

August 23, 2017

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-2017-2582828
Frederick Altland v. Metropolitan Edison Company
Reply Exceptions of Met-Ed**

Dear Secretary Chiavetta:

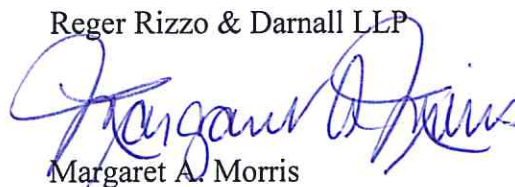
Attached for filing is the Reply of Metropolitan Edison Company (Met-Ed) to the Exceptions filed by Frederick Altland (Complainant) in the above captioned proceedings.

A copy of the Reply to Exceptions has been provided to the Complainant in the manner indicated on the attached Certificate of Service.

If there are any questions, please do not hesitate to contact me.

Very truly yours,

Reger Rizzo & Darnall LLP



Margaret A. Morris

MAM/jmm
Attachment

cc: The Hon. Conrad A. Johnson, PA Public Utility Commission [w/enc.]
Tori Giesler, Esquire, FirstEnergy Service Company [w/enc.]
Frederick Altland [w/enc.]

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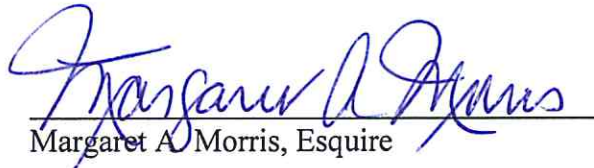
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been served upon the following person(s) listed below, in the manner indicated, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

Via Electronic and First Class Mail

Frederick Altland
958 E. Market Street
3d Floor, Apt. 7
York, PA 17403
atlandf@comcast.net

Dated: August 23, 2017


Margaret A. Morris, Esquire

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

FREDERICK ALTLAND

v.

METROPOLITAN EDISON COMPANY

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:
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:

Docket No. C-2017-2582828

**REPLY EXCEPTIONS
OF METROPOLITAN EDISON COMPANY
TO THE EXCEPTIONS OF
FREDERICK ALTLAND**

Margaret A. Morris, Esq.
REGER RIZZO & DARNALL LLP
Cira Centre, 13th Floor
2929 Arch Street
Philadelphia, PA 19104

Dated: August 23, 2017

Counsel for Metropolitan Edison Company

Introduction

In accordance with the Commission's directive in its Secretarial Letter dated August 8, 2017, and Section 5.535 of the Commission's Regulation, 52 Pa. Code § 5.535, Metropolitan Edison Company (Met-Ed or the Company) submits its Reply to the Exceptions of Frederick Altland (Complainant) which support the adoption of the Initial Decision (*ID*) of Administrative Law Judge Conrad A. Johnson (Judge Johnson). The Commission should deny the Exceptions, affirm the *ID* in its entirety and sustain the dismissal of the Complaint. The Findings of Facts and Conclusions of Law set forth in the well-reasoned *ID* are based on the record evidence and sustain the dismissal of the Complaint.

Relevant History of Proceedings

In his Formal Complaint filed on December 27, 2016, the Complainant alleged that there is a reliability, safety or quality problem with the electric service provided to him. On January 25, 2017, Met-Ed filed an Answer and New Matter denying the material averments and asserting that all participants in the Company's low-income assistance program must be enrolled in budget billing and the Complainant's service was interrupted on November 12, 2016¹ and November 19, 2016² due to circumstances outside the Company's control. On February 16, 2017, the Complainant filed a Reply to New Matter reiterating there was a reliability issue with his service and he was improperly billed.

A telephonic hearing was held on April 7, 2017. The Complainant appeared *pro se*, offered his testimony and sponsored no exhibits. The Company offered the testimony of one witness³ and ten hearing exhibits. All ten exhibits were admitted into the record.

Initial Decision

The *ID*, issued on June 28, 2017, dismissed the Complaint concluding that the Complainant failed to meet his burden of proving that Met-Ed is responsible or accountable for the problems described in his Complaint consistent with 66 Pa.C.S. § 332(a). Specifically, Judge

¹ Interruption was due to a squirrel affecting the East York Substation.

² Interruption was due to a wind event causing a primary wire to come down.

³ Two witnesses were scheduled to testify but only Ms. Parker testified before Judge Johnson truncated the hearing due to the Complainant's disruptive conduct.

Johnson found that the Complainant elected to present his testimony in a rambling accusatory fashion, to use offensive language and to claim repeatedly that the Commission was biased against him. Judge Johnson found that the Complainant did not offer any specific explanation as to why he believed his account was overbilled. *ID* at 9. Judge Johnson also found that, before the hearing was adjourned due to the Complainant's "disrespectfulness of the proceeding," he had not presented any evidence establishing that the Company had violated the Code, or a Commission regulation or order. *ID* at 14.

Discussion

The Commission should affirm the findings of facts and conclusions of law set forth in the well-reasoned ID and sustain the dismissal of the Complaint. The Complainant does not allege that Judge Johnson made an error of law or abused his discretion in any way. Instead, the Complainant excepts to the ID because he "does not agree with anything that the law judge said" and the ID is "illegal." *Exceptions* at 1.

The record evidence consists of the Complainant's opinion testimony and the substantial evidence presented by Met-Ed's witness and admitted exhibits. Other than his opinion testimony, the Complainant presented no evidence to sustain his burden of proof. The Complainant's assertions, personal opinions or perceptions do not constitute evidence. Personal opinion, no matter how strongly held, does not constitute evidence. *Pennsylvania Bureau of Corrections v. City of Pittsburgh*, 532 A.2d 12 (Pa. 1987). Even a *pro se* complainant must provide relevant and necessary information. *Groch v. Unemployment Comp. Bd. of Review*, 472 A.2d 286 (Pa. Cmwlth. 1984); *Vann v. Unemployment Comp. Bd. of Review*, 494 A.2d 1081 (Pa. 1985). Other than his opinion, he presented no evidence. More is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established. *Norfolk and Western Ry. v. PA Public Utility Comm'n*, 489 Pa. 109, 413 A.2d 1037 (1980); *Erie Resistor Corp. v. Unemployment Compensation Bd. of Review*, 194 Pa. Super. 278, 166 A.2d 96 (1960); *Murphy v. Commonwealth, Dept. of Public Welfare, White Haven Center*, 85 Pa. Cmwlth. 23, 480 A.2d 382 (1984).

Pursuant to Commission regulations,⁴ “[e]ach exceptions must . . . identify the finding of fact or conclusion of law to which exception is taken and cite relevant pages of the decision,” and “[s]upporting reasons for the exceptions shall follow each specific exception.” The Complainant’s attempt to further litigate this matter by simply disagreeing with the outcome of the ID without identifying any specific error of law or abuse of discretion to satisfy the requirements is procedurally improper and should be summarily dismissed.

In his Exceptions, the Complainant continues his disrespect for the Commission and the complaint process.⁵ Met-Ed is only responding to the two legal issues raised in the Exceptions, to wit: denial of due process and mandatory enrollment in budget billing.

Denial of due process

When I had my so called hearing I wasn’t allowed due process as I couldn’t get a word in edge wise. Just how can I prove my case when I was NOT given a chance to say anything. [sic] Emphasis in original.

The Commission as an administrative agency is required to provide due process to the parties appearing before them. Providing the parties notice and the opportunity to appear and be heard satisfies the due process requirement. *Schneider v. Pa. P.U.C.*, 479 A.2d 10 (Pa. Cmwlth. 1984). In his Exceptions, the Complainant completely ignores Judge Johnson’s recitation of his numerous outbursts and use of foul language during the hearing. The record reflects that Judge Johnson patiently attempted to elicit information from the Complainant regarding his Complaint. The Complainant was warned numerous times that his conduct/language was inappropriate and would not be permitted. Rather than change his behavior, the Complainant continued his abusive and disrespectful behavior during Met-Ed’s presentation of its direct case. In fact, when advised the hearing was being adjourned, the Complainant did not disagree but stated “[d]o what you want to do.” Tr. 59. Because of the hearing being truncated, Met-Ed did not finish the presentation its direct case.

⁴ 52 Pa. Code § 5.533(b).

⁵ Commission did not protect the public interest; efilng; and availability of cases cited in the ID.

The record evidence supports that the Complainant was afforded due process and the Complainant's Exception regarding this issue should be summarily denied.

PCAP requirement that participants be enrolled in budget billing.

The Complainant strenuously objects to being enrolled in budget billing⁶ arguing that he is being forced to pay more than he "legally owe [sic]." In support, he attached a copy of his monthly bill⁷ issued after the hearing.

The record evidence reflects that, effective May 4, 2015, the Complainant's Account was voluntarily enrolled in budget billing. Witness Parker explained that the equal payment plan or budget program is a program for residential customers and designed to make their monthly payments consistent throughout an entire year, leveling out seasonal highs and lows. The budget amount is based on the average of the last 12 months. The budget amount is reviewed quarterly and adjusted accordingly based on the customer's usage. The budget amount can increase, decrease or remain the same. Notice of change is set forth on bill preceding calculation. The budget amount at times may be higher or lower than the actual charges for any given billing period.

The record evidence reflects that the Account is enrolled in the Company's Pennsylvania low-income customer assistance program (PCAP).⁸ Effective May 2016, PCAP participants are required to participate in the equal payment plan or budget billing to be eligible for the monthly bill subsidy. The PCAP rules have been reviewed and approved by the Commission. See *Metropolitan Edison Company, Pennsylvania Electric Company and Pennsylvania Power Company Universal Service and Energy Conservation Plan for 2015-2018 Submitted in Compliance with 52 Pa. Code § 54.74*, Docket No. M-2014-2407729 (Final Order

⁶The equal payment plan or budget program is for residential customers and designed to make their monthly payments consistent throughout an entire year, leveling out seasonal highs and lows. The budget amount is based on the average of the last 12 months and is reviewed quarterly and adjusted accordingly based on the customer's usage.

⁷The attached bill, dated May 30, 2017, reflects budget amount of \$53.00 and the actual account balance of \$45.76.

⁸ PCAP is the Company's low-income customer assistance program which provides, *inter alia*, to a qualified participant a monthly credit based on income, heat source and energy burden and a potential arrearage forgiveness for timely in full payments.

entered May 19, 2015; Final Plan filed June 18, 2015) (*PCAP Order*).⁹ The Complainant can de-enroll his Account in budget billing, but he will be removed from PCAP and no longer received a PCAP monthly credit.

The record evidence supports Judge Johnson's analysis and disposition that the Complainant did not carry his burden of proof to sustain his Complaint. The Complainant's Exceptions regarding this issue should be denied based on the record evidence.

Conclusion

The Exceptions, either raising irrelevant points or repeating positions that Judge Johnson soundly rejected based on the record evidence, are without merit. The substantial record evidence shows that the Complainant failed to carry his burden of proof that Met-Ed violated the Code, Commission regulation or order. The findings of facts and conclusions of law in the *ID* are based on substantial record evidence not opinion testimony.

For the reasons set forth above, Metropolitan Edison Company respectfully requests that the Commission adopt the Initial Decision of the Honorable Conrad A. Johnson without modification and dismiss the Formal Complaint of Frederick Altland.

Respectfully submitted,



Dated: August 23, 2017

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⁹ See Paragraph B of the *PCAP Order*.