

September 7, 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  
Expedited Motion for Judgment on the Pleadings of Met-Ed**

Dear Secretary Chiavetta:

Attached is the Expedited Motion for Judgment on the Pleadings of Respondent, Metropolitan Edison Company to be filed in the above referenced proceeding.

A copy of the attached Expedited Motion for Judgment on the Pleadings 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  
Expedited Motion for Judgment on the Pleadings of Met-Ed**

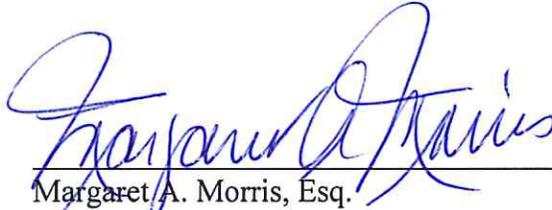
**CERTIFICATE OF SERVICE**

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: September 7, 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 § 5.102, you are hereby notified that if you do not file a written response to the enclosed Expedited Motion for Judgment on the Pleadings of Metropolitan Edison Company, within twenty (20) days from service of this Notice, the facts set forth by Metropolitan Edison Company in the Motion may be granted. All pleadings, such as an Answer to the Motion for Judgment on the Pleadings must be filed with the Secretary of the Pennsylvania Public Utility Commission, with a copy served to counsel for Metropolitan Edison Company, and Administrative Law Judge Joel H. Cheskis.

**File with:**

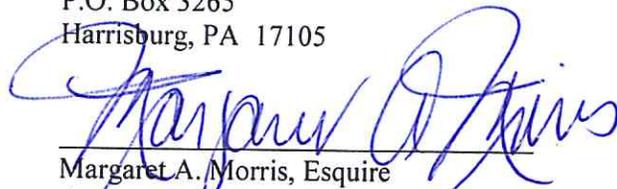
Rosemary Chiavetta, Esquire  
Pennsylvania Public Commission  
Commonwealth Keystone Building  
P.O. Box 3265  
Harrisburg, PA 17105-3265

**With a copy to:**

Margaret A. Morris, Esquire  
Reger Rizzo & Darnall LLP  
Cira Centre, 13<sup>th</sup> 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: September 7, 2016



Margaret A. Morris, Esquire  
Attorney ID No. 75048  
Cira Centre, 13<sup>th</sup> Floor  
2929 Arch Street  
Philadelphia, PA 19104  
(215) 495-6524  
(215) 495-6600

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 | : |                           |

**EXPEDITED MOTION OF METROPOLITAN EDISON COMPANY  
FOR SUMMARY JUDGMENT**

Metropolitan Edison Company (Met-Ed or Respondent) by and through its attorneys, Reger Rizzo & Darnall LLP, and pursuant to 52 Pa. Code §§5.102, hereby files this Expedited Motion for Summary Judgment to dismiss the Complaint of Zakkiyah Salahuddin (Complainant). **Met-Ed requests an expedited ruling as soon as practicable as the telephonic hearing is scheduled for September 15, 2016.** All issues alleged by the Complainant were resolved by the Commission in a prior formal complaint proceeding. 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 account<sup>1</sup> for service provided to 600 Canal Street, Apartment B3, Easton, Pennsylvania (Service Location).

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<sup>1</sup> 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 Complaint<sup>2</sup> 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, the Honorable 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 Complainant 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 Formal Complaint proceeding (*PO Order*).

4. On July 26, 2016, in accordance with 52 Pa. Code §5.341, Met-Ed forwarded to the Complainant, *via* first class mail, interrogatories and document requests (Discovery Request). 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 in order to prepare and defend its actions at hearing. The Complainant did not object or respond to the Discovery Request. A copy of the Discovery Request is provided as Attachment 1.

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<sup>2</sup> Docket No. F-2015-2463441, Final Order entered July 23, 2015.

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

6. On August 18, 2016, Met-Ed filed a Motion to Compel the responses to its Discovery Request. The Complainant did not respond to the Motion to Compel.

7. On August 26, 2016, Judge Cheskis granted Met-Ed's Motion to Compel.

8. The Complainant responded to the Discovery Request and alleged the same issues that were addressed in the 2015 Formal Complaint (Discovery Response). A copy of the Discovery Response is provided as Attachment 2.

## ARGUMENT

### **Standard for Motion for Summary Judgment**

9. In accordance with the Commission's regulations, after the pleadings are closed but within such time as to not delay a hearing, a party may move for judgment on the pleadings. 52 Pa. Code § 5.102(a).

10. A presiding officer should grant a motion for summary judgment "if the pleadings, depositions, answers to interrogatories and admissions, together with affidavits, if any, show that there is no genuine issues as to a material fact and that the moving participant is entitled to judgment as a matter of law." 52 Pa. Code § 5.102 (d)(1). *Hammerstein v. Lindsay, M.D.*, 655 A.2d 597 (Pa. Super. 1995).

11. When deciding whether a motion for summary judgment should be granted the court must examine the record in the light most favorable to the non-moving party. *First Mortgage Co. of Pennsylvania v. McCall*, 459 A.2d 406 (Pa. Super. 1983); *Mertz v. Lakatos*, 381 A.2d 497 (Pa. Cmwlth. 1976). All doubts as to the existence of a genuine issue of material fact must be resolved against the moving party giving that party the benefit of all reasonable inferences. *Thompson Coal Company v. Pike Coal Company*, 412 A.2d 466 (Pa. 1979).

12. The non-moving party in a motion for summary judgment must allege facts showing that an issue for trial exists. *First Mortgage Co. of Pennsylvania, supra. Commonwealth v. Diamond Shamrock Chemical Co.*, 391 A.2d 1333 (Pa. Cmwlth. 1978); *Stover v. The United Telephone Co. of Pennsylvania*, Docket No. C-00923833 (Order entered July 21, 1992). In civil practice, a non-moving party may not rely solely upon denials in its pleadings, but must submit some materials to establish that a genuine issue of material fact exists. *Nicastro v. Cuyler*, 467 A.2d 1218 (Pa. Cmwlth. 1983); *Pennsylvania Gas & Water Co. v. Nenna & Frain, Inc.*, 467 A.2d 330 (Pa. Super. 1983); *Geriot v. Council of Borough of Darby*, 457 A.2d 202 (Pa. Cmwlth. 1983).

13. The Commission has discretion to dismiss any complaint without a hearing if, in its opinion, a hearing is not necessary to the public interest. 66 Pa. C.S. § 703(b); 52 Pa. Code § 5.21(d). A hearing is necessary only to resolve the disputed questions of fact, and when the question presented is one of law, the Commission need not hold a hearing. *Lehigh Valley, supra.*; *Edan Transportation Corp. v. Pa. Pub. Util. Comm'n*, 623 A.2d 6 (Pa. Cmwlth. 1993).

**The issues raised in the present proceeding were previously dismissed by the Commission.**

14. Judge Cheskis provided the Complainant the opportunity to be heard regarding her allegations that arose after the 2015 Formal Complaint. In her Discovery Response, the Complainant identified the issues she is disputing in this proceeding: (1) transferred balance from prior address; (2) identity theft; and (3) shared metering.<sup>3</sup> These issues were previously dismissed by the Commission in its respective Orders dismissing the 2015 Formal Complaint<sup>4</sup> and denying the Petition Reconsideration.<sup>5</sup>

15. The public interest does not require a hearing in this case. There are no material issues in dispute. The issues alleged by the Complainant were previously dismissed by the Commission. As Judge Cheskis ruled, an appeal of the Commission's ruling on those issues must be filed with the Commonwealth Court. See, *PO Order* at 4. A hearing on issues already dismissed by the Commission would be a fruitless exercise and therefore not necessary or in the public interest.

### CONCLUSION

There is no genuine issue as to a material fact. The issues identified by the Complainant were dismissed by the Commission. Any disagreement with the Commission's rulings must be filed with the Commonwealth Court. A hearing is not necessary nor in the public interest. The requested relief cannot be granted. The Respondent is entitled to judgment as a matter of law; summary judgment is appropriate.

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<sup>3</sup> This issue was identified as false findings/switching of lines.

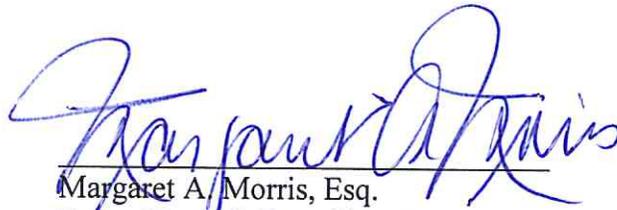
<sup>4</sup> Final Order entered July 23, 2015.

<sup>5</sup> Opinion and Order entered March 17, 2016.

**WHEREFORE**, Respondent, Metropolitan Edison Company, requests that the Honorable Joel H. Cheskis grant this Motion for Summary Judgment and dismiss with prejudice the Complaint of Zakkiyah Salahuddin without hearing.

Respectfully submitted,

Dated: September 7, 2016



Margaret A. Morris, Esq.  
Reger Rizzo & Darnall LLP  
Cira Centre, 13<sup>th</sup> Floor  
2929 Arch Street  
Philadelphia PA 19104  
(215) 495-6524 tel.  
(215) 495-6600 fax  
[mmorris@regerlaw.com](mailto:mmorris@regerlaw.com)

*Counsel for Metropolitan Edison Company*

Attachment 1

Respondent's Discovery Requests

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**

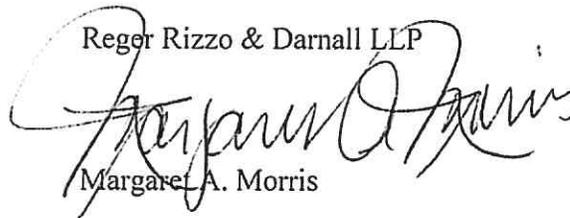
Dear Ms. Salahuddin:

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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### 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  
Zakkiyah Salahuddin v. Metropolitan Edison Company  
Interrogatories and Requests for Production of Documents of Met-Ed**

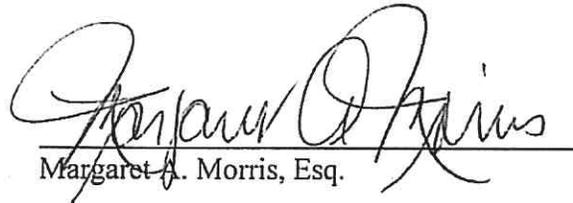
**CERTIFICATE OF SERVICE**

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.

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

**INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENT S  
OF METROPOLITAN EDISON COMPANY  
TO THE COMPLAINT OF ZAKKIYAH SALAHUDDIN**

Now comes Metropolitan Edison Company (Met-Ed), by and through its undersigned attorneys, and hereby requests that Zakkiyah Salahuddin answer fully, in writing and under oath, the following interrogatories (questions) and requests for documents pursuant to the 52 Pa. Code §§ 5.321 and 5.349 et seq.

Pursuant to 52 Pa. Code § 5.342, you must send your objections to me within ten (10) days (**August 5, 2016**) and answers within twenty (10) days (**August 15, 2016**). Your answers and objections should **not** be filed with the Pennsylvania Public Utility Commission. You should file the cover letter and Certificate of Service, with the Commission’s Secretary. If you have any objection to any of the Interrogatories or the Requests for Documents, please identify the Interrogatory or Request stating your objection in full as to why you should not have to answer/produce it. Any objection not raised within the ten (10) day period provided for by 52 Pa. Code § 5.342(c) will be deemed waived and you will not be permitted to raise the objection at a later time.

## INSTRUCTIONS<sup>1</sup>

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.

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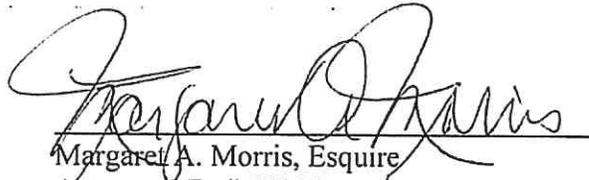
<sup>1</sup> Complainant is not presented by counsel. Therefore, these instructions have been simplified. A good faith effort to completely answer the questions is expected.

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, 13<sup>th</sup> Floor  
2929 Arch Street  
Philadelphia, PA 19104-2899  
(215) 495-6524 (voice)  
(215) 495-6600 (fax)  
[mmorris@regerlaw.com](mailto:mmorris@regerlaw.com)

Dated: July 26, 2016

*Counsel for Metropolitan Edison Company*

Attachment 2

Complainant's Discovery Responses

August 16, 2016

Zakkiyah Salahuddin  
600 Canal Street B3  
Easton, P.A. 18042

Margaret A. Morris  
Reger Rizzo & Darnall, LLP  
Cira Centre, 13<sup>th</sup> Floor  
2929 Arch Street  
Philadelphia, P.A. 19104-2899

**Re: Docket No. C-2016-2547092**

Dear Margaret Morris,

Enclosed you will find my responses to your interrogatory statements. Please be advised that the answers are completed to the best of my knowledge. However, it will take more time to submit any documents that will support my case.

I apologize for any inconvenience with my submission being processed late. If you have any questions or concerns on my behalf, do not hesitate to contact me at your convenience.

Sincerely,

Zakkiyah Salahuddin

## INTERROGATORIES

1. I, Zakkiyah Salahuddin is alleging all charges on my bill is inaccurate. On June 6, 2015, Zakkiyah Salahuddin vacated the premises at 324 St. John Street, Easton, P.A. 18042, a phone call was forwarded to Met- Ed to discontinue all services between June 11, 2015 thru July 11, 2015.
2. Zakkiyah Salahuddin is alleging there to be a safety concern (identity theft) and a quality (false findings/switching of lines) problem. On April 25, 2015 a new residence rented 322 St. John Street and an amount of \$911.00. Therefore, a complaint was forwarded to the Public Utility Commission in regards to Met-Ed response, who stated; the meter was read wrong and my current usage is too low. Additionally, the Public Utility Commission informed Zakkiyah Salahuddin that services continued (accumulating charges) after vacating the premises.
3. Met- Ed was contacted on several occasions before my complaints was submitted to the PUC. Nonetheless, the last complaint was filed on/ or before September 4, 2016 when a company representative willingly disconnected the phone call. This information can be found through Met-Ed customer service department.
4. Yes, Met- Ed was contacted about the safety and quality problem. This information can be found through Met- Ed customer service department.
5. Currently, there is one adult and three children in my household.

Zakkiyah Salahuddin, age 41

Radaiya Hardiman, age 17

Abdul-Muqtadir Salahuddin, age 14

Saafiyah Salahuddin, age 9

My gross monthly income is irrelevant at this time.