

August 18, 2016

Via Electronic Filing

Rosemary Chiavetta, Esquire
Secretary
PA Public Utility Commission
Commonwealth Keystone Building, 2 North
P.O. Box 3265
Harrisburg, PA 17105-3265

**Re: Docket No. C-2016-2547092
Zakkiyah Salahuddin v. Metropolitan Edison Company
Motion to Compel of Met-Ed**

Dear Secretary Chiavetta:

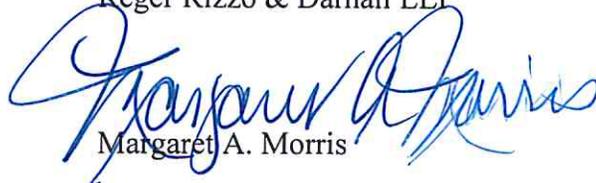
Attached for filing is the Motion of Respondent, Metropolitan Edison Company to Compel Discovery responses of Complainant, Zakkiyah Salahuddin, in the above referenced matter.

A copy of the attached Motion to Compel has been served on the Complainant as indicated on the attached Certificate of Service.

If there are any questions, please contact me.

Very truly yours,

Reger Rizzo & Darnall LLP



Margaret A. Morris

MAM/jmm
Attachment

cc: The Hon. Joel Cheskis, PA Public Utility Commission [w/enc.]
Tori Giesler, Esquire, FirstEnergy Service Company [w/enc.]
Zakkiyah Salahuddin [w/enc.]

**Re: Docket No. C-2016-2547092
Zakkiyah Salahuddin v. Metropolitan Edison Company
Motion to Compel of Met-Ed**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been served upon the person(s) on this service list, in the manner indicated, in accordance with the requirements of § 1.54 (relating to service by a participant).

Via First Class Mail

Zakkiyah Salahuddin
600 Canal Street, B3
Easton, PA 18042

Dated: August 18, 2016


Margaret A. Morris, Esq.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

ZAKKIYAH SALAHUDDIN

v.

METROPOLITAN EDISON COMPANY

:
:
:
:
:

Docket No. C-2016-2547092

NOTICE TO PLEAD

Pursuant to 52 Pa. Code § 5.63, you are hereby notified that if you do not file a written response answering the enclosed Motion to Compel of Metropolitan Edison Company within five (5) days from service of this notice, the facts set forth by Metropolitan Edison Company in the Motion may be deemed to be true, whereby requiring no other proof. All pleadings, such as a Answer to the Motion, must be filed with the Secretary of the Pennsylvania Public Utility Commission, with a copy served to counsel for Metropolitan Edison Company, Margaret A. Morris, Esq., and Administrative Law Judge Joel H. Cheskis.

File with:

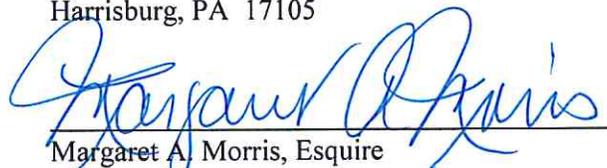
Rosemary Chiavetta, Esquire
Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building – 2 North
P.O. Box 3265
Harrisburg, PA 17105

With a copy to:

Margaret A. Morris, Esquire
Reger Rizzo & Darnall LLP
Cira Centre, 13th Floor
2929 Arch Street
Philadelphia, PA 19104

Hon. Joel H. Cheskis
OALJ
Pennsylvania Public Utility Commission
Commonwealth Keystone Building – 2 West
P.O. Box 3265
Harrisburg, PA 17105

Date: August 18, 2016



Margaret A. Morris, Esquire
Attorney ID No. 75048
Reger Rizzo & Darnall LLP
Cira Centre, 13th Floor
2929 Arch Street
Philadelphia, PA 19104
(215) 495-6524 (tel.)
(215) 495-6600 (fax)
mmorris@regerlaw.com

Counsel for Metropolitan Edison Company

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

ZAKKIYAH SALAHUDDIN	:	
	:	
v.	:	Docket No. C-2016-2547092
	:	
METROPOLITAN EDISON COMPANY	:	

**MOTION OF METROPOLITAN EDISON COMPANY
TO COMPEL RESPONSES TO INTERROGATORIES
AND DOCUMENT REQUESTS**

Metropolitan Edison Company (Met-Ed or Respondent) by and through its attorneys, Reger Rizzo & Darnall LLP, and pursuant to 52 Pa. Code §§5.371-5.372, hereby files this Motion to Compel Zakkiyah Salahuddin (Complainant) to provide full and complete responses to interrogatories and document requests issued by Met-Ed on July 25, 2016. In support thereof, Met-Ed avers as follows:

BACKGROUND

1. On April 25, 2016, the Complainant filed a Formal Complaint with the Pennsylvania Public Utility Commission (Commission) checking the following boxes on the formal complaint form: (1) there were incorrect charges on her account; (2) she was having a reliability, safety or quality problem with her electric service; and (3) other where she wrote, “requesting an appeal.” She requested that the alleged incorrect charges be removed from her account¹ for service provided to 600 Canal Street, Apartment B3, Easton, Pennsylvania (Service Location).

¹ Account No. 100114278748.

2. On June 13, 2016, Met-Ed filed its Answer and New Matter, which denied the material allegations. Simultaneous with that filing, Met-Ed also filed a Preliminary Objection (PO) asserting that an appeal of the Commission's Final Order dismissing her 2015 Formal Complaint² must be made to the Commonwealth Court, which has exclusive jurisdiction to entertain and rule on final actions of the Commission. Met-Ed requested the complaint be dismissed in its entirety since it contained impertinent matter in its requested relief.

3. By Order dated July 22, 2016, Administrative Law Judge Joel H. Cheskis (Judge Cheskis) granted, in part, the PO finding that appeals of Commission decisions are within the exclusive jurisdiction of the Commonwealth Court consistent with Pa.R.A.P. 1501. Judge Cheskis ruled that the Complaint also alleged incorrect charges and a reliability, safety or quality problem with her utility service. He specifically found that the Complainant should have the opportunity at hearing to be heard on those averments since "incorrect charges and reliability, safety or quality problem averred by [the Complainant] in her complaint could have arisen since the record closed" in the [2015 Complaint] proceeding.

4. On July 26, 2016, in accordance with 52 Pa. Code §5.341, Met-Ed forwarded to the Complainant interrogatories and document requests (Discovery Request) via first class mail. In its Discovery Requests, Met-Ed sought information regarding, *inter alia*, the alleged incorrect charges and alleged reliability, safety or quality problem with her service. A copy of the Discovery Requests of Met-Ed is provided as Attachment 1.

² Docket No. F-2015-2463441, Final Order entered July 23, 2015.

5. Objections to Met-Ed's Discovery Requests were due on or before August 5, 2016 and Answers to the Discovery Requests were due on or before August 15, 2016.

6. On August 8, 2016, the matter was scheduled for a telephonic hearing on September 15, 2016 before Judge Cheskis.

7. The Complainant did not file any objection to the Discovery Request and has not provided any responses or the requested documents by the due date. Accordingly, and prior to filing this Motion to Compel, counsel for Met-Ed contacted the Complainant via email the evening of August 15, 2016 regarding the overdue responses. No reply by the Complainant was received.

MOTION TO COMPEL

8. The Commission's regulations permit the discovery of "any matter, not privileged, which is relevant to the subject matter involved in the pending action." 52 Pa. Code § 5.321 (c).

9. Generally speaking, this Commission applies a standard of relevance, which is less restrictive than that required by parties to present information into the evidentiary record. It is not grounds for objection that the information sought will be inadmissible at hearing if the information sought appears reasonably calculated to lead to the discovery of admissible evidence. 52 Pa. Code §5.321(c).

10. Discovery may be obtained regarding any matter relevant to the subject matter. Relevant evidence is evidence that tends to make an act at issue more or less probable. Moreover, evidence is relevant if it advances the inquiry in some degree and, thus, has probative value. Although the law does not furnish an absolute test of relevancy, the Pennsylvania Supreme Court follows a two-part analysis for determining relevance. In *Commonwealth v. Stewart*, 461 Pa. 274, 336 A.2d 282 (1975), the Court held that “[i]t must be determined first if the inference sought to be raised by the evidence bears upon a matter at issue in this case and, second, whether the evidence renders the desired inference more probable than it would be without the evidence. *Id.* at 284.

11. The information sought here by Met-Ed is relatively simple and straightforward. It is directly relevant and material to the issues raised by the Complainant. Met-Ed is entitled to the requested information to enable it to fully prepare for the scheduled hearing in this proceeding.

12. The Commission’s Regulations at 52 Pa. Code §5.371 address the consequences of a participant’s failure to comply with the Commission’s discovery regulations. Section 5.371 provides that:

(a) The Commission or the presiding officer may, on motion, make an appropriate order if one of the following occurs:

(1) A party fails to appear, answer, file sufficient answers, file objections, make a designation or otherwise respond to discovery requests, as required under this subchapter.

13. Section 5.372 provides that the presiding officer may impose appropriate sanctions upon a party found to be found in violation of the obligations set forth in the Commission's Regulations.

14. Met-Ed requests that the Complainant be directed to provide full and complete responses to the Discovery Requests to be received by the undersigned counsel to Met-Ed within ten (10) days after entry of an Order Granting the Motion to Compel so that it may prepare for the scheduled telephonic hearing on September 15, 2016.

15. Administrative agencies, such as the Commission, are required to provide due process to the parties appearing before them. *Schneider v. Pa Pub.Util. Comm'n.*, 479 A.2d 10 (Pa. Cmwlth. 1984). The Commission, as an administrative body, is also bound by principle of common fairness doctrine. Among the requirements of due process are notice and an opportunity to be heard on the issues, to be apprised of the evidence submitted, to cross-examine witnesses, to inspect documents and to offer evidence in explanation or rebuttal. *Hess v Pa. PUC*, 107 A.3d 246 (2014). The Courts have recognized that the fundamental requirement of due process is the opportunity to be heard at a meaningful time and in a meaningful manner. *Barasch v.Pa. PUC*, 521 A.2d 482, 496 (1987).

16. The case law is well-settled. The Commission's regulation is clear. Met-Ed has an absolute right to be made aware of the allegations BEFORE the hearing and the absolute right to respond and defend its actions. The Complainant has not contacted the Company to dispute any charges incurred since the dismissal of her 2015 formal complaint or to allege any service issue

occurring since the dismissal of her 2015 formal complaint, but rather simply checked those boxes on the formal complaint form.

17. In the event the Complainant is directed by the Commission but fails to respond to the Discovery Requests, Met-Ed requests that the Complaint against Met-Ed be dismissed in its entirety and the scheduled hearing be cancelled.

WHEREFORE, Metropolitan Edison Company respectfully requests that presiding Judge Cheskis issue an Order: (a) compelling the Complainant to fully and completely respond to the Discovery Requests such that the responses are received by counsel for Met-Ed no later than ten (10) calendar days after entry of an Order on the Motion to Compel; and (b) in the event the Complainant is directed by the Commission but fails to respond to Met-Ed's requests, dismiss in its entirety the Complaint of Zakkiyah Salahuddin and cancel the scheduled hearing.

Respectfully submitted,



Date: August 18, 2016

Margaret A. Morris, Esq.
Attorney ID No. 75048
Reger Rizzo & Darnall LLP
Cira Centre, 13th Floor
2929 Arch Street
Philadelphia, PA 19104
(215) 495-6524 tel.
(215) 495-6600 fax
mmorris@regerlaw.com

Counsel for Metropolitan Edison Company

Docket No. C-2016-2547092
Zakkiyah Salahuddin v. Metropolitan Edison Company

Attachment 1

Discovery Requests of Met-Ed

July 26, 2016

VIA FIRST-CLASS MAIL

Zakkiyah Salahuddin
600 Canal Street, B3
Easton, PA 18042

**Re: Docket No. C-2016-2547092
Zakkiyah Salahuddin v. Metropolitan Edison Company
Interrogatories and Requests for Production of Documents of Met-Ed**

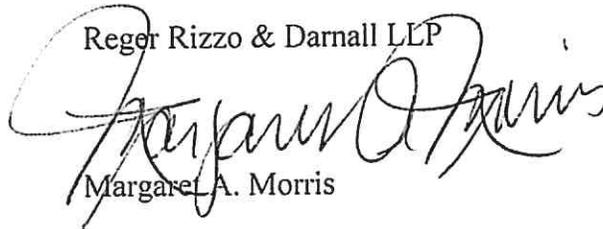
Dear Ms. Salahuddin:

Enclosed please find the Interrogatories and Requests for Production of Documents of Metropolitan Edison Company in the above referenced proceeding. Pursuant to 52 Pa. Code §§ 5.321 and 5.349 et seq. your Objections are due within **ten (10) days** of service of this letter or August 5, 2016; your Answers are due within **twenty (20) days** of service of this letter or August 15, 2016.

Please note that you must send a cover letter and Certificate of Service for your responses to the Honorable Joel H. Cheskis and Rosemary Chiavetta, Esquire, Secretary of the PA Public Utility Commission (PUC). **You do not file your response with the PUC.**

Very truly yours,

Reger Rizzo & Darnall LLP



Margaret A. Morris

MAM/jmm
Enclosure

cc: The Hon. Joel Cheskis, PA Public Utility Commission [Cert of Service only]
Rosemary Chiavetta, Esquire, PA Public Utility Commission [Cert of Service only]
Tori Giesler, Esquire, FirstEnergy Service Company [w/encl.]



PENNSYLVANIA
PUBLIC UTILITY COMMISSION

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Your filing has been electronically received. Upon review of the filing for conformance with the Commission's filing requirements, a notice will be issued acknowledging such compliance and assigning a Docket Number. The matter will receive the attention of the Commission and you will be advised if any further action is required on your part.

Print this page for your records. The date filed on will be the current day if the filing occurs on a business day before or at 4:30 PM Harrisburg, PA time. It will be the next business day if the filing occurs after 4:30 PM Harrisburg, PA time or on weekends or holidays.

If your filing exceeds 250 pages, you are required to submit one paper copy of the filing within 3 business days of submitting the electronic filing. This paper copy can be mailed to: Secretary, Pennsylvania Public Utility Commission, Commonwealth Keystone Building, 400 North Street, 2nd Floor, Harrisburg, PA 17120 . Please print a copy of this page and attach it to the paper copy of your filing as the first page.

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Description:	Zakkiyah Salahuddin v. Metropolitan Edison Company
Transmission Date:	7/26/2016 3:45:46 PM
Filed On:	7/26/2016 3:45:46 PM
eFiling Confirmation Number:	1643837

Uploaded File List

File Name	Document Class	Document Type
Discovery Cert of Service - Salahuddin.pdf	Other Filing	Certificate of Service

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**Re: Docket No. C-2016-2547092
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Interrogatories and Requests for Production of Documents of Met-Ed**

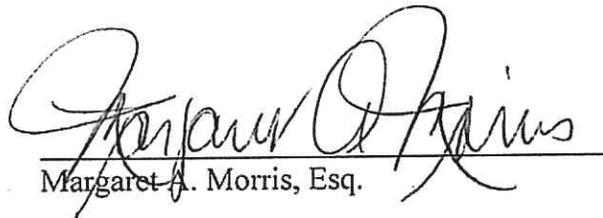
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been served upon the person(s) on this service list, in the manner indicated, in accordance with the requirements of § 1.54 (relating to service by a participant).

Via First Class Mail

Zakkiyah Salahuddin
600 Canal Street, B3
Easton, PA 18042

Dated: July 26, 2016


Margaret A. Morris, Esq.

INSTRUCTIONS¹

Unless stated otherwise, the following instructions are to be considered to be applicable to all interrogatories:

- (a) Whenever a date, amount or other computation or figure is requested, the exact date, amount or other computation or figure is to be given unless it is not known; and then, the approximate date, amount or other computation or figure should be given or the best estimate thereof; and the answer shall state that the date, amount or other computation or figure is an estimate or approximation.
- (b) No answer is to be left blank. If the answer to an interrogatory or subparagraph of an interrogatory is "none" or "unknown," such statement must be written in the answer. If the question is inapplicable, "N/A" must be written in the answer. If an answer is omitted because of the claim of privilege, the basis of privilege is to be stated.
- (c) If additional space is required for an answer, attach supplemental answer sheets which clearly identify the interrogatory number being answered.
- (d) These interrogatories are continuing, and any information secured subsequent to the filing of your answers which would have been includable in the answers had it been known or available, are to be supplied by supplemental answers.

INTERROGATORIES

1. What charges do you allege are incorrect? Please provide specific date of bill and a detailed explanation about the amount or charge you allege is not correct. Attach a copy of the bill(s) in question.
2. What reliability, safety or quality problem do you allege with your service? Please explain the specific problem, including date(s), time(s) or place(s) and any other relevant detail.

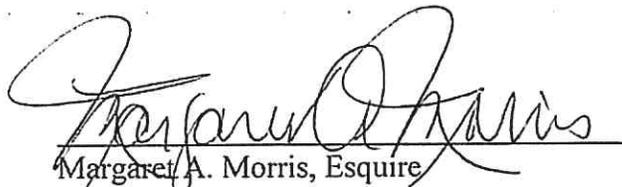
¹ Complainant is not presented by counsel. Therefore, these instructions have been simplified. A good faith effort to completely answer the questions is expected.

3. Did you contact Met-Ed to discuss the alleged incorrect charges? If so, please provide date and time of contact.
4. Did you contact Met-Ed to discuss the alleged reliability, safety or quality problem with your service? If so, please provide date and time of contact.
5. Please list the name and ages of all members of your household, including children and senior citizens.
6. Please provide the gross monthly income for all household members.

REQUESTS FOR DOCUMENTS

1. Please provide a copy of any bills you allege contain incorrect charges as set in your response to Interrogatory 1.
2. Please provide a copy of the last two paystubs for all adults living at the Service Location.

Respectfully submitted,



Margaret A. Morris, Esquire
Attorney I.D. # 75045
Reger Rizzo & Darnall, LLP
Cira Centre, 13th Floor
2929 Arch Street
Philadelphia, PA 19104-2899
(215) 495-6524 (voice)
(215) 495-6600 (fax)
mmorris@regerlaw.com

Counsel for Metropolitan Edison Company

Dated: July 26, 2016