

January 2, 2018

**Via Electronic Filing**

Rosemary Chiavetta, Esquire  
Secretary  
PA Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265

**Re: Docket No. C-2017-2626578  
Yea Ryong Church, Inc. c/o David Gong v. Metropolitan Edison Company  
Motion of Met-Ed to Dismiss Complaint**

Dear Secretary Chiavetta:

Attached for filing is the Motion of Metropolitan Edison Company (Met-Ed) to Dismiss the Complaint filed by David Gong (Complainant) on behalf of Yea Ryong Church (Customer) in the above captioned proceeding.

A copy of the Motion to Dismiss 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. Dennis J. Buckley, PA Public Utility Commission [w/enc.]  
Tori Giesler, Esquire, FirstEnergy Service Company [w/enc.]  
David Gong [w/enc.]

**Re: Docket No. C-2017-2626578  
Yea Ryong Church, Inc. c/o David Gong v. Metropolitan Edison Company  
Motion of Met-Ed to Dismiss Complaint**

**CERTIFICATE OF SERVICE**

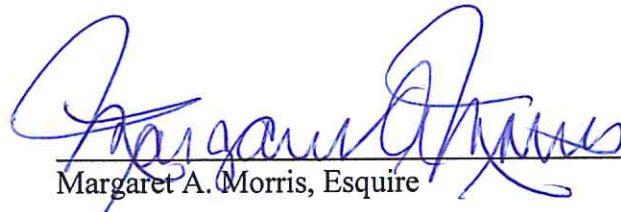
I hereby certify that a true and correct copy of the foregoing document has been served upon the following person(s), in the manner indicated, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

**Via Electronic and First Class Mail**

Yea Ryong Church c/o  
David Gong  
167 Main Street  
Stroudsburg, PA 18360  
[glenwoodinncc@gmail.com](mailto:glenwoodinncc@gmail.com)

Glenwood Inn Conference Center  
Attn: David Gong  
167 Main Street  
Delaware Water Gap, PA 18327

Dated: January 2, 2018

  
Margaret A. Morris, Esquire

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**YEA RYONG CHURCH c/o DAVID GONG** :  
 :  
 v. : **Docket No. C-2017-2626578**  
 :  
**METROPOLITAN EDISON COMPANY** :

**NOTICE TO PLEAD**

Pursuant to 52 Pa. Code § 5.103 you are hereby notified that if you do not file a written response answering the enclosed Motion of Metropolitan Edison Company within **twenty (20) days** from service of this notice, the facts set forth by Metropolitan Edison Company in the Motion may be deemed to be true, whereby requiring no other proof. All pleadings, such as a Reply to Motion, must be filed with the Secretary of the Pennsylvania Public Utility Commission, with a copy served to counsel for Metropolitan Edison Company, Margaret A. Morris, Esq., and Administrative Law Judge Dennis J. Buckley, the administrative law judge presiding over the issue.

**File with:**

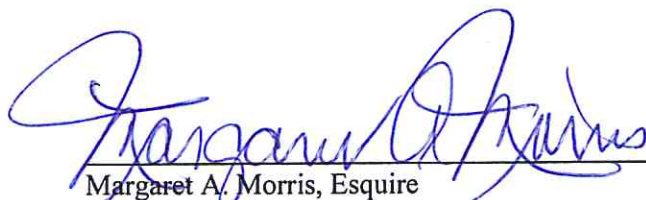
Rosemary Chiavetta, Esquire  
Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building – 2 North  
P.O. Box 3265  
Harrisburg, PA 17105

**With a copy to:**

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

The Honorable Dennis J. Buckley  
PA Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105

Date: January 2, 2018



Margaret A. Morris, Esquire  
Attorney ID No. 75048  
Reger Rizzo & Darnall LLP  
Cira Centre, 13<sup>th</sup> Floor  
2929 Arch Street  
Philadelphia, PA 19104  
(215) 495-6524 (tel.)  
[mmorris@regerlaw.com](mailto:mmorris@regerlaw.com)

*Counsel for Metropolitan Edison Company*

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

YEA RYONG CHURCH INC.	:	
C/O DAVID GONG	:	
	:	
v.	:	Docket No. C-2017-2626578
	:	
METROPOLITAN EDISON COMPANY	:	

---

**MOTION TO DISMISS THE COMPLAINT OF  
DAVID GONG ON BEHALF OF YEA RYONG CHURCH, INC.**

---

TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

Metropolitan Edison Company (Met-Ed or the Company) by and through it attorneys, Reger Rizzo and Darnall, LLP, files this Motion to Dismiss, pursuant to Section 5.103 of this Commission’s regulations, 52 Pa. Code §5.103. In support, Met-Ed avers as follows:

**I. Introduction**

1. In this Motion, Met-Ed seeks the dismissal of the Formal Complaint captioned *Yea Ryong Church, Inc., c/o David Gong v. Metropolitan Edison Company* (Formal Complaint) because: (i) the real party in interest in the Formal Complaint is Yea Ryong Church, Inc. (Customer) and, as such, is required at this stage of the proceeding to be represented by an attorney at law<sup>1</sup> in accordance with Sections 1.21 through 1.23 of the Commission’s Pennsylvania Public Utility Commission (Commission) regulations, 52 Pa. Code §§ 1.21-1.23; (ii) David Gong (Complainant or Mr. Gong) has no standing in his individual capacity and not as the customer of record to bring a complaint against the Company.

---

<sup>1</sup> The commercial account in dispute in this proceeding is No. 100083936722 and is in the name of Yea Ryong Church, Inc. David Gong is listed as the contact for and owner of Church but is *not* the customer of record on Met-Ed’s system. See attached Affidavit of Gina Dietrich.

## **II. Factual Background**

2. The Formal Complaint was filed against Met-Ed on September 26, 2017. The Formal Complaint relates exclusively to electric service Account No. 100083936722 for service at 171 Main Street, Delaware Water Gap, Pennsylvania (Service Location). The Customer of record at the Service Location and the aforesaid account number is Yea Ryong Church, Inc. and not Mr. Gong. Thus, the real party in interest and complainant in this proceeding is the Customer and not Mr. Gong.

3. On October 17, 2017 Met-Ed filed an Answer and New Matter to the Formal Complaint denying the material allegations therein. In the New Matter, Met-Ed noted that the real party in interest (i.e., the customer of record), Yea Ryong Church, Inc. is a corporation and is not represented by an attorney as required by the Commission's regulations. A copy of the Customer's corporate status with the Commonwealth of Pennsylvania was provided as Attachment 3 to the Answer and New Matter.

4. No response was filed to the New Matter. No attorney has filed an Entry of Appearance in the instant proceeding.

5. By Notice dated December 14, 2017, the Commission scheduled the matter for a Call In Telephonic Hearing on February 8, 2018, before the Honorable Dennis J. Buckley.

## **III. Not Represented by Counsel**

6. Representation before the Commission is governed by the Commission's regulations at 52 Pa. Code §§ 1.21-1.23. These regulations provide that "[i]n adversarial proceedings, partnerships, corporations, trusts, associations, agencies, political subdivisions and government entities shall be represented only by . . . an attorney." 52 Pa. Code § 1.21. An adversarial proceeding begins with the filing of an Answer. 52 Pa. Code § 1.8 and *New Fizon Catering, Inc. v. PECO Energy Company*, Docket Nos. C-2008-2065498 and C-2008-2079076 (Order entered June 24, 2009).

7. A non-attorney owner/operator of a limited liability corporation may file a formal complaint pleading, *without an attorney*, but thereafter must be represented by counsel. *Tyler Run, LLC v. Met-Ed*, Docket No. C-200438888 (Order entered January 5, 2005) and *Snyderville Community Development Corporation v. Philadelphia Gas Works*, Docket No. C-20055032 (Order entered July 31, 2006).

8. The Commission's obligation to require attorneys in adversarial proceedings for parties other than individuals proceedings *pro se* is well-settled:

In Pennsylvania, the Supreme Court is responsible for regulating the practice of law, and this Commission is bound by the Supreme Court's rules. The only persons authorized to practice law in Pennsylvania are as follows: (1) persons fully admitted to the Pennsylvania Bar; (2) persons admitted *pro hac vice* under Rule 301; and (3) persons qualified as certified legal interns under Rule 321. The Pennsylvania Supreme Court in *Shorz v. Farrell*, 327 Pa. 81, 193 A.2d 193 (1937), held that if the nature of an administrative hearing is to determine questions of fact or interpretation of administrative law, then the hearing is of a judicial character. Any participation in such a hearing constitutes the practice of law. Accordingly, it would be unlawful to allow non attorney representation in adversarial proceedings before the Commission.

*James and Judith Simon v. Franklin Water Company*, Docket No. C-00956589 (Order entered January 29, 1996)

9. Consequently, a corporation that files a formal complaint with the Commission must obtain counsel to proceed with all other aspects of the proceeding, including, without limitation, discovery, testimony preparation, attendance at hearing, examination of witnesses and briefing.

10. A telephonic hearing is currently scheduled for February 8, 2018. At this point, Met-Ed is required to incur the time and expense to prepare for a full evidentiary hearing without knowing if the Customer will even be represented by counsel.

11. In order to minimize any further prejudice, time and/or expense by Met-Ed, the Customer should be ordered to have counsel file an Entry of Appearance within ten (10) days or the proceeding be dismissed.

#### IV. **Mr. Gong Lacks Standing**

12. In order to bring a complaint before a tribunal, a complainant must first demonstrate that she/he has standing to maintain the action. *Nye v. Erie Insurance Exchange*, 470 A.2d 98, 100 (Pa. 1983). Standing requires that a party have an interest in the matter that is substantial, direct and immediate. *William Penn Parking Garage, Inc., et al v. City of Pittsburgh*, 346 A.2d 269 (Pa. 1975). These criteria are defined as follows:

A 'substantial' interest in the outcome of the litigation which surpasses the common interest of all citizens in procuring obedience to the law. A 'direct' interest requires a showing that the matter complained of caused harm to the party's interest. An 'immediate' interest involves the nature of the casual connection between the action complained of and the injury to the party challenging it and is shown where the interest the party seeks to protect is within the zone of interests sought to be protected by the statute or the constitutional guarantee in question.

*George v. Pennsylvania PUC*, 735 A.2d 1282, 1286 (Pa. Cmwlth. 1999).

13. The standard set by *William Penn Parking Garage* is applicable to the Commission cases. *See, Courier Express, Inc. v. F.L. Shaffer Company, Inc.*, Order entered August 30, 1990 at Docket No. C-892462, petition for reconsideration denied December 3, 1990.

14. Mr. Gong is not the Met-Ed ratepayer of record. *See* attached Affidavit of Gina Dietrich.

15. Therefore, Mr. Gong does not have standing to bring an action against Met-Ed and proceed on behalf of the Customer at the telephonic hearing currently scheduled for February 8, 2018.

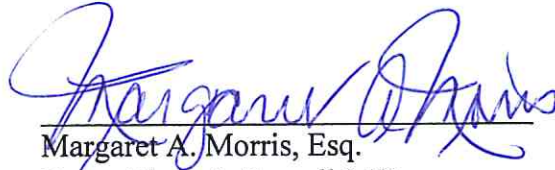
## V Conclusion

WHEREFORE, for the foregoing reasons, the Metropolitan Edison Company respectfully requests that the Commission:

a) Dismiss the Formal Complaint in this proceeding if a Pennsylvania licensed attorney does not enter appearance on behalf of Yea Ryong Church, Inc. within ten (10) days of the date of any applicable Order; and

b) Find that Mr. Gong does not have standing in this proceeding to participate in any fashion, other than as a witness and cannot represent Yea Ryong Church, Inc. at the duly scheduled hearing.

Respectfully submitted,



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

Dated: January 2, 2018

*Counsel for Metropolitan Edison Company*

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

YEA RYONG CHURCH INC. :  
C/O DAVID GONG :  
 :  
v. : Docket No. C-2017-2626578  
 :  
METROPOLITAN EDISON COMPANY :

---

**AFFIDAVIT OF GINA DIETRICH  
IN SUPPORT OF  
METROPOLITAN EDISON COMPANY'S MOTION TO DISMISS**

---


Gina Dietrich, being duly sworn according to law, deposes and says the following:

1. My name is Gina Dietrich and my business address is 2800 Pottsville Pike Reading, PA 19612.
2. I am employed by Metropolitan Edison Company (Met-E') as Business Analyst for Met-Ed's Compliance Department.
3. As a Business Analyst, I am responsible for addressing and responding to informal and formal complaints.
4. As part of my job responsibilities, I am familiar with Met-Ed's business records relating to the identify of customers at specific locations, and the documents supplied by prospective customers and maintained by Met-Ed in connection with the application for electric service.
5. Yea Ryong Church, Inc. (Church) is the ratepayer of record in Met-Ed's business records for commercial Account No. 100083936722 for service to 171 Main Street,

Delaware Water Gap, Pennsylvania (Service location). The mailing address is 167 Main Street, Stroudsburg, Pennsylvania.

6. The Church receives service under Met-Ed's Rate Schedule General Service Medium Tariff, Electric PA PUC No. 52 (Supp. 37), fourth revised page 66, issued March 23, 2017, effective March 24, 2017.
7. David Gong is listed as the authorized contact for and the owner of the Church but is not the customer or ratepayer at the Service Location according to Met-Ed's business records.

I am authorized to submit this affidavit for and on behalf of Met-Ed and represent that the facts set forth herein are true and correct to the best of my knowledge, information and belief. I understand that false statements therein are made subject to the penalties of 18 Pa. C.S. § 4904, relating to unsworn falsifications to authorities.

  
Gina Dietrich

Sworn and subscribed before me this 2nd  
day of January 2018.

  
Notary Public

COMMONWEALTH OF PENNSYLVANIA  
NOTARIAL SEAL  
Tatiana V. Irani, Notary Public  
City of Philadelphia, Philadelphia County  
My Commission Expires Aug. 7, 2018  
MEMBER, PENNSYLVANIA ASSOCIATION OF NOTARIES

My commission expires on: 8/7/18