

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

July 28, 2011

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JUL 28 2011

VIA UPS

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

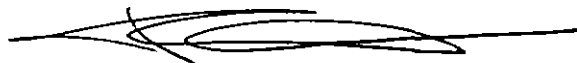
PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Re: Frank D'Ascensio v. Metropolitan Edison Company
Docket No. C-2011-2246838

Dear Secretary Chiavetta:

Enclosed please find an original and three (3) copies of the Motion to Strike a Portion of the Complainant's Response to the Answer and New Matter on behalf of Metropolitan Edison Company 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
0078977-000047
Enclosure

cc: Per Certificate of Service

RECEIVED

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

JUL 28 2011

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

FRANK D'ASCENSIO

v.

METROPOLITAN EDISON COMPANY

TO: Frank D'Ascensio
227 Locust Drive
Milford, Pennsylvania 18337

Docket No. C-2011-2246838

NOTICE TO PLEAD

You are hereby notified that, if you do not file a written response to the enclosed Motion to Strike within twenty (20) days from service of this notice, the facts set forth by Metropolitan Edison Company in the Motion to Strike may be deemed to be true, thereby requiring no other proof. All pleadings, such as a Response to the enclosed Motion to Strike, must be filed with the Secretary of the Pennsylvania Public Utility Commission, with copies served on all other parties to this proceeding. Failure to respond to the Motion to Strike could result in the dismissal of your case.

Dated: July 28, 2011



Bridgid M. Good
Jeffrey A. Franklin
BUCHANAN INGERSOLL & ROONEY PC
(formerly Ryan, Russell, Ogden & Seltzer P.C.)
1150 Berkshire Boulevard, Suite 210
Wyomissing, PA 19610-1208
(610) 372-4761

Counsel for Metropolitan Edison Company

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

JUL 28 2011

FRANK D'ASCENSIO

v.

METROPOLITAN EDISON COMPANY

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Docket No. C-2011-2246838

**MOTION OF METROPOLITAN EDISON COMPANY
TO STRIKE A PORTION OF THE COMPLAINANT'S RESPONSE TO THE
ANSWER AND NEW MATTER**

TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

AND NOW, Metropolitan Edison Company ("Met-Ed" or the "Company"), by and through its counsel, Bridgid M. Good, Jeffrey A. Franklin and Buchanan Ingersoll & Rooney PC, files this Motion to Strike a Portion of the Complainant's Response to the Answer and New Matter ("Motion") pursuant to Section 5.103 of this Commission's regulations, 52 Pa. Code § 5.103, and avers as follows:

I. INTRODUCTION

1. This Motion requests that the Commission strike a portion of the Complainant's Response to the Company's Answer and New Matter ("Response") because such a response is (i) not permitted by the Commission's procedural rules and (ii) prejudicial to the Company¹.

II. FACTUAL BACKGROUND

¹ In the Response, the Complainant provides his reply to the Company's New Matter filed on July 5, 2011. The Company is not challenging this portion of the Response because it is proper under the Commission's regulations at 52 Pa. Code §5.63.

2. On or about May 27, 2011, the Complainant filed a Formal Complaint at Docket No. C-2011-2246838 ("Formal Complaint") alleging a number of power outages/momentary interruptions at the service location. *Formal Complaint*, ¶ 4(B).

3. The Formal Complaint was served on the Company on June 15, 2011.

4. On July 5, 2011, the Company timely filed its Answer and New Matter to the Formal Complaint ("Answer and New Matter").

5. On or about July 13, 2011, the Complainant filed his Response.

III. ARGUMENT

6. In accordance with the Commission's regulations at 52 Pa. Code § 5.63, parties should file a reply to answers seeking affirmative relief or to any answers containing new matter. Such replies shall be filed within 20 days. *52 Pa. Code § 5.63*.

7. The Commission's procedural rules do not allow for a party to respond to an answer which does not (i) contain new matter, or (ii) seek affirmative relief.

8. In the Response, the Complainant not only responds to the New Matter - which is permitted by the Commission's procedural rules and not being challenged by the Company - but provides a response to the Company's Answer adding new and extensive factual statements not included as part of the Formal Complaint.

9. Indeed, the Response contains four (4) full single-spaced pages of detailed factual statements related to the Formal Complaint purporting to be responses to the Company's Answer and New Matter. *Response* ¶¶ 1-10. If the Complainant intended these factual statements to be part of the Formal Complaint, he should have included them in the first instance when it was filed in May 2011.

10. The Response is not permissible under the Commission's regulations as described above. To allow it to stand, as is, would be in direct contravention of the Commission's procedural rules.

11. In addition, the Company will be prejudiced by not having an opportunity to respond to the factual statements in the Response. The Commission's rules do not authorize the Company to file an answer to a pleading like the Response filed by the Complainant.

12. Furthermore, the Company fears that filing an additional answer to the factual statements in the Response will only cause the Complainant to file another inappropriate and unauthorized responsive pleading thereby continuing the cycle of *improper responsive pleadings*.

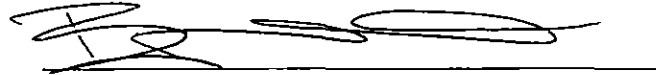
IV. CONCLUSION

13. Based on the above, the Complainant's Response to the Company's Answer should be stricken from the record because (i) it is not allowed by the Commission's regulations and (ii) is prejudicial to the Company.

WHEREFORE, Metropolitan Edison Company hereby requests that the Commission grants its Motion to Strike a Portion of the Complainant's Response to the Company's Answer and New Matter and grant the Company such other relief as is just and reasonable under the circumstances.

Respectfully submitted,

Dated: July 28, 2011



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 JUL 28 2011

FRANK D'ASCENSIO

v.

METROPOLITAN EDISON COMPANY

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Docket No. C-2011-2246838

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the Motion to Strike a Portion of the Complainant's Response to the Answer and New Matter on behalf of Metropolitan Edison Company 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:

Frank D'Ascensio
227 Locust Drive
Milford, PA 18337

Dated: July 28, 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

UPS CampusShip: View/Print Label

1. **Print the label(s):** Select the Print button on the print dialog box that appears. Note: If your browser does not support this function select Print from the File menu to print the label.
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Your driver will pickup your shipment(s) as usual.

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<p>STEWART LAURAD. (610) 372-4761 4761 BUCHANAN INGERSOLL & ROONEY PC ONE SOUTH MARKET SQUARE HARRISBURG PA 17101</p> <p>SHIP TO: ROSEMARY CHIAVETTA, SECRETARY PA PUBLIC UTILITY COMMISSION SECOND FLOOR 400 NORTH STREET COMMONWEALTH KEYSTONE BUILDING HARRISBURG PA 17120-0093</p>	<p>0.0 LBS LTR 1 OF 1</p> <p>PA 171 9-20</p> 	<p>UPS NEXT DAY AIR 1</p> <p>TRACKING #: 1Z VE5 478 01 9410 1937</p>		<p>BILLING: P/P</p> <p>Timekeeper Name: B. Good C/M #: 0078977-000047</p> <p>CS 13.5.32 W00E70 18.0A 07/2011</p> 
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