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October 15, 2013

VIA UPS OVERNIGHT DELIVERY

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


Re: Roman Maleszewski v. Metropolitan Edison Company
Docket No. C-2013-2360862

Dear Secretary Chiavetta:

On behalf of Metropolitan Edison Company, I have enclosed for filing the Objection to Complainant's Documents of Metropolitan Edison Company in the above-captioned matter.

Copies have been served on all parties as indicated in the attached certificate of service.

Very truly yours,



Brian C. Wauhop

BCW/tlg
Enclosure
cc: Certificate of Service

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OCT 15 2013

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

OCT 15 2013

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

ROMAN MALESZEWSKI :
 :
 v. : Docket No. C-2013-2360862
 :
 METROPOLITAN EDISON COMPANY :

**METROPOLITAN EDISON COMPANY'S OBJECTION
TO COMPLAINT'S DOCUMENTS**

TO THE PRESIDING ADMINISTRATIVE LAW JUDGE:

Metropolitan Edison Company ("Met-Ed" or the "Company"), by and through its counsel, Brian C. Wauhop, Alan Michael Seltzer and Buchanan Ingersoll & Rooney PC, files this Objection to three documents filed by Roman Maleszewski ("Complainant") after the conclusion of the evidentiary hearing held in this proceeding on September 11, 2013, and in support thereof, avers as follows:

I. Requested Relief

1. As specified in the balance of this Motion, the Company requests that the Commission strike and disregard in its entirety three documents filed by the Complainant after the conclusion of the September 11, 2013 evidentiary hearing; (i) a letter, (ii) a document containing a notary seal and (iii) two pages of an alleged lease agreement. While the these documents purport to comply with an order issued by Administrative Law Judge Susan D. Colwell ("ALJ") on September 11, 2013 ("Order"), they are nonetheless defective and should not be admitted into the record of this proceeding.

2. As explained below, the Commission should strike and disregard the three documents filed by the Complainant because they attempt to re-introduce information that the ALJ ruled at the evidentiary hearing to be inadmissible, and fail to comply with the Order.

II. Introduction

3. On September 11, 2013, an evidentiary hearing was held on the Formal Complaint filed by the Complainant against Met-Ed.

4. During the hearing, the Complainant attempted to introduce a notarized document dated August 28, 2013 that was signed and written by a “Shakierra Johnson” (“Notarized Document”). Because the Notarized Document was written by a person who was not present at the hearing to testify, the ALJ properly sustained the Company’s hearsay objection and ruled that the document was inadmissible.

5. The Complainant also sought to introduce into the record at the evidentiary hearing part of a lease agreement allegedly executed between himself and a tenant. Met-Ed’s objection to this partial lease on relevance and hearsay grounds was overruled and this document was admitted into evidence.

6. After the hearing concluded, the ALJ issued the Order directing the Complainant to mail a photocopy of the entire lease document, along with a verification stating that the lease is a full and accurate copy of the original lease, to both the ALJ and the Company.

7. On October 7, 2013, the Company received a letter from the Complainant (“Complainant’s Letter”), a copy of the Notarized Document that was not entered into evidence at hearing following the sustained objection of the Company, and a two page document titled “Residential Lease/Rental Agreement” (“Lease”). No verification, as required by the Order, accompanied these documents.

8. The Notarized Document was affirmatively denied entry to the evidentiary record at the hearing, was not requested to be filed in the Order, and its admission into evidence now is not authorized or permitted at this stage of the proceeding.

9. In addition, the Complainant failed to comply with the Order's specific requirement that a verification be attached to the Lease.

10. The Complainant's Letter is not a verification attesting that the copy of the Lease is a true and correct copy of the original lease, and because it contains additional argument and factual averments outside of the record evidence established at the hearing, its introduction into the record at this late stage is not only prejudicial to the Company but is completely inappropriate

III. Argument

A. The Notarized Document was Rejected at Hearing and Cannot Be Submitted Now

11. As stated above, receipt of the Notarized Document into the record at this stage is not authorized by either the Commission's regulations at Section 5.403, 52 Pa. Code § 5.403, or the Order. As such, the Complainant cannot lawfully or appropriately file the Notarized Document now.

12. Section 5.403 of the Commission's regulations provides that the presiding officer shall have the authority to control the receipt of evidence at hearing, including ruling on the admissibility of evidence. The Complainant offered the Notarized Document into evidence at the evidentiary hearing, which offer was rejected by the ALJ. There is no reason—and indeed it would be inappropriate—to modify the ALJ's previous ruling on the admissibility of the Notarized Document.

13. Moreover, the Order does not request a copy of the Notarized Document. As a result, there is no lawful basis for the Complainant to introduce it now, and the Commission should sustain the Company's Objection to this document.

B. The Lease Is Not Verified

14. The Order clearly requires that the sole document requested by the ALJ—the Lease—be verified. The Complainant failed to attach a verification to the Lease.

15. The Commission’s regulations at 52 Pa. Code § 1.36, defines “verification” as “a signed written statement of fact supported by oath or affirmation or made subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).”

16. The documents served upon the Company on October 7, 2013 do not contain any verification, i.e, a signed statement of fact supported by an oath or affirmation subject to the penalties for making false statements to authorities. The Complainant’s Letter is not a verification, rather, the letter contains the Complainant’s arguments regarding the operation of the unverified Lease.

C. The Lease Is Not Relevant

17. The Lease, even if it were verified, does not substantiate the Complainant’s claim that the area where the hallway light is located is part of the tenant’s leased premises. Therefore, it is not relevant, and the Company objects to it on this basis.

18. Pennsylvania Rule of Evidence 401 defines “relevant evidence” as “evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.”

19. Pennsylvania Rule of Evidence 402 provides, in pertinent part, that “[e]vidence that is not relevant is not admissible.”

20. The Lease does not indicate whether the hallway is part of the leased premises or not. This is true despite the handwritten text on the second page purporting to

indicate that the tenant agreed to pay for the light in the hallway.¹ The Lease provides that the “premises” consists of the residential unit located at 532 Lehman Street, 2nd Floor, Lebanon, Pennsylvania. Notably absent from the description of “premises” is the second floor hallway. As such, the Lease does not have any tendency to make the Complainant’s allegation that the hallway was part of the tenant’s leased living space more probable, and therefore, the Lease is irrelevant in this matter. *See* Pa.R.E. 401, 402. The Company objects to the Lease on the basis of relevance, and to the extent that the Company raised a relevance objection to the Lease at hearing, it renews its earlier objection herein.

21. For the reasons specified above, the Complainant has failed to comply with the Order and has provided no lawful basis for the admission of any of the documents submitted with his letter.

22. While the Company understands the practicalities of litigating matters with *pro se* litigants, complainants not represented by counsel are not absolved of complying with the Commission’s rules or orders. *Tremayne Shanault Lewis v. PECO Energy Co.*, Docket No. C-2010-2189187 (Order entered May 4, 2011). The Complainant must follow the same rules the Company must follow, and those rules require the Complainant to abide by the Commission’s regulations and orders. There is no provision authorizing the Commission to accept an unverified document provided to the Commission in violation of the Order, or material beyond the scope of which is permitted by the Order.

¹ The Company is skeptical that the Lease accurately represents the document executed between the parties on February 1, 2011, especially when the Complainant did not produce the tenant at hearing to testify as to her understanding of the document.

II. Conclusion

23. For the reasons specified above, the Company hereby requests that the Notarized Document, Lease and Letter be stricken from and not admitted into the record of this proceeding and ignored completely by the ALJ in deciding this proceeding.

WHEREFORE, Metropolitan Edison Company hereby objects to the Notarized Document, Lease and Letter filed by the Complainant, and requests that these document be stricken from and not admitted into the record of this proceeding and ignored completely by the ALJ in deciding this matter, and that the Commission grant the Company such other relief as may be just and reasonable under the circumstances.

Respectfully submitted,



Dated: October 15, 2013

Brian C. Wauhob, Esq.
Alan Michael Seltzer, Esq.
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409 North Second Street, Suite 500
Harrisburg, PA 17101
(717) 237-4862

Attorneys for Metropolitan Edison Company

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

ROMAN MALESZEWSKI

v.

METROPOLITAN EDISON COMPANY

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Docket No. C-2013-2360862

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).

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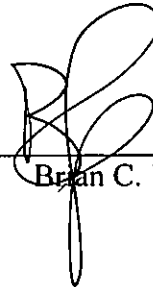
Roman Maleszewski
P.O. Box 68
Palmyra, PA 17078

Dated this 15th day of October, 2013.

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OCT 15 2013

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU



Brian C. Wauhop, Esq.

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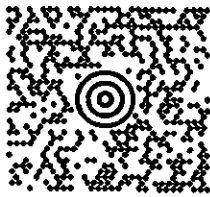
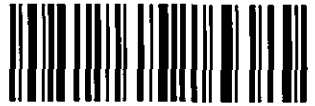
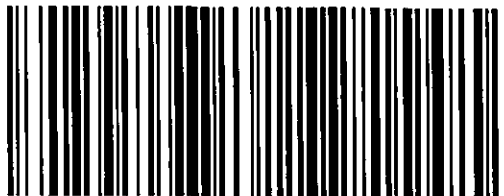

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