparable to a demurrer in a civil case, which is authorized by Rule 107(b) of the Pennsylvania Rules of Civil Procedure. *Application of Main Line Transit Service, Inc.*, Docket No. A-00116172, (Order entered October 3, 2010).

8. The electric account in dispute is used to service a working farm that has a residence and a barn. There is one meter on the property which services both the residence and

the barn. The Complainant and his wife rent out the residence from the owner Jerome Breeding. Mr. Breeding uses the barn, electrical fence, and electrical elevator at the property.

9. On February 1, 2011, the Complainant's wife contacted Met-Ed by phone regarding a high bill. The Company representative completed a customer billing analysis ("CBA"). Upon reviewing the CBA, the Complainant's wife informed the Company representative that: (i) the landlord uses the barn, electric fence, and electric elevator on the property and (ii) her rent is discounted as a result of the landlord using the barn, electric fence, and electric elevator on the property. The customer representative advised the Complainant's wife that: (i) a shared metering condition may exist; (ii) he is opening up a shared metering investigation; and (iii) if the findings of the investigation indicate that a shared metering condition exists then the account along with any arrearages will be placed in the landlord's name.

10. On March 11, 2011, a Company representative made contact with Mr. Breeding and explained the Company's belief that a shared metering condition may exist at the Service Location. Mr. Breeding confirmed that the meter at the Service Location services the barn, electric fence, and grain elevator that both he and his tenants -- i.e., the Complainant -- use. The Company representative informed Mr. Breeding that because he admitted the existence of a shared metering condition, the electric service account at the Service Location, along with any balances, would be placed in his name.

12. Mr. Breeding has not fixed the shared metering condition at the Service Location.

13. The Complainant disputes the fact that Met-Ed took the electric service out of his name due to a shared metering condition. *Formal Complaint ¶ 4.B.* For relief, Complainant requests that the Commission "order Met-Ed to put the electric service back in my name." *Formal Complaint ¶ 5.*

14. Section 1529.1 of the Public Utility Code, 66 Pa. C.S. § 1529.1, requires a utility company to list the account, including any arrearages, in the name of the landlord upon the finding of foreign load. Specifically, Section 1529.1 states:

Upon receipt of the notice provided in this section, if the mobile home park or residential building contains one or more dwelling units not individually metered, an affected public utility shall forthwith list the account for the premises in question in the name of the owner, and the owner shall thereafter be responsible for the payment for the utility services rendered thereunto. In the case of individually metered dwelling units, unless notified to the contrary by the tenant or an authorized representative, an affected public utility shall list the account for the premises in question in the name of the owner, and the owner shall be responsible for the payment for utility services to the premises.

15. In *Ace Check Cashing, Inc. v. Philadelphia Gas Works, Eddie and Jennifer West*, Docket No. C-2008-2056428 (Final Order entered May 21, 2010), the Commission held that utilities are to list the account, including any arrearages, in the name of the landlord upon the finding of foreign load. The landlord has the responsibility to pay the utility bills until the foreign load is corrected. Once the foreign load is corrected by the landlord and verified by the utility, the utility will place the account back in the name of the tenant. However, the arrearage, if any, is required to remain with the landlord.

16. After the Complainant's landlord, Mr. Breeding, verified that a shared metering condition existed at the property, Met-Ed removed the Complainant's name from the electric account at the Service Location and transferred the account including the Complainant's balance of \$489.51 to Mr. Breeding, pursuant to 66 Pa. C.S. § 1529.1, and Commission policy. See *Ace Check Cashing, Inc. v. Philadelphia Gas Works, Eddie and Jennifer West*, Docket No. C-2008-2056428 (Final Order entered May 21, 2010).

17. It is both clear and undisputed that Met-Ed fully complied with the Public Utility Code and Commission precedent in the way it handled this foreign load situation after being notified of the actual service conditions. Under these circumstances, the Complainant's request that he be reinstated as the customer of record is unsupported, and he has therefore failed to demonstrate that Met-Ed has committed or omitted an act in violation of a Commission statute, regulation, order, or Met-Ed's tariff.

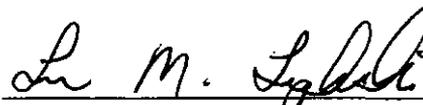
18. Therefore, the Complaint of Jeremy W. Cook is legally insufficient for failure to state a claim upon which the Commission can grant relief.

IV. Conclusion

WHEREFORE, for the foregoing reasons, Metropolitan Edison Company, respectfully requests that the Commission grant its Preliminary Objections, dismiss the Formal Complaint of Jeremy W. Cook with prejudice, and grant the Company such other relief as may be just and reasonable under the circumstances.

Respectfully submitted,

Dated: May 18, 2011



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(610) 372-4761

Attorneys for
Metropolitan Edison Company

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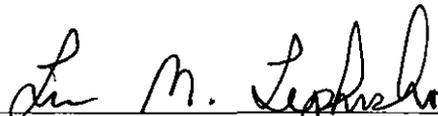
CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document upon the parties, listed below, in accordance with the requirements of § 1.54 (relating to service by a party).

Via First-Class U.S. Mail

Jeremy W. Cook
4772 Wolfgang Road
Glennville, PA 17329

Dated this 18th day of May, 2011.



Lauren Lepkoski, Esq.

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