

COMMONWEALTH OF PENNSYLVANIA  
Public Utility Commission

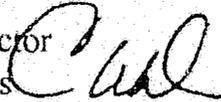
March 15, 2004

Exceptions filed

**SUBJECT:** C-20029142; Joan Greene v. Metropolitan Edison Company

**TO:** James J. McNulty  
Secretary

**FROM:** Cheryl Walker Davis, Director  
Office of Special Assistants



Pursuant to the requirements of Act 294, (66 Pa. C.S. § 332(h)),  
Commissioner Pizzigrilli and Commissioner Holland have requested full review of the  
Administrative Law Judge's Initial Decision in the above captioned proceeding. The  
second request for review was dated March 10, 2004.

Please notify the Office of Administrative Law Judge to prepare the case  
for consideration at a future Public Meeting.

SECRETARY'S BUREAU

MAR 15 PM 12:17

Act 294

Case Identification: C-20029142; Joan Greene v.  
Metropolitan Edison Company

Initial Decision By: ALJ Michael C. Schnierle

Deadline for Return to OSA: March 10, 2004

This decision has not been reviewed by OSA.

**RECEIVED**

MAR 11 2004

OFFICE OF SPECIAL  
ASSISTANTS

\* \* \* \* \*

I want full Commission review of this decision.

\_\_\_\_\_  
Commissioner

\_\_\_\_\_  
Date

I do not want full Commission review of this decision.

*Terrence J. Fitzpatrick*  
\_\_\_\_\_

Commissioner

*3-8-04*  
\_\_\_\_\_

Date

M

Act 294

Case Identification: C-20029142; Joan Greene v. Metropolitan Edison Company

Initial Decision By: ALJ Michael C. Schnierle

Deadline for Return to OSA: March 10, 2004

This decision has not been reviewed by OSA.

MAR 10 2004

COMM. OF PUBLIC UTILITIES  
RECEIVED

\* \* \* \* \*

I want full Commission review of this decision.

\_\_\_\_\_  
Commissioner Date

I do not want full Commission review of this decision.

Robert K. Bloom/rk \_\_\_\_\_  
Commissioner Date  
3-10-04

Act 294

Case Identification: C-20029142; Joan Greene v.  
Metropolitan Edison Company

Initial Decision By: ALJ Michael C. Schnierle

Deadline for Return to OSA: March 10, 2004

This decision has not been reviewed by OSA.

\* \* \* \* \*

MAR 20 2004  
C. J. ...

I want full Commission review of this decision.

\_\_\_\_\_  
Commissioner Date

I do not want full Commission review of this decision.

Glen Thomas 3/9/04  
\_\_\_\_\_  
Commissioner Date

Act 294

Case Identification:

C-20029142; Joan Greene v.  
Metropolitan Edison Company

Initial Decision By:

ALJ Michael C. Schnierle

Deadline for Return to OSA:

March 10, 2004

This decision has not been reviewed by OSA.

**RECEIVED**

MAR 11 2004

OFFICE OF SPECIAL  
ASSISTANTS

\* \* \* \* \*

W.H.  
3/10/04  
A.T.

I want full Commission review of this decision.

*Kim Fitzgerald*

*3/10/04*

Commissioner

Date

I do not want full Commission review of this decision.

Commissioner

Date

Act 294

Case Identification:

C-20029142; Joan Greene v.  
Metropolitan Edison Company

Initial Decision By:

ALJ Michael C. Schnierle

Deadline for Return to OSA:

March 10, 2004

This decision has not been reviewed by OSA.

RECEIVED

MAR 11 2004

OFFICE OF SPECIAL  
ASSISTANTS

\* \* \* \* \*

I want full Commission review of this decision.

Wendell J. Hilland  
Commissioner

3/10/04  
Date

★ I do not want full Commission review of this decision.

\_\_\_\_\_  
Commissioner

\_\_\_\_\_  
Date

ORIGINAL

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RECEIVED

MAR 15 2004

PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

U.S. POSTAL SERVICE		CERTIFICATE OF MAILING	
MAY BE USED FOR DOMESTIC AND INTERNATIONAL MAIL. DOES NOT PROVIDE FOR INSURANCE - POSTMASTER			
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JOAN GREENE			
895 LOCUST STREET			
Mt. Wolf PA 17347-9500			
One piece of ordinary mail addressed to			
SECRETARY OF THE COMMISSION			
MR. JAMES J. McNULTY			
PENNSYLVANIA PUBLIC UTILITY			
P.O. BOX 3265			
HARRISBURG PA 17105-3265			

PS Form 3817, January 2001

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Before the  
Pennsylvania Public Utility Commission

Joan Greene

v.

Metropolitan Edison Company

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C - 20029142

EXCEPTIONS OF COMPLAINANT JOAN GREENE

TO THE INITIAL DECISION DATED 12 FEBRUARY 2004

Nine Copies and a Certificate of Service

In compliance with Secretary James J. McNulty's Issuance of 25 February 2004

207

RECEIVED  
Before the  
Pennsylvania Public Utility Commission

MAR 15 2004

Joan Greene

v.

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

C - 20029142

Metropolitan Edison Company

DOCKETED

MAR 18 2004

EXCEPTIONS OF COMPLAINANT JOAN GREENE  
TO THE INITIAL DECISION DATED 12 FEBRUARY 2004

Nine Copies and a Certificate of Service  
In compliance with Secretary James J. McNulty's Issuance of 25 February 2004

EXCEPTION NO. 1

I take exception to the Initial Decision's arbitrary and capricious rejection of my strongly documented evidence from being entered into the Court record as evidence to support my case of alleged coverup and falsification of my records by Met-Ed's Rebills. I sent by priority mail a concise, well-organized package signed and dated 06 Feb 04 containing a three-page Petition addressed directly to the Court, through The Honorable Michael C. Schnierle, to "please enter as evidence the following five self-explanatory enclosures showing Met-Ed's scams and, more importantly, the coverup of their scams and their modus operandi when caught with their hands in the cookie jar." The Initial Decision sets forth its denial of admission of my Court Petition and five Exhibits into evidence:

I cannot decide the case on the basis of the exhibits submitted by Ms. Green because they were not admitted into the record.

and

In a similar vein, the complaint and supporting documents filed by Ms. Green are not part of the record as evidence of the facts alleged in those documents because they were not offered and received into evidence at the hearing.

To the contrary, I did offer into evidence my documents and the remarkably thorough proof and substantiation of my allegations. The statements of the Initial Decision verify my submission of the "exhibits" and the "complaint and supporting documents filed by Ms. Green." Without doubt, the Court verifies receipt of my Petition to the Court and the five Exhibits, because page 2 of the Initial Decision states:

On February 9, 2004, I received from Ms. Green a thick packet that appeared to contain copies of the exhibits that she would offer at the hearing.

EXCEPTION NO. 2

My three-page Petition to the Court and accompanying five Exhibits were received by the Court on 09 Feb 04 as confirmed by the Initial Decision. That was three days prior to the hearing on 12 Dec 04. However, my Petition addressed directly to the Court appears not to have been read until a recess at the hearing. The Initial Decision states on page 2:

I convened the hearing at 10:00 a.m. Met-Ed was present and represented, but Ms. Green was not. I ascertained that MetEd had not received a copy of Ms. Green's exhibits, but there was a copy in the packet that I received from Ms. Green that was labeled as intended for MetEd. I recessed the hearing to permit Ms. Green additional time to appear. I also tried to call Ms. Green, but nobody answered the phone. During the recess, it became apparent that one of Ms. Green's "exhibits" was a two page letter addressed to me that summarized her complaint against MetEd. (my emphasis)

DOCUMENT  
FOLDER

It was not an exhibit, and I take Exception to its mischaracterization as such. In actuality, it was my three-page Petition to the Court to "please enter as evidence the following five self-explanatory enclosures." On the first two pages, I briefly and concisely laid out the groundwork for the five Exhibits which I was submitting as evidence. On the third page, I furnished an index for the five Exhibits.

Moreover, I did not include a two-page letter as an "exhibit" on my Exhibit Index as shown below:

Before the  
Pennsylvania Public Utility Commission

Joan Greene :  
v. : C-20029142  
Metropolitan Edison Company :  
EXHIBITS

1. Money Trail. Chart showing Met-Ed's falsifications of my balance due—two pages
2. Meter Reading Trail. Chart showing Met-Ed's falsifications of my meter readings
3. Monthly Payments Chart
4. Status Letter to Secretary of Pennsylvania Public Utility Commission - 08 Dec 03
5. Complaint Letter to Chief Executive Officer Peter Burg - 05 Nov 03

So I take Exception to why the Initial Decision depicts and downgrades my direct pleading to the Court as merely an "exhibit" and why it was not given notice by the Court prior to hearing.

EXCEPTION NO. 3

The Initial Decision cannot first reject the evidence I presented to the Court and then say that I "failed to meet my burden of proof."

Because Ms. Green is the complainant in this proceeding, she bears the burden of proof...It is apparent that Ms. Green has failed to meet her burden of proof.

To the contrary, I more than met my burden of proof. I presented powerful, succinct, to-the-heart-of-the-matter evidence to the Court without pulling any punches, but the Court made the Initial Decision to bar it—a denigration of my Constitutional right.

I bore my heavy, time-consuming burden of gathering proof from Met-Ed's own bills and documenting the proof of falsification of my records by Met-Ed to hide their overcharges and creative Off-the-Books accounting, which proof I submitted to the Court timely. I spent two years and countless hours gathering, documenting, and computerizing the serious and unfortunate allegations of fraud and coverup I have made. The Initial Decision appears to recognize that:

This result is somewhat regrettable here because Ms. Green seems to have put considerable effort into pressing her complaint with Met-Ed and preparing her exhibits....

I take Exception to the statement that I "presented no evidence." I take exception to the statement that I "failed to meet my burden of proof" and that I "failed to prosecute my case"—while at the same time (a) my Petition and five Exhibits are in the possession of the Court timely, (b) are probably one of the more documented submissions of evidence from a lay person who is not an attorney, and (c) while I am still fighting for my Constitutional right to have them received into evidence to prove my case. Not only is my evidence incriminating against Met-Ed's fraud, coverup, creative Off-the-Books accounting, and falsification of my records—it is irrefutable. Because it is taken directly from Met-Ed's own Original Monthly Bills for electricity consumption. I take Exception that the Initial Decision does not want to address my incriminating and irrefutable evidence against Met-Ed and therefore rejects, arbitrarily and capriciously, my evidence from being received into the Court record. I take Exception to the Initial Decision's bias toward Met-Ed.

I take great Exception to the Initial Decision's abrogation of my Constitutional right as a citizen to present evidence to prove my non-frivolous case.

#### EXCEPTION NO. 4

I take Exception to the Initial Decision's trivialization of the crux of this case to a mere bill dispute:

The complaint, which is quite lengthy, is basically a dispute over the accuracy of Ms. Green's bills from Metropolitan Edison Company for the months January, 2002 through March, 2002.

There can be no doubt after reading my Complaint that the case which I have presented to this Court is about fraud and coverup by Met-Ed.

#### EXCEPTION NO. 5

I take Exception to the Initial Decision's statement regarding service:

I ascertained that Met-Ed had not received a copy of Ms. Green's exhibits...

I take Exception because it is not true. I also take exception because there was no need for ascertainment of whether or not Met-Ed was served. The Court had in its possession my three-page Petition to the Court which, on page 2, shows that I served a signed computer copy of my Court Petition and the accompanying five Exhibits upon Mr. Peter Burg. Mr. Burg is the Chief Executive Officer of First Energy, the parent company of Met-Ed, and is the entity to whom I was directed by Met-Ed's headquarters in New Jersey to serve my formal complaints. You will find that most of my documents and some payments are addressed to Mr. Burg for reasons set forth in paragraph 2 of my Petition. In accordance with Met-Ed's own directions from Headquarters, I served a copy of my Court pleading upon Met-Ed, and there was no necessity for ascertainment whether they received a copy.

Also, I submitted a complete and self-contained copy to the Court clearly marked on its cover page for service on the Attorney for Met-Ed, as the Initial Decision confirms:

...but there was a copy in the packet that I received from Ms. Green that was labeled as intended for MetEd.

I properly served everybody. In compliance with the Court's notice of 29 Dec 03, I enclosed five complete and self-contained packets of my three-page Court petition and five Exhibits. Each separate set was held by a binder clip and carried a cover page clearly showing upon whom that set was served. The contents of each packet included First my three-page direct Petition to the Court submitting evidence. Then each of the five Exhibits was presented separately in the order of the Exhibit Index, with its own exhibit cover page for easy identification. One set was clearly earmarked for the Administrative Law Judge, the Presiding Officer, and Met-Ed's attorney. Two sets were earmarked for The Reporter. Even though I am a lay person, I tried to present my Petition and Exhibits in a logical and orderly manner. I certify they are all correct and true to the best of my ability.

I also served a complete copy of my Court pleading and five Exhibits upon the Secretary of the Public Utility Commission. In all my formal written complaints against Met-Ed, I forwarded the complaint to Mr. Burg as directed by Met-Ed and also served a copy upon the Secretary. I have tried to be professional and keep all parties informed and in the loop. I kept the law firm served with a copy of correspondence up until the time the law firm illegally used Met-Ed's Rebills to respond to my PPUC Complaint. I drew the line at that invidious insult and cut all communications with Ryan, Russell, Ogden and Seltzer. It is my contention, stated many times, that the Rebills are fraudulent coverups of Met-Ed's scams. It is the heart of my case. So I was not going to be insulted by the double-whammy of Met-Ed's use of their fraudulent Rebills to cover up their fraudulent scams against me. I have more than proved and documented that Met-Ed's creative Off-the-Books accounting is fraudulent and have asked the Court and the Secretary of the PPUC to make Met-Ed stop and desist. Please note below on the Certificate of Service that I have served a copy of this pleading upon the attorney for Met-Ed and First Energy.

## EXCEPTION NO. 6

I take Exception to what appears to be the Court's final dismissal of my case with prejudice based on the "gist" of Met-Ed's answer:

On November 21, 2003, Met-Ed filed an answer. The gist of Met-Ed's answer was that it had made a meter reading error but that it has corrected the error and has rebilled Ms. Green for the correct amount.

I take Exception to this, because Met-Ed's proof and documentation has to be in black-and-white. I have a right as Complainant to concrete evidence for any decision made by the Court.

- I have received no proof or evidence from Met-Ed or the Court that the error was a "meter reading error."
- I have received no proof or evidence from Met-Ed or the Court that Met-Ed "has corrected the error" on my Original Monthly Bills for electricity consumption. Show me those bills. Met-Ed cannot do it.

First, a reexamination of Met-Ed's answer is in order. There was not just one error, as implied by the Initial Decision to which I take Exception. It is important to note that there were three errors as set forth in my PPUC Complaint: A high false, fraudulent meter reading for each of the three consecutive months of Jan-Feb-Mar 2002. Jan was 585. Feb was 613. Mar was 637. But when I called on 26 Mar 02 with my paper drawing of my dials, I was told by Met-Ed that my meter read only 537 but that Met-Ed had just billed me the day before at 637. It was instantaneously indisputable that there was an overcharge of 4,000 kWhs. It took five months for my meter to reach the high meter reading of 585 falsely charged in January. It took nine months for my meter to reach the high meter reading of 637 falsely charged in March.

- And I still have not received an Original Monthly Bill which credits my account with the specific overcharged and overbilled amount of 4,000 kilowatt hours. Where is it?
- And I still have not received an Original Monthly Bill which credits my account for the specific overcharged and overbilled amount of \$387.58 in dollars. Where is it?

I take Exception that Met-Ed submitted no legal proof or documents to the Court as evidence for either of its allegations. Yet both allegations were received into the Court record by the Initial Decision without legal proof and were addressed by the Initial Decision.

## EXCEPTION NO. 7

I take Exception that the Initial Decision does not require Met-Ed to submit concrete evidence to the Court. I take Exception to the Initial Decision's receiving into evidence Met-Ed's unsupported and undocumented allegation that Met-Ed has corrected the error [Sic - there were three errors] :

The gist of Met-Ed's answer was that it...has corrected the error....

Where is Met-Ed's proof shown on my Original Monthly Bills for electricity consumption—as I requested in my PPUC Complaint? Not on the fraudulent Rebills—as I also requested in my PPUC Complaint. I take Exception that the Initial Decision requires no proof and no documentation from Met-Ed that Met-Ed did in fact correct, on my Original Monthly Bills for electricity consumption, the three consecutive months' errors which Met-Ed alleges it corrected.

I alleged and Met-Ed has finally admitted in writing [only under duress of my Complaint] that Met-Ed's Original Monthly Bills overcharged 4,000 kWhs for the contested period of 25 Dec 01 to 23 Apr 02. On which one of my Original Monthly Bills for electricity consumption did Met-Ed show in the Detail Payment and Adjustment Information section its adjustment and necessary credit to my account for those overcharged and overbilled 4,000 kilowatt hours? I have a right to know which bill and to receive a copy of that specific Original Monthly Bill as evidence, if the Initial Decision truly believes that Met-Ed corrected my account. There has to be proof.

I alleged that Met-Ed's Original Monthly Bills charged me \$750.38 for the contested period of 25 Dec 01 to 23 Apr 02. I alleged and Met-Ed has finally admitted in writing [only under duress of my Complaint] that the Original Monthly Bills show that I was billed for 8,360 kWhs but that my meter said I used only 4,360 kWhs for the contested period. I requested and Met-Ed finally provided the cost for those 4,360 kWhs at \$362.80 [only under duress of my Complaint]. Met-Ed never admits to an overcharge. But by extrapolation, Met-Ed has no choice but to admit to the proven overcharge and overbill of \$387.58:

Billed by Met-Ed on its Original Monthly Bills for Contested Period	\$ 750.38
Cost of 4,360 kWhs for Contested Period per Met-Ed	- 362.80
Overcharge and Overbill by Met-Ed on its Original Monthly Bills	\$ 387.58

On which one of my Original Monthly Bills for electricity consumption did Met-Ed show in the Detail Payment and Adjustment Information section its adjustment and necessary credit to my account for that overcharged and overbilled \$387.58 in dollars? I have a right to know which bill and to receive a copy of that specific Original Monthly Bill as evidence, if the Court truly believes that Met-Ed corrected my account. There has to be proof.

I take Exception that the Initial Decision does not require Met-Ed to produce and enter as evidence the two specific above-referenced Original Monthly Bills for electricity consumption. And the documents not provided in Exceptions No. 6 and No. 7. I take Exception that Met-Ed submitted no legal proof to the Court record for its allegation of correction of the three months' overcharges. Yet the Initial Decision, in an inequitable manner, received Met-Ed's unsupported allegations into the Court records and considered them without any legal evidence from Met-Ed.

Met-Ed entered no legal proof and the Initial Decision does not require Met-Ed to enter it. I take Exception. The Initial Decision should have required Met-Ed to provide specific documented proof of its allegation that it did in fact "correct the error[s]" on my account. In doing so, Met-Ed cannot use its fraudulent Rebills as proof—which condition I adamantly set forth in my Complaint.

#### EXCEPTION NO. 8

I take my greatest Exception to the Initial Decision's naive acceptance of Met-Ed's Rebills without question or investigation: Met-Ed "rebilled" Joan Greene. That makes it okay. Case closed.

The gist of Met-Ed's answer was that it...has rebilled Ms. Green for the correct amount.

The crux of the case before the Court is whether Met-Ed's Rebills are fraudulent and are a coverup for (a) the three consecutive months of Met-Ed's fraudulent overcharges and (b) Met-Ed's falsification of my records pertaining thereto. I set this forth ad infinitum in my PPUC Complaints. I asked for an accounting not based on the Rebills. But since the Initial Decision blithely accepts the "Rebills" as God-given gospel, it blocks the Court from addressing the heart of the matter which is before the Court. That is why no settlement of the case is possible until Met-Ed provides an answer and an account summary not based on the Rebills as I requested in my PPUC Complaint. It was the most important thing I asked for:

In one inclusive written letter—no verbal calls—I want Met-Ed to do the following.  
In order to be acceptable, Met-Ed must use my original bills and not their "rebills".

The crux of this case was established by my very first words of my appeal letter to the PPUC dated 06 Oct 02 and received by Vaughn W. Puls on 15 Oct 02 which complained about Met-Ed's Rebills covering up the overcharges and falsifying my records: QUOTE

Met-Ed would not tell me how many kilowatt hours or how many dollars they overcharged me. Instead, Met-Ed covered up the overcharge with what they call "Rebills."

I believe the Rebills are a falsification of my records, because they retroactively change each month's Meter Reading, and number of Kilowatt Hours Used, and Charges. It is important to note that the Rebills also retroactively change the meter-reading method for each month from "Actual" to "Estimated". I rejected Met-Ed's three Rebills for January, February and March 2002 in a telecon on 29 May 02.

When I could not get an answer to my complaint from Met-Ed, I wrote to First Energy which is the parent company of Met-Ed. In my letter of 15 Jul 02 to CEO Peter Burg, I vehemently objected to the Rebills and explained why.      **END QUOTE**

However, from the Initial Decision, it appears that the Court is not going to address the heart of the case before it, although my charts in evidence shockingly document Met-Ed's coverup of its scams and falsification of my records at a glance. It is not okay and I take Exception.

#### EXCEPTION NO. 9

I take Exception to the Initial Decision's biased predetermination that my absence from the 12 Dec 03 hearing "was unexcused":

3. Ms. Green failed to appear at the scheduled hearing without good cause. Her failure to appear was unexcused.

My absence is defensible. I would have loved to attend the hearing after all the work I have put into my case. My reason for non-appearance is justifiable. I do not drive. I do not own a car for someone else to drive me. I cannot afford a cab fare from Mount Wolf to Harrisburg and return, because my income is at poverty level. It is 60 miles from Mount Wolf to Harrisburg roundtrip and I cannot walk it. I had no way to get there. And as I indicated to the Court in my Petition, I cannot afford an attorney to go for me. I gave the Court prior notice in my Petition that I could not attend and submitted my five Exhibits to be received into the Court record as evidence:

I am unable to attend the hearing and request that you decide the case based on all the written evidence I have provided to you and the Secretary of the PPUC, including my original complaint.

There was good cause and just reasons for my not attending the hearing on 12 Dec 03. It is a controlling factor that if a person cannot get there, he cannot get there. My absence is excusable, and I take Exception to the Initial Decision's finding of "unexcused absence." It is unfair, unjust, and abrogates my Constitutional right as a citizen to process my non-frivolous and well-documented case before the Court. The Initial Decision is biased toward Met-Ed not having to respond to the incriminating and irrefutable evidence I presented to the Court in my five Exhibits. The Initial Decision's foregone conclusion of "unexcused absence" sets up its seriate findings leading to its goal of dismissal:

Rejection of my evidence from being received into the Court record:

2. Ms. Greene has failed to appear and present evidence at the hearing in this proceeding and her failure to appear at the hearing, after receiving due notice thereof was unexcused and without good cause. (My emphasis.)

She has presented no evidence due to her own unexcused failure to attend the scheduled hearing in this proceeding, of which she had due notice. (My emphasis.)

Failure to meet my burden of proof:

It is apparent that Ms. Green has failed to meet her burden of proof. She has presented no evidence due to her own unexcused failure to attend the scheduled hearing in this proceeding, of which she had due notice. (My emphasis.)

Failure to prosecute my case:

That the complaint of Joan Green v Metropolitan Edison Company at C-20029142 be dismissed with prejudice for failure to prosecute.

Ultimate dismissal of my case:

Because Ms. Green did not attend the hearing and present evidence, I have no choice but to dismiss the complaint. (My emphasis.)

Ms. Green's complaint should be dismissed with prejudice. (My emphasis.)

Based on the wrongful and unjust finding of "unexcused absence," the Initial Decision dismisses my complaint. I take Exception to the dismissal, because my absence was justifiably excusable.

The Initial Decision cites Federman and Gibbs for unexcused absence. I am sure there are at least two legal precedents that excuse absence due to extenuating circumstances, which citations could have readily been cited by the Initial Decision. The choice of Federman and Gibbs is biased toward Met-Ed and is unfair, unjust, and an abrogation of my Constitutional right to present evidence to the Court to prove my case. My well-documented, incriminating and irrefutable evidence against Met-Ed was already in the possession of the Court three days prior to the hearing, but the Initial Decision refuses to receive it into evidence. By its predetermined conclusion of inexcusable absence, the Initial Decision protects Met-Ed from those serious charges of fraud and coverup that I have made in this case.

It is anomalous that I presented incriminating and irrefutable proof against Met-Ed, but the Initial Decision rejects it from being received into the Court evidence. Met-Ed submitted no legal proof for its two allegations, but the Initial Decision already received them into Court evidence and addressed them without proof.

I do not surrender my inalienable right under the Constitution to present evidence to this Court. My absence is defensible and excusable. For the sake of equity, fairness and impartiality, I petition the court to reverse its finding of "unexcused absence." Next, I petition the Court to:

- Find my absence excusable.
- Receive my strong and well-documented evidence into the Court record.
- Address the crux of the case which is before the Court.

#### EXCEPTION NO. 10

The Constitution gives each citizen the inalienable right to address the Courts, knowing full well that he will not be able to present a perfect case. However, the Initial Decision requires from a lay person the same astuteness and experience of a trained attorney:

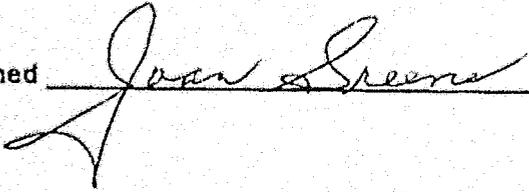
*Ms. Green's letter [Sic - Petition to the Court] stating that she would be unable to attend the hearing cannot be considered a request for a continuance. Aside from the fact that it did not ask for a continuance, it was not in the form of a petition served on the opposing party and filed at least five days before the scheduled hearing, as required by 52 Pa. Code 1.15(b).*

The Initial Decision demands from the lay person representing himself what the Constitution does not. How would a lay person have the expertise to know to ask for a continuance? Or in what form to put it if he did know? Or have knowledge of 52 Pa. Code 1.15(b)? I take Exception and ask for the Court's help in correcting my errors. If a continuance is necessary (and I do not know that it is), my notification to the Court that I would be unable to attend the hearing should be considered a request for continuance. My intent is obvious that I plan to continue. What more does the Court need to determine intent? I have prosecuted my case to the best of a lay person's ability. But the lay person needs at least a bare minimum of guidance from the Court in order to do that. I received no guidelines for proceeding with my case other than the initial complaint form against Met-Ed which I filled out and returned.

What would have helped tremendously would have been a two-page overview of what steps are involved and how to respond. What pleading is necessary and what heading to put at the top to identify it, and the time limit for filing the pleading, and what fee if any. For instance, I did not know if I had the right to respond to Met-Ed's answer.

I would like to take this opportunity to thank Mr. James J. McNulty, the Secretary of the Pennsylvania Public Utility Commission, for informing me that I had the right to file this pleading, that they are called Exceptions, that the time limit is 20 days from the date of issuance of his letter, and how many copies are necessary and where to mail them. It took only a few sentences, but I value his thoughtfulness in helping a lay person.

If a case is not frivolous, I believe it is incumbent upon the Court to assist the lay person to be able to exercise his Constitutional right. Otherwise, access to the Courts would be limited to only trained attorneys, which would be an abrogation of the Constitutional right of American citizens.

Signed  and dated this 15<sup>th</sup> day of March, 2004.

Before the  
Pennsylvania Public Utility Commission

Joan Greene

v.

Metropolitan Edison Company

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:  
:  
:  
:

C-20029142

CERTIFICATE OF SERVICE

I certify that on this 15<sup>th</sup> day of March, 2004, I have served a signed copy of Exceptions of Complainant Joan Greene upon the following:

Mr. James J. McNulty  
Secretary of the Commission  
Pennsylvania Public Utility Commission  
P. O. Box 3265  
Harrisburg PA 17105-3265  
(Original and Nine Copies)

The Honorable Michael C. Schnierle  
Administrative Law Judge  
P. O. Box 3265  
Harrisburg PA 17105-3265

Jeffrey A. Franklin, Esquire  
Ryan, Russell, Ogden & Seltzer  
Suite 301  
1100 Berkshire Boulevard  
Reading PA 19610-1221

Mr. Peter Burg  
Chief Executive Officer  
First Energy  
P. O. Box 3687  
Akron OH 44309-3687

Signed:

  
Joan Greene, Complainant  
845 Locust Street  
Mount Wolf PA 17347-9509

LAW OFFICES  
RYAN, RUSSELL, OGDEN & SELTZER LLP

ORIGINAL

SUITE 330  
1105 BERKSHIRE BOULEVARD  
WYOMISSING, PENNSYLVANIA 19610-1222  
TELEPHONE: (610) 372-4761  
FACSIMILE: (610) 372-4177  
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March 26, 2004

VIA UPS OVERNIGHT

James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2<sup>nd</sup> Floor  
Harrisburg, Pennsylvania 17120

Re: Joan Greene v. Metropolitan Edison Company  
Docket No. C-20029142

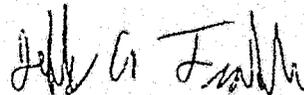
Dear Secretary McNulty:

Enclosed please find an original and nine (9) copies of the Reply Exceptions filed on behalf of Metropolitan Edison Company in the above-referenced matter. This document has also been served on the parties of record as shown on the attached Certificate of Service.

If you have any questions, please contact me.

Very truly yours,

RYAN, RUSSELL, OGDEN & SELTZER LLP



Jeffrey A. Franklin

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MAR 26 2004

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

Enclosures  
JAF:jab

c: As per Certificate of Service  
ALJ Michael C. Schierle

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BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

ORIGINAL

JOAN GREENE

v.

Docket No. C-20029142

METROPOLITAN EDISON COMPANY

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the Reply Exceptions filed 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).

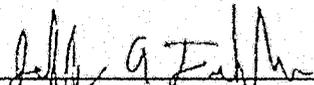
Service by UPS Overnight, postage prepaid, addressed as follows:

James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2<sup>nd</sup> Floor  
Harrisburg, PA 17120

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

Joan Greene  
845 Locust Street  
Mt. Wolf, PA 17347-9509

Dated: March 26, 2004

  
\_\_\_\_\_  
Jeffrey A. Franklin  
RYAN, RUSSELL, OGDEN & SELTZER LLP  
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Attorneys for  
Metropolitan Edison Company

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MAR 26 2004

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

JOAN GREENE

v.

METROPOLITAN EDISON COMPANY

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Docket No. C-20029142

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REPLY OF METROPOLITAN EDISON COMPANY  
TO THE EXCEPTIONS OF JOAN GREENE

---

**DOCKETED**  
MAR 30 2004

DOCKETED  
FOLDER

Dated: March 26, 2004

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Metropolitan Edison Company

**RECEIVED**

MAR 26 2004

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S OFFICE

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## I. INTRODUCTION

In accordance with this Commission's regulations at 52 Pa. Code § 5.535, Metropolitan Edison Company ("Met-Ed" or the "Company") is filing the following Reply to the Exceptions of Joan Greene ("Complainant" or "Ms. Greene") in connection with the Initial Decision of Administrative Law Judge ("ALJ") Michael C. Schnierle issued on February 25, 2004 ("Initial Decision" or "I.D.").

In the Initial Decision, the ALJ found that (i) the Complainant, as the party seeking affirmative relief from the Commission in this case, has the burden of proof, (ii) the Complainant failed to appear and present evidence at the hearing in this proceeding, and her failure to appear at the hearing after receiving due notice thereof was unexcused and without good cause, and (iii) the Complaint should be dismissed with prejudice. (I.D. 4). Accordingly, the ALJ dismissed the Complaint with prejudice.

As discussed more fully below, the Initial Decision properly addressed this matter and, given the Complainant's unexcused failure to attend the hearing, correctly dismissed the Complaint with prejudice.

This proceeding involves Ms. Greene's dispute over the accuracy of her electric service bills from January 2002 through March 2002. After expressly invoking the Commission's jurisdiction by filing the Complaint, Ms. Greene neither appeared at the hearing nor met her burden of proof. In contrast, the Company was prepared to proceed at the hearing.

While the Company is responding to the Complainant's Exceptions, it should be noted that they fail to conform to the Commission's regulations at 52 Pa. Code § 5.533 requiring an explanation of any findings of fact or conclusions of law to which

exception is taken and a citation to the relevant pages of the decision. (52 Pa. Code § 5.533).

## II. FACTUAL BACKGROUND

On or about December 24, 2002, Complainant filed the Complaint disputing the accuracy of her bills for the months of January 2002 through March 2002.

On February 5, 2003, an Interim Order setting a settlement conference was issued. The parties were unable to settle the matter.

On November 3, 2003, the ALJ issued an order canceling a December 27, 2003 hearing and directed Met-Ed to file an Answer, which had been delayed during settlement discussions with the consent of the Complainant and the Office of Administrative Law Judge.

On November 21, 2003, Met-Ed filed a timely Answer stating that it had misread the meter, but that it had corrected the error and rebilled the Complainant for the correct amount for the disputed period.

By a hearing notice dated December 29, 2003, the parties were informed that a hearing would be held at 10:00 a.m. on February 12, 2004 in Harrisburg. The hearing notice expressly stated "Attention: You may lose the case if you do not come to this hearing and present facts on the issues raised."

Prior to the hearing, Met-Ed received no exhibits from the Complainant and no oral or written requests from the Complainant for a continuance, for conversion to a telephonic hearing, or for anything else regarding the hearing.

On February 12, 2004, a hearing was held in Harrisburg before the ALJ in which Met-Ed and its witnesses were present, but the Complainant failed to appear.

### III. REPLY EXCEPTIONS

#### A. The Complainant Failed to Meet Her Burden of Proof

As pointed out in the Initial Decision, as the party seeking affirmative relief from the Commission, Ms. Greene had the burden of proving the allegations in her Complaint by producing evidence that establishes the material facts by a preponderance of the evidence. (66 Pa. C.S. § 332(a). *See also Darling v. Philadelphia Electric Co.*, F-00161139 (order adopted August 19, 1993, entered November 16, 1993)). To establish a sufficient case against a utility and satisfy its burden of proof, a complainant must show that the utility is responsible or accountable for the problem described in the complaint. (*Feinstein v. Philadelphia Suburban Water Company*, 50 Pa. P.U.C. 300 (1976)).

In addition, as the ALJ pointed out in the Initial Decision, the Commission has routinely held that where a complainant fails to appear and present evidence, the complainant's burden of proof cannot be met and the complaint should be dismissed with prejudice. (*Jefferson v. PG Energy Utilities, Inc.* Docket No. Z-00269892 (entered December 26, 1995); and I.D. 3)).

The Complainant failed to meet her burden of proof when she was inexplicably not present at the hearing and failed to put on a prima facie case. However, in order to remedy this glaring legal deficiency, Ms. Greene, in her Exceptions, makes allegations that should have been presented as evidence at the hearing. There is no legal basis for these tactics and the Commission should not countenance Ms. Greene's thinly veiled attempt to litigate her complaint through Exceptions. The Company's due process rights would be severely impinged by any Commission consideration of any arguments

and/or evidence in Exceptions well after the record is closed. (See, Philadelphia Lodge v. Pennsylvania Lodge, 660 A.2d 192, 199 (Pa. Cmwlth. 1995). Harnett v. Bell Atlantic Pennsylvania, Inc., 1994 Pa. PUC LEXIS 57, Docket No. C-00945707 (1994). McCort Rierdon v. The Bell Telephone Company of Pennsylvania, 1993 Pa. PUC LEXIS 178, Docket No. C-881874 (November 5, 1993)).

In addition, it is well established that inclusion of extra-record evidence in Exceptions or Replies to Exceptions is not permitted without order of the Commission. (Application of Apollo Gas Company, 1994 Pa. PUC LEXIS 45, Docket No. A-120450 F003 (February 10, 1994)). Once the record is closed in a proceeding, no additional evidence may be introduced or relied upon unless allowed by the Commission or the presiding officer upon motion by the participant. (52 Pa. Code § 5.431).

The Complainant did not appear at the hearing after the ALJ provided her ample opportunity to do so, and she did not provide an excuse for her non-appearance.

**B. Complainant Inappropriately Attacks the Initial Decision in Exception No. 1 for Following Well-Settled Law**

The Complainant attacks the Initial Decision for following well-settled law, which prohibits an administrative law judge from deciding a case on the basis of extra-record allegations. That the Complainant mailed a package of documents and a letter to the ALJ is acknowledged in the Initial Decision. However, as properly discussed in the Initial Decision on pages 3 to 4, these documents are insufficient to meet the Complainant's burden of proof as a matter of law where, as in the instant matter, the Complainant failed to provide any sworn testimony or exhibits and failed to appear for the hearing at the properly noticed time and place.

As the Complainant seeking affirmative relief from the Commission in this case, she is the party with the burden of proof. (66 Pa. C.S. § 332(a), I.D. 3). The Complainant failed to meet her burden of proof because she presented no evidence due to her own unexcused failure to attend the properly noticed and scheduled hearing.<sup>1</sup> (Feldman v. Pozsonyi, 365 Pa. Superior Ct. 324, 331, 529 A.2d 530, 534 (1987); Gibbs v. PECO Energy Company, Docket No. Z-00242204 (Order entered January 2, 1995)). Thus, the Complaint must be dismissed as a matter of law. (I.D. 3-4).

As discussed and supported in detail in the Initial Decision at pages 3 to 4, Ms. Greene's Complaint and documents mailed to the Commission are not part of the record of the proceeding since she failed to appear, much less testify and offer evidence at the hearing. To base a decision on such extra-record allegations would prejudice Met-Ed and is contrary to the Public Utility Code. (Id.; and 66 Pa. C.S. §§ 703. 332).

In addition, Ms. Greene failed to provide any explanation for her failure to appear at the hearing until filing her Exceptions.

The ALJ went above and beyond the requirements of the law by holding the hearing in recess for fifteen minutes to allow the Complainant more time to arrive at the hearing. She did not appear. He telephoned the Complainant, but she did not answer her phone. He delayed the hearing yet again for another fifteen minutes to allow the Complainant more time to arrive at the hearing, but she still failed to appear. (I.D. 2).

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<sup>1</sup> The Complainant's own letter acknowledges the fact that she had received notice of the hearing. Moreover, the Complainants Exceptions do not dispute this notice.

C. Complainant Misconstrues the Initial Decision in her Exception No. 2

In Exception No. 2, Ms. Greene complains that the ALJ "downgrades" her documents mailed to the ALJ as "merely an 'exhibit' and questions why the ALJ did not review her letter in the package before the hearing." Contrary to the Complainant's first assertion, the ALJ did not "downgrade" the Complainant's documents. He gave them the weight to which they are entitled under the law. Further, as he explained on pages 2 and 3 of the Initial Decision, included with the package of proposed exhibits from the Complainant was a two page letter summarizing her Complaint and at the end of the letter a request that the case be decided on the attached documents and letter as she was inexplicably unable to attend the hearing. (I.D. 2). Initial Decision accurately characterized the Complainant's documents. (I.D. 2-3).

As described and supported in the Initial Decision on page 3, Ms. Greene's letter stating that she would be unable to attend the hearing cannot be considered a request for continuance. Even if it was so considered, it would have to be denied in this matter due to the lack of any excuse, much less good cause shown, for the Complainant's failure to serve or contact Met-Ed, and to comply with Section 1.15(b) of the Commission's regulations. In addition, Met-Ed would have incurred substantial costs and undue prejudice to Met-Ed after having prepared for the hearing and traveling to Harrisburg with its witnesses for the hearing.

Finally, it is reasonable that the ALJ did not notice the letter in the voluminous package sent by the Complainant until shortly before the hearing date because no request for continuance was filed in accordance with the Commission's regulations or served on Met-Ed. (I.D. 3; 52 Pa. Code § 1.15(b)).

**D. Complainant's Exception No. 3 Merely Reiterates Prior Arguments**

Exception No. 3 fails to state any new exception. It merely reiterates the arguments the Complainant made in Exception No. 1. Met-Ed incorporates its response to Exception No. 1 herein. In addition, the Complainant's reference to an unnamed constitutional right is unsupported and unsupportable. Contrary to the unsupported allegation of bias in favor of Met-Ed, the Initial Decision is replete with references to how the ALJ went above and beyond the call of duty to give the Complainant every reasonable opportunity to participate in the hearing, including recesses and even a telephone call to her. Further, the ALJ went to great pains to explain to the Complainant the legal process. (I.D. 3-4).

**E. Complainant Misconstrues the Statement regarding Copies in Exception No. 5**

Ms. Greene's Exception No. 5 complains about a phrase from the Initial Decision on page 2 regarding her failure to provide a copy of her documents or letter to Met-Ed in advance of the hearing. In fact, she did not provide these documents to Met-Ed in advance of the hearing. The Initial Decision says nothing about service of these documents because copies of exhibits were to be distributed in the required number during the hearing, which could not proceed because the Complainant decided not to attend it.

The Complainant misconstrues this phrase of the Initial Decision, which is correct as written.

**F. Complainant Misconstrues Summary of History and Argues Evidence Not of Record in Exception No. 6**

In Exception No. 6, a summary of Met-Ed's Answer is challenged incorrectly as determinative of the outcome of this proceeding. In fact, this quote in Exception No. 6 is from page 1 of the Initial Decision under the "History of the Proceedings" section and was not determinative of the proceeding. Further, the summary of Met-Ed's Answer in the Initial Decision is accurate. The Complainant goes on in this Exception to raise alleged facts not in evidence. Obviously, such extra-record allegations are inappropriate and need not be addressed further herein.

**G. Complainant Reiterates Arguments of Exception Nos. 1 and 6 in Exception Nos. 7 and 8**

The Complainant merely reiterates portions of the same phrase from page 2 of the Initial Decision she cites in Exception No. 6 and makes the same arguments in Exception Nos. 7 and 8 as she raised in Exception Nos. 1 and 6. Met-Ed incorporates its responses thereto herein.

**H. Complainant's Absence from the Hearing Was Unexcused**

In Exception No. 9, the Complainant tries to explain for the first time why she did not attend the hearing. The explanation is not reasonable, does not outweigh the prejudice to Met-Ed, and should not alter the outcome of this proceeding.

The Complainant now claims she does not have a car, does not drive, and could not afford transportation to Harrisburg for the hearing. However, she never raised these issues before and never requested to participate by telephone. She received notice of the hearing a month and a half before the hearing date, and never took any action to

address these alleged problems. In fact, the ALJ called her the day and time set for the hearing, and she did not answer her phone. In addition, she claims now that she could not afford counsel to attend for her. Counsel could not attend the hearing for the Complainant without a full evidentiary presentation, including witnesses. Moreover, the Complainant fails to state whether she even tried to obtain counsel, pro bono or otherwise.

The Complainant's excuses for choosing not to attend the hearing and failing to notify Met-Ed are tardy and unsupportable. All she had to do was answer her phone when the ALJ called her. Again, she chose to either not be home at the date and time set by the Commission for the hearing or to not answer her phone.

The balance of this Exception restates arguments in Exception 1. Met-Ed incorporates herein its response to Exception No. 1.

**I. Complainant's Exception No. 10 Demands the ALJ to act as Complainant's Counsel in an Adversarial Proceeding**

The Complainant improperly demands in Exception No. 10 that the ALJ act as her legal counsel and "asks for the Court's help in correcting my errors". (Exception No. 10). The Complainant cites a paragraph from page 3 of the Discussion section of the Initial Decision which describes why her letter is insufficient to constitute a petition for continuance.

The Complainant's reliance on an unspecified constitutional provision is misplaced. Further, it is not the job of the Commission or ALJ to act as counsel for the Complainant. The ALJ acknowledged the common misconception of lay persons who file formal complaints with the Commission that the Commission will prosecute their

case for them. As explained in the Initial Decision, this is not so. Ms. Greene chose not to attend the hearing and present evidence, leaving the ALJ no choice but to dismiss the Complaint. (I.D. 4).

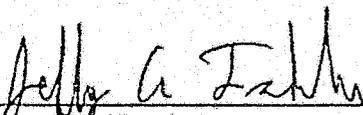
#### IV. CONCLUSION

For all of the foregoing reasons, Met-Ed requests that the Exceptions of Joan Greene be denied and the Initial Decision of Administrative Law Judge Michael C. Schnierle be approved in its entirety.

WHEREFORE, Metropolitan Edison Company respectfully requests that the Exceptions of the Complainant be denied and the Initial Decision be approved in its entirety.

Respectfully submitted,

Dated: March 26, 2004

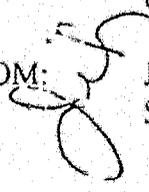
  
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Jeffrey A. Franklin  
RYAN, RUSSELL, OGDEN & SELTZER LLP  
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Wyomissing, Pennsylvania 19610-1222  
(610) 372-4761

Attorneys for  
Metropolitan Edison Company

DATE: MARCH 31, 2004

SUBJECT: C-20029142

TO: Cheryl W. Davis, Director  
Office of Special Assistants

FROM:  James J. McNulty  
Secretary

DOCUMENT

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APR 05 2004

Copies of the Initial Decision have been served upon all parties of interest.

Exceptions have been filed by:

Joan Greene

Reply Exceptions have been received from:

Metropolitan Edison Company

cc: Susan Hoffner, ALJ

jih

LAW OFFICES  
RYAN, RUSSELL, OGDEN & SELTZER LLP

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April 19, 2004

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VIA UPS OVERNIGHT

James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2<sup>nd</sup> Floor  
Harrisburg, Pennsylvania 17120

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

Re: Joan Greene v. Metropolitan Edison Company  
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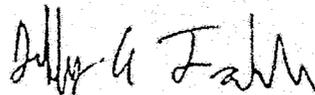
Dear Secretary McNulty:

Enclosed please find an original and nine (9) copies of the Answer and Motion to Strike of Metropolitan Edison Company to the Motion of the Complainant in the above-referenced matter. This document has also been served on the parties of record as shown on the attached Certificate of Service.

If you have any questions, please contact me.

Very truly yours,

RYAN, RUSSELL, OGDEN & SELTZER LLP



Jeffrey A. Franklin

Enclosures  
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c: As per Certificate of Service  
ALJ Michael C. Schnierle

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BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

ORIGINAL

JOAN GREENE

v.

METROPOLITAN EDISON COMPANY

Docket No. C-20029142

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the Answer and Motion to Strike of Metropolitan Edison Company to the Motion of the Complainant upon the individuals listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

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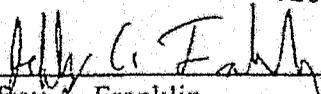
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APR 19 2004

A PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

Dated: April 19, 2004

  
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Attorneys for  
Metropolitan Edison Company

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APR 19 2004

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

JOAN GREENE

v.

METROPOLITAN EDISON COMPANY

Docket No. C-20029142

**ANSWER AND MOTION TO STRIKE OF METROPOLITAN EDISON  
COMPANY TO MOTION OF THE COMPLAINANT**

TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

AND NOW, Metropolitan Edison Company ("Met-Ed" or the "Company")<sup>1</sup>, by and through its counsel hereby answers and objects to the Motion of the Complainant, Joan Greene, ("Complainant" or "Greene")(Collectively, the "Parties"), dated April 5, 2004 ("Motion") and moves to strike the Motion pursuant to this Commission's regulations at Sections 5.61 and 5.103, 52 Pa. Code §§ 5.61 and 5.103.

**Summary of Requested Relief**

The Complainant's Motion is untimely, without merit, and should be denied. Met-Ed properly requested and received extensions of time to file its Answer while the Parties were discussing settlement. The Parties' failure to reach a settlement is a red-herring, which is not relevant to this Motion.<sup>2</sup> In addition, the Answer was filed properly pursuant to the ALJ's November 3, 2003 Order. As discussed in detail below, the Complainant's Motion must be denied as untimely, inaccurate and moot. In addition, the Motion contains factual averments not of record and unaccepted settlement proposals, which should be struck. The Complainant failed to timely object and reasonably challenge the Company's Answer, after having months to do so. The Complainant

<sup>1</sup> The defined terms herein are the same as those in the Company's Reply Exceptions, unless otherwise defined herein.

**DOCKETED**  
MAY 03 2004

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cannot now decide to retroactively withdraw previously granted extensions and object to the Company's Answer after the Initial Decision, Exceptions, and Reply Exceptions. This Motion is not the proper means to argue her Complaint again, and the Commission should not allow the Complainant to do so. Finally, the Motion is moot as the Complaint must be dismissed for the Complainant's failure to enter any record evidence in support of her Complaint at hearing. (Initial Decision and Met-Ed Reply Exceptions). The Commission can deny Complainant's Motion on the above stated grounds without reaching its substance. However, Met-Ed responds to the various allegations using the outline of the unpaginated Motion (with Met-Ed's responsive headers) and Met-Ed requests certain allegations be struck as more fully described below.

**A. Met-Ed's Answer Was Filed Timely**

**1. Met-Ed Properly Filed its Answer on November 21, 2003**

Admitted in part and denied in part. Met-Ed admits that its Answer to the Complaint was originally due on January 24, 2003 and that the Answer was filed on November 21, 2003. Met-Ed specifically denies the Answer was filed untimely and further avers as follows. Met-Ed properly and timely filed its Answer to the Complaint on November 21, 2003. The Company's experience is that pro se Complainants, like Greene, sometimes misconstrue an answer as an attack on their veracity. It is not; it is a standard legal document necessitated by the litigation initiated by the Complainant. Therefore, as the Parties pursued settlement and to avoid a "chilling effect" on the Complainant, Met-Ed requested from the Complainant and the Office of Administrative Law Judge extensions of time to file its Answer in response to the Complaint. These extensions were granted unconditionally by the Complainant and the Commission. Met-

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<sup>2</sup> Obviously, a settlement would have obviated the need for a hearing in this matter.

Ed confirmed the extensions by letters sent to the Commission and the Complainant. The Complainant never objected. In fact, the Complainant requested an extension of time from Met-Ed, which Met-Ed granted and resulted in one of the extension confirmation letters to the Commission and Complainant.

Met-Ed also consented to Commission mediation of this matter, which the Complainant rejected. Therefore, the matter was sent to the ALJ for hearing.

By Order dated November 3, 2003, the ALJ required, inter alia, Met-Ed to file an answer or other responsive pleading to the Complaint within twenty days. On page 3, provision 5 of the November 3, 2003 Order, the ALJ stated, "If Metropolitan Edison Company files a timely answer which specifically denies the allegations in this complaint, or which raises material questions of law or fact, this matter shall [be] scheduled for hearing and decision." Met-Ed did just that on November 21, 2003, and the matter was scheduled for hearing. Again, the Complainant did not object.

The Complainant cites a "History of the Proceedings" paragraph of the Initial Decision. The Initial Decision correctly recites the procedural history of the proceeding. Neither the November 3, 2003 Order nor the Initial Decision made any finding that Met-Ed's Answer was untimely or defective in any way. To the contrary, Met-Ed's Answer complied with the November 3, 2003 Order and resulted in the hearing going forward. The Initial Decision accurately recounted the procedural history and made no further mention of it, as none was necessary. Even the Complainant does not dispute the accuracy of these Orders in her Motion. Further, the Complainant did not object to or file Exceptions to the Orders regarding the Company's Answer until this tardy Motion. Therefore, Met-Ed objects to this Motion as untimely and unsupported, and requests that it be denied.

## **2. Met-Ed Requested and Received Extensions of Time for Filing**

Admitted in part and denied in part. Met-Ed properly requested and received extensions of time for filing its Answer to the Complaint. Met-Ed incorporates its response to part "A. 1." above.

### **B. Complainant Granted Met-Ed Unconditional Extensions of Time to File Its Answer**

Admitted in part and denied in part. Met-Ed admits that the Complainant granted Met-Ed extensions of time to file its Answer. Met-Ed denies that such grants were conditional and avers that any such condition would not be practical. Met-Ed objects to the Complainant's citation to extra-record letters and moves that the Complainant's quotation of alleged documents herein be stricken as they are not a part of the record. Met-Ed incorporates herein its response to part "A. 1." above.

### **C. Met-Ed's Answer Was Timely Filed on November 21, 2003**

Admitted in part and denied in part. Met-Ed admits receiving unconditional extensions of time to file its Answer. Met-Ed also admits to granting same to the Complainant and confirming these arrangements with the Office of Administrative Law Judge and sending confirming letters to the Complainant and Commission. Further, Met-Ed admits to agreeing to Commission mediation of this matter. Met-Ed specifically denies any wrong-doing and avers that it acted in good faith in attempting to resolve this matter with the Complainant, including various settlement proposals to the Complainant. In addition, Met-Ed incorporates herein its response to part "A. 1." above. Met-Ed objects to the Complainant's citation to and quoting of various settlement discussions between the Complainant and counsel for the Company and moves that these references be stricken. The Commission's regulations treat such settlement discussions and

unaccepted settlement offers as confidential to promote settlement discussions between parties. (52 Pa. Code § 5.231).

**D. The Parties Did Not Reach Agreement So Met-Ed Filed Its Answer**

Admitted in part and denied in part. Met-Ed admits it provided confidential settlement proposals to the Complainant. Met-Ed also admits that it continued to try to settle this matter and authorized Commission mediation; even though, the Complainant chose to ignore Met-Ed's efforts and refused Commission mediation. Met-Ed specifically denies that all of its confidential settlement proposals contained references to "rebills". Met-Ed incorporates herein its response to part "A. 1." above. Further, Met-Ed specifically avers it had a "reasonable time" extension to file its Answer from the Complainant and the Commission. The Company's May 16, 2003 confirming letter to Chief ALJ Christianson is even quoted by the Complainant at Motion part "C", including the reasonable time extension.

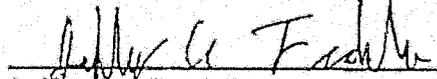
**E. Complainant Cannot Retract Her Extensions at this Late Date**

Denied. Met-Ed specifically denies providing any fraudulent data in its settlement proposals or Answer and denies that there was any contingency. To the contrary, Met-Ed avers that it acted in good faith in its settlement discussions with the Complainant. Met-Ed also avers that no further extension of time was required to be obtained from the Complainant. Met-Ed incorporates herein its response to part "A. 1." above.

WHEREFORE, Metropolitan Edison Company hereby requests that the Motion of Joan Greene be denied and its extra-record references be stricken.

Dated: April 19, 2004

Respectfully submitted,



Jeffrey A. Franklin

RYAN, RUSSELL, OGDEN & SELTZER LLP

1105 Berkshire Boulevard, Suite 330

Wyomissing, Pennsylvania 19610-1222

(610) 372-4761

Attorneys for

Metropolitan Edison Company

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PA PUBLIC UTILITY COMMISSION  
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Before the  
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ORIGINAL

Joan Greene

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C-20029142

DOCUMENT FOLDER

MOTIONS

OF

COMPLAINANT JOAN GREENE

APR 5 2004  
PA PUBLIC UTILITY COMMISSION  
SECRETARY'S OFFICE

DATED 5 APRIL 2004

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ORIGINAL

Before the  
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Joan Greene

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C-20029142

MOTIONS

OF

COMPLAINANT JOAN GREENE

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Before the  
Pennsylvania Public Utility Commission

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Joan Greene

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Metropolitan Edison Company

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C - 20029142

MOTION

Complainant Joan Greene moves that This Honorable Court rule that Met-Ed admitted all the allegations in my complaint in accordance with Section 5.61 of the Commission's Rules of Administrative Practice and Procedure, 52 Pa. Code Section 5.61, because Met-Ed:

- Did not satisfy my complaint.
- Did not file a timely answer.

A. MET-ED'S ANSWER WAS DUE 24 JAN 2003 BUT WAS UNTIMELY FILED ON 21 NOV 03.

1. Robert A. Christianson, Chief Administrative Law Judge, in his "Interim Order Setting Settlement Conference," dated 05 Feb 03, found that Met-Ed had not filed its Answer to my complaint:

On or about December 24, 2002, Joan Greene ("Complainant") filed a complaint against Metropolitan Edison Company ("Respondent"), at the above-captioned Docket Number. To my knowledge, Respondent has not filed an answer to the complaint. (My emphasis.)

Michael C. Schnierle, Administrative Law Judge, in his "Order Directing Respondent to File an Answer," dated 03 Nov 03, found that Met-Ed had not filed its Answer to my complaint:

This complaint was filed on December 24, 2002. On Feb. 5, 2003, an Interim Order setting a settlement conference was issued. The mediation appears to have ended August 12, 2003. I can find no evidence of an answer in the file given to me by staff, in the Commission's Document Folder for this case, or on Commission's computerized docket entry system. I therefore conclude that none was filed. (My emphasis.)

Michael C. Schnierle again found in his "Initial Decision," dated 12 Feb 04, at his History of the Proceedings on page 1, that Met-Ed had not filed its Answer to my Complaint:

On October 27, 2003, this case was assigned to me, and it was scheduled for hearing on December 27, 2003. Upon my review of the file, it became apparent that no answer had ever been filed. Accordingly, by order dated November 3, 2003, I canceled the hearing and directed MetEd to file an answer. (My emphasis.)

2. Met-Ed's Answer was due on 24 Jan 03 according to Carl J. Engleman's notice of appearance to Eric A. Rohrbaugh at the Law Bureau of the PPUC dated 21 Jan 03:

Ryan, Russell, Ogden & Seltzer LLP has been retained to represent Metropolitan Edison Company, a FirstEnergy Company, in the above-referenced matter. Currently, the deadline for filing a responsive pleading under the Rules of Procedure of the Pennsylvania Public Utility Commission is Friday, January 24, 2003.

I have contacted the Complainant, Joan Greene, and she has agreed to grant Metropolitan Edison Company a thirty (30) day extension of time to answer her Formal Complaint, in hopes that an informal resolution may be achieved.

**B. COMPLAINANT JOAN GREENE'S GRANT OF TIME EXTENSION TO MET-ED TO FILE ITS ANSWER TO THE COMPLAINT TIMELY WAS FIRMLY BASED ON THE FOLLOWING CONTINGENCY: THAT MET-ED MUST USE ONLY THE COMPLAINANT'S ORIGINAL MONTHLY BILLS FOR ELECTRICITY CONSUMPTION UPON WHICH TO BASE ITS ANSWER AND SUMMARY OF COMPLAINANT'S ACCOUNT AND THAT MET-ED MUST NOT USE ITS FRAUDULENT "REBILLS."**

I affirm that I granted Mr. Engleman the 30-day extension, with the above contingency, as I reported to Mr. Peter Burg in my letter dated 31 Jan 03:

I received a call from Carl Engleman of Ryan, Russell, Ogden & Seltzer who informed me that he is representing Met-Ed in my first complaint which he was served by the PUC. I granted his request for a 14-day extension to reply to the PUC. In fact, I gave him 30 days. I told him that if anyone is willing to look at Met-Ed's original bills [not "rebills"] and get me the number of kWh and cost for the electricity which my meter says I used between 25 Dec 2001 and 23 Apr 2002, I was happy to give him extra time, all he needs. As long as he ignores the fraudulent "rebills" and uses the original bills.

I also reported this to the Secretary of the PPUC in my Status Letter of 08 Dec 03:

After the ALJ served papers on Met-Ed, I was first contacted by Carl Engleman at the firm. He called and asked for a 14-day extension, but I gave him 30 days if he would get an honest accounting of my bill. I told him he could have the extension "if you don't let Met-Ed hornswoggle you into using their Rebills." In my letter to Mr. Burg dated 31 Jan 03, I said Mr. Engleman could have as much time as he needed as long as he ignored the fraudulent "Rebills" and used my original monthly bills:

I received a call from Carl Engleman of Ryan, Russell, Ogden & Seltzer who informed me that he is representing Met-Ed in my first complaint which he was served by the PUC. I granted his request for a 14-day extension to reply to the PUC. In fact, I gave him 30 days. I told him that if anyone is willing to look at Met-Ed's original bills [not "rebills"] and get me the number of kWh and cost for the electricity which my meter says I used between 25 Dec 2001 and 23 Apr 2002, I was happy to give him extra time, all he needs. As long as he ignores the fraudulent "rebills" and uses the original bills.

I sent a computer copy of Mr. Burg's letter to Mr. Engleman at Ryan, Russell, Ogden and Seltzer, so the law firm had my request in writing as well as verbal. Then his supervisor, Jeffrey Franklin, took over and called me for the many unproductive extensions. Mr. Franklin knew or should have known that I considered the Rebills to be fraudulent cover-ups for Met-Ed's scams, because I discussed them in minutiae in the body of my submission to the PPUC. He also knew that my preface to the section "What Would You Like the Business to Do to Settle your Complaint" unmistakably proscribed his use of the Rebills. The preface stated:

In one inclusive written letter—no verbal calls—I want Met-Ed to do the following. In order to be acceptable, Met-Ed must use my original bills and not their "rebills".

My grant of the 30-day extension to Mr. Engleman brought Met-Ed's deadline for its Answer to be timely filed up through Sunday, 23 Feb 03.

**C. AFTER I GRANTED THE 30-DAY EXTENSION TO MR. ENGLEMAN ON 20 JAN 03, I WAS CALLED BY HIS SUPERVISOR, JEFFREY A. FRANKLIN, ESQ., WHO TOOK OVER. MET-ED'S ANSWER TO MY COMPLAINT, SIGNED BY JEFFREY A. FRANKLIN, WAS NOT FILED UNTIL 21 NOV 03 AND WAS THEREFORE UNTIMELY.**

On 11 Feb 03, Mr. Franklin forwarded an official "Notice of Appearance on Behalf of Metropolitan Edison Company" to Secretary McNulty of the PPUC.

On 19 Feb 03, Mr. Franklin called to ensure that I received a copy of several court pleadings. He asked questions about the complaint which I had filed with Mr. Burg dated 19 Aug 02. He said

the PPUC wanted us to work out the problem. I said I'm not asking for much, just answer the questions I asked in my complaint in writing. He said he could probably get copies of my original Jan-Apr bills and the rebills. I said I did not want him to use the Rebills. He said he had to see them anyway.

On 20 Feb 03, Mr. Franklin called and said he was sending someone from the local Met-Ed office to bring me some dial cards for reading my meter (which I had requested directly from Met-Ed but could not get). I appreciated his help very much and thanked him.

On 21 Feb 03, the local Met-Ed meter-reading supervisor, Mr. Jay Beaver, hand delivered meter reading dial cards and a 2003 read schedule so I could read my own meter. I have sent in my readings each month since then, except maybe once. But they are not consistently used and I have been scammed three more times.

On 21 Feb 03, I received a copy of Mr. Franklin's 20 Feb 03 letter to Chief ALJ Christianson stating that Met-Ed intended to file its Answer:

As the Complainant and Metropolitan Edison Company are continuing settlement discussions, Metropolitan Edison Company intends to file its Answer, if necessary, by Monday, March 24, 2003. The Complainant and Mr. Rohrbaugh have agreed. (My emphasis.)

On 03 Mar 03, I received an account summary chart from Rosalyn, Customer Associate. When Mr. Franklin called, I asked him about the chart and told him it was not acceptable because it included the data from Met-Ed's Rebills. I told him the chart was exactly what I would like to have but with all the Rebill data removed. I asked if he could have Rosalyn redo the chart for me using only my Original Monthly Bills. He said he was not aware of the chart and that Rosalyn had not provided a copy to him, that she was on a 5-day vacation, but when she got back he would contact her and then get back to me.

On 18 Mar 03, I received a copy of Mr. Franklin's 17 Mar 03 letter to Mediation Coordinator Herbert R. Nurick indicating that Met-Ed's counsel would be sending a settlement proposal to me, and I trusted it would be Rosalyn's chart he had promised without the Rebill data:

This letter serves as a Settlement Conference Report pursuant to the February 5, 2003 Interim Order Setting Settlement Conference issued by Chief Administrative Law Judge Robert A. Christianson in the above-referenced matter.

Counsel for Metropolitan Edison Company ("Met-Ed") and the Complainant have had several telephone conversations regarding settlement. Both parties are interested in resolving this matter and are continuing to pursue settlement. Currently, Met-Ed is collecting documents and preparing a letter from Met-Ed's counsel as part of a confidential settlement proposal to the Complainant pursuant to those telephone conversations with the Complainant.

Next I received Mr. Franklin's letter of 24 Mar 03 to Chief ALJ Christianson stating that Met-Ed intended to file its Answer:

As the Complainant and Metropolitan Edison Company are continuing settlement discussions, Metropolitan Edison Company intends to file its Answer, if necessary, by April 30, 2003. The Complainant does not object to this further extension of time. (My emphasis.)

Then I received Mr. Franklin's letter dated 16 May 03 to Chief ALJ Christianson stating that Met-Ed intended to file its Answer.

As the Complainant and Metropolitan Edison Company are continuing settlement discussions, Metropolitan Edison Company intends to file its Answer, if necessary, within a reasonable period of time. The Complainant granted Met-Ed a reasonable period of time extension to file its Answer in the above-referenced matter. The parties may also pursue Commission mediation shortly. (My emphasis.)

Regarding the last several letters, there was no specific call to me requesting a specific extension of time beyond 23 Feb 03 for Met-Ed to file its Answer in a timely manner. In my dupery, I believed I was going to receive Rosalyn's chart. But, I was beginning to wonder why it was taking so long for Met-Ed to answer my few questions and draw up a simple accounting which was based only on my Original Monthly Bills for electricity consumption, and not Met-Ed's Rebills, as requested in my complaint. Rosalyn's chart would require only several hours of time at most. Why was Met-Ed taking months? At this point, I had received no settlement offer from Met-Ed, verbal or written.

Then Mr. Franklin sent me his proposed settlement offer by transmittal letter dated 15 May 03 which apparently is the document referenced in his 17 Mar 03 letter to Mr. Nurick. Mr. Franklin stated:

Pursuant to the Interim Order dated February 6, 2003, our telephone conversations and "Attachment 2" to your Formal Complaint in the above-referenced matter, Metropolitan Edison Company ("Met-Ed") provides this confidential settlement proposal to you.

**D. MET-ED FAILED TO SATISFY MY COMPLAINT AND FAILED TO FILE A TIMELY ANSWER.**

Mr. Franklin's 15 May 03 proposal forwarded an account summary chart based on fraudulent "Special" bill data which I summarized in my 08 Dec 03 Status Report to Secretary McNulty (Exhibit #4 to my Petition to the Court submitting evidence). When Mr. Franklin called on 24 Jun 03 to discuss his proposal, I flat-out rejected it and ended all discussions with him. Mr. Franklin's call about the proposal was my last conversation with him. His submission of fraudulent data to me was the end of the ballgame for Met-Ed's time extensions. Mr. Franklin did not request an extension. If he had, I would not have granted it. With Met-Ed's use of fraudulent data, Met-Ed did not satisfy my complaint which specified that all information must be based on my Original Monthly Bills for electricity consumption. So, I cut off all communications with Ryan, Russell, Ogden & Seltzer. There was no manner in which Mr. Franklin could have requested another extension of time to file Met-Ed's Answer to my complaint timely. From 24 Jun 03 through 21 Nov 03, Mr. Franklin had no extension of deadline for filing Met-Ed's Answer to my complaint. Therefore, Met-Ed did not file a timely Answer. I move that Met-Ed be deemed to have admitted all the allegations in my complaint in accordance with Section 5.61 of the Commission's Rules of Administrative Practice and Procedure, 52 Pa. Code Section 5.61.

Although there were no on-going discussions and I had told Mr. Franklin not to bother sending me with any more of his papers, he sent a second unwanted and unsolicited settlement proposal by his transmittal letter dated 11 Aug 03. This proposal contained his second account summary chart which included Met-Ed's fraudulent "Rebills," which is also summarized in Exhibit #4. Again Met-Ed failed to satisfy my complaint.

**E. MET-ED'S SUBMISSIONS OF FRAUDULENT DATA IN BOTH SETTLEMENT PROPOSALS NULLIFIED COMPLAINANT'S GRANT OF EXTENSION OF TIME WHICH WAS CONTINGENT ON MET-ED NOT USING ITS FRAUDULENT "REBILLS" AND THAT MET-ED MUST USE ONLY MY ORIGINAL MONTHLY BILLS FOR ELECTRICITY CONSUMPTION. MET-ED FAILED TO HONOR THE CONTINGENCY. AS A RESULT, ANY AND ALL EXTENSIONS OF TIME BECAME NULL AND VOID.**

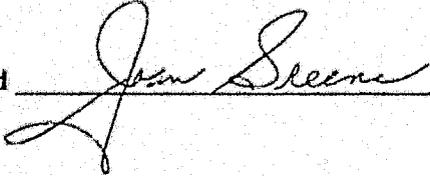
Complainant moves that all of Met-Ed's pleadings and motions, including the hearing, be struck from the record.

Mr. Franklin's letter of 21 Nov 03 transmitting Met-Ed's untimely Answer to my complaint contains a false statement. The letter is addressed to the Secretary of the PPUC:

Enclosed please find an original and three (3) copies of the Answer on behalf of Metropolitan Edison Company in the above-referenced matter. Filing was delayed with the consent of the Complainant and Office of Administrative Law Judge during settlement discussions between the parties and is now made consistent with the November 3, 2003 Order of Administrative Law Judge Michael C. Schnierle. This document has also been served on the parties of record as shown in the Certificate of Service. (My emphasis.)

For the record, Complainant did not consent to further extension of time to 21 Nov 03 for Met-Ed to file its Answer to the complaint.

Signed

A handwritten signature in cursive script, appearing to read "Jason Steene", written over a horizontal line.

and dated this 5<sup>th</sup> day of April 2004.

Before the  
Pennsylvania Public Utility Commission

PA PUS  
SEC  
CIV

Joan Greene

v.

Metropolitan Edison Company

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C-20029142

CERTIFICATE OF SERVICE

I certify that on this 5<sup>th</sup> day of April 2004, I have served a signed copy of Motions of Complainant Joan Greene upon the following:

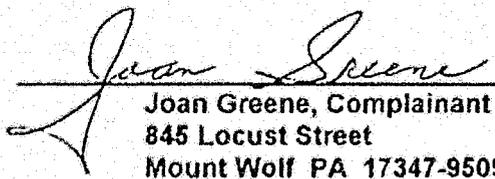
Mr. James J. McNulty  
Secretary of the Commission  
Pennsylvania Public Utility Commission  
P. O. Box 3265  
Harrisburg PA 17105-3265  
(Original and Nine Copies)

The Honorable Michael C. Schnierle  
Administrative Law Judge  
P. O. Box 3265  
Harrisburg PA 17105-3265

Jeffrey A. Franklin, Esquire  
Ryan, Russell, Ogden & Seltzer  
Suite 330  
1105 Berkshire Boulevard  
Wyomissing PA 19610-1222

Mr. Peter Burg  
Chief Executive Officer  
First Energy  
P. O. Box 3687  
Akron OH 44309-3687

Signed:

  
Joan Greene, Complainant  
845 Locust Street  
Mount Wolf PA 17347-9509