

Bridgid M. Good
610 372 4761
bridgid.good@bipc.com

1150 Berkshire Blvd., Suite 210
Wyomissing, PA 19610-1208
T 610 372 4761
F 610 372 4177
www.buchananingersoll.com

June 30, 2011

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VIA UPS

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

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Re: Wilbert Thomas v. Metropolitan Edison Company
Docket No. C-2010-2163584

Dear Secretary Chiavetta:

Enclosed please find the original and three (3) copies of the Answer of Metropolitan Edison Company to the Motion of Wilbert Thomas to Resubmit Exhibit No. 4 in the above-captioned proceeding. Copies have been served in accordance with the attached Certificate of Service.

Very truly yours,



Bridgid M. Good

BMG/ljs
0078977-000029
Enclosure

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

WILBERT THOMAS	:	
	:	
v.	:	Docket No. C-2010-2163584
	:	
METROPOLITAN EDISON COMPANY	:	

**METROPOLITAN EDISON COMPANY'S ANSWER TO MOTION OF
WILBERT THOMAS TO RESUBMIT EXHIBIT NO. 4**

TO ADMINISTRATIVE LAW JUDGE SALAPA:

AND NOW, Metropolitan Edison Company ("Met-Ed" or the "Company"), pursuant to Section 5.61 of the Commission's regulations, by and through its counsel, Bridgid M. Good, Jeffrey A. Franklin and Buchanan Ingersoll & Rooney PC, opposes the Complainant's Motion to Resubmit Exhibit No. 4 ("Motion") filed on June 20, 2011 as follows:

1. The record is closed. Section 5.431 of this Commission's Regulations provides that the record will be closed at the conclusion of the hearing unless otherwise directed by the presiding officer or the Commission and after the record is closed, additional matter may not be relied upon or accepted into the record unless allowed for good cause shown by the presiding officer or the Commission upon Motion. 52 Pa. Code § 5.431.

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2. In the instant matter, the Complainant failed to request that the record be held open pending a Motion to Resubmit Exhibit No. 4¹. The Complainant has provided no cause, much less good cause, for why the Complainant failed to present the dated receipt in a timely fashion at the hearing. Further, the Complainant failed to request that the record be held open for the admission of such a late filed exhibit. To reopen the record at this point in time would prejudice the Company as the Complainant is no longer available for cross examination by the Company with respect to the Exhibit now offered.

3. In addition, the proposed Exhibit in the Motion appears to be evidence related to a request for money damages. As discussed at the hearing at length, the Commission has no jurisdiction to award monetary damages and such evidence pertaining to monetary damages is irrelevant. Elkin v. Bell, 420 A.2d 371 (1980); Feingold v. Bell of Pennsylvania, 383 A.2d 791 (1978); see Nagy v. Bell Tel. Co., 436 A.2d 701 (Pa. Super. 1981); Behrend v. Bell Telephone Co., 363 A.2d 1152 (Pa. Super 1976); Brockway Glass Company, Inc. v. West Penn Power Co., 54 Pa. P.U.C. 509 (1980); Bones v. Bates Taxi, Inc., 51 Pa. P.U.C. 346 (1977).

4. Further, the Commission's Regulations at Sections 5.401 through 5.404 clearly provide that a party shall move for the admission of evidence into the record upon presentation of the sponsoring witness and after opportunity for other parties to examine the witness and an appropriate ruling on admissibility of the evidence. That opportunity and time has come and gone. 52 Pa. Code §§ 5.401-5.404

¹ Indeed, at the hearing, Complainant submitted an exhibit, identified as C-4 for the record, which is a hand-written note by the Complainant related to an investigation completed by the Company on March 18, 2010.

5. Finally, Section 5.409 of the Commission's regulations states that documentary evidence shall be furnished to the presiding officer and to the parties present at the hearing, unless the presiding officer otherwise directs, which did not occur in the instant matter. 52 Pa. Code §5.409. Not only did the Complainant not furnish the Exhibit at the Hearing, he also did not provide it to the Company prior to the hearing as directed during the April 25, 2011 Prehearing Conference in this matter.

WHEREFORE, Metropolitan Edison Company hereby objects to the Complainant's Motion to Resubmit Exhibit No. 4 as untimely, not supported by good cause, beyond the scope of the Commission's jurisdiction and the issues litigated in this proceeding, and unduly prejudicial to the Company and requests that Exhibit No. 4 not be permitted into the record and the Administrative Law Judge grant such other relief that is just and reasonable under the circumstances.

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Respectfully submitted,

Dated: June 30, 2011

A handwritten signature in black ink, appearing to be "Jeffrey A. Franklin", is written over a horizontal line. The signature is stylized with a large, looped initial "J" and "F".

Bridgid M. Good
Jeffrey A. Franklin
BUCHANAN INGERSOLL & ROONEY PC
1150 Berkshire Boulevard, Suite 210
Wyomissing, Pennsylvania 19610-1208
(610) 372-4761

Attorneys for
Metropolitan Edison Company

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

WILBERT THOMAS :
 :
 v. : Docket No. C-2010-2163584
 :
 METROPOLITAN EDISON COMPANY :

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the Answer of Metropolitan Edison Company to the Motion of Wilbert Thomas to Resubmit Exhibit No. 4 upon the individuals listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

Service by First Class Mail, postage prepaid, addressed as follows:

Wilbert Thomas
P.O. Box 524
Red Lion, PA 17356

Administrative Law Judge David A. Salapa
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

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Dated: June 30, 2011



Bridgid M. Good
BUCHANAN INGERSOLL & ROONEY PC
1150 Berkshire Boulevard, Suite 210
Wyomissing, PA 19610-1208
Telephone: (610) 372-4761

Attorneys for
Metropolitan Edison Company

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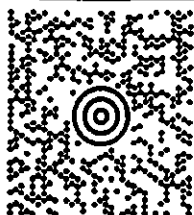
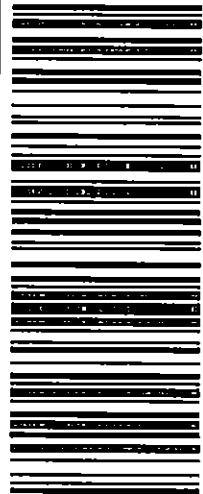

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