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April 16, 2018

VIA ELECTRONIC FILING

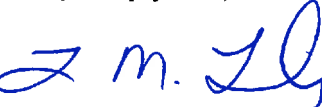
Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

Re: Alexandre Foursevitch v. Metropolitan Edison Company
Docket No. C-2017-2623270

Dear Secretary Chiavetta:

Enclosed please find the Motion to Dismiss of Metropolitan Edison Company with regard to the above-captioned matter. This document has been served on the Complainant as shown in the Certificate of Service.

Please contact me if you have any questions regarding this matter.

Very truly yours,

Lauren M. Lepkoski

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Enclosures

c: As Per Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

ALEXANDRE FOURSEVITCH

v.

METROPOLITAN EDISON COMPANY

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Docket No. C-2017-2623270

NOTICE TO PLEAD

TO: Alexandre Foursevitch

Pursuant to 52 Pa. Code § 5.371(b), you are hereby notified that, if you do not file a written response denying or correcting the enclosed Motion to Dismiss of Metropolitan Edison Company within **five (5) days** from the service of the Notice, the facts set forth by Metropolitan Edison Company in the Motion may be deemed to be true, thereby requirement no other proof. All pleading, such as a Reply to Motion, must be filed with the Secretary of the Pennsylvania Public Utility Commission, with a copy service to counsel for Metropolitan Edison Company, and where applicable, the Administrative Law Judge presiding over the case.

File with:

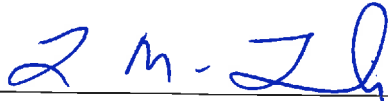
Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

With a copy to:

Administrative Law Judge Jeffrey A. Watson
Pennsylvania Public Utility Commission
Office of Administrative Law Judge
Piatt Place, Suite 220
301 5th Avenue
Pittsburgh, PA 15222

Lauren M. Lepkoski
Tori L. Giesler
Metropolitan Edison Company
2800 Pottsville Pike
P.O. Box 16001
Reading, Pennsylvania 19612-6001

Date: April 16, 2018



Lauren M. Lepkoski, Esquire

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

ALEXANDRE FOURSEVITCH

v.

METROPOLITAN EDISON COMPANY

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Docket No. C-2017-2623270

**MOTION OF METROPOLITAN EDISON COMPANY TO DISMISS COMPLAINT OF
ALEXANDRE FOURSEVITCH FOR FAILURE TO COMPLY WITH ORDER**

TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

Metropolitan Edison Company (“Met-Ed” or the “Company”) by and through its attorneys, Lauren M. Lepkoski and Tori L. Giesler, and pursuant to 52 Pa. Code §§ 5.371-5.372, hereby files this Motion to Dismiss the complaint of Alexandre Foursevitch (“Complainant”) for her failure to comply with the Interim Order of Administrative Law Judge Jeffrey A. Watson. In support thereof, the Company avers as follows:

I. BACKGROUND

1. On August 29, 2017, the Complainant filed a Formal Complaint with the Pennsylvania Public Utility Commission (“Commission”) regarding 300 Kendale Road, Lot 56, Red Lion, Pennsylvania 17356 (“Service Location”) under Account No. 100049627464 (“Account”) which was electronically served on the Company on September 7, 2017.

2. On September 27, 2017, the Company filed its Answer denying the material allegations.

3. On October 16, 2017, Chief Administrative Law Judge Charles E. Rainey, Jr., issued an Interim Order Setting Conference Between the Parties requiring that the parties hold a conference to discuss the Formal Complaint filed by the Complainant to determine whether a resolution of the Formal Complaint can be reached.

4. On November 14, 2017, counsel for the Company has contacted the Complainant in compliance with the Interim Order. Counsel for the Company and the Complainant spoke regarding the Formal Complaint but were ultimately unable to resolve the Formal Complaint. On November 14, 2017, counsel for the Company advised Commission Mediator Hunt that the parties were unable to resolve the Formal Complaint and the parties wished to move forward with a hearing.

5. On November 14, 2017, in accordance with 52 Pa. Code § 5.341, the Company forwarded to the Complainant interrogatories and document requests (“Discovery Requests”) via first class mail. In its Discovery Requests, the Company sought information and documents related to the Complainant’s allegations regarding the Company’s smart meters. A copy of the Discovery Requests of the Company is attached as Exhibit A.

6. On November 16, 2017, a Call-In Telephonic Hearing Notice was issued which scheduled a telephonic hearing for January 24, 2018 before Administrative Law Judge (“ALJ”) Andrew M. Calvelli.

7. The Complainant did not file any objection to the Discovery Request and has not provided any responses or the requested documents by the due date. Accordingly, and prior to filing this Motion to Dismiss, counsel for the Company attempted to contact the Complainant via telephone inquiring about the Discovery Responses. To date, no response to the Discovery Requests or telephone call has been received from Complainant.

8. On December 12, 2017, in accordance with 52 Pa. Code §§ 5.371-5.372, the Company filed a Motion to Compel the Complainant to provide full and complete responses to the Discovery Requests issued by the Company on November 14, 2017.

9. On January 2, 2018, a Judge Change/Cancellation Notice was issued which cancelled the Initial Call-In Telephonic Hearing scheduled for January 24, 2018 with ALJ Calvelli and assigned the Formal Complaint to ALJ Jeffrey A. Watson.

10. On January 3, 2018, ALJ Watson issued an Interim Order Scheduling a Prehearing Conference and a Call-In Telephonic Pre-Hearing Conference Notice was issued which scheduled a pre-hearing conference for January 9, 2018 before Administrative Law Judge (“ALJ”) Watson.

11. On January 3, 2018, ALJ Watson issued an Interim Order granting the Company’s Motion to Compel and ordering the Complainant to provide full, complete objections and/or responses to the Company’s Discovery Requests on or before January 23, 2018.

12. On January 9, 2018, a Call-In Telephonic Hearing Notice was issued which scheduled a telephonic hearing for April 30, 2018 and May 1, 2018 before ALJ Watson.

13. On January 10, 2018, ALJ Watson issued a Prehearing Order in the above-captioned proceeding. In the Prehearing Order, ALJ Watson directed the parties to provide each other with the name, business address, and a written summary of the expected testimony of any expert and factual witnesses that may be testifying by March 9, 2018 and to serve each other with a copy of proposed Exhibits for the evidentiary hearings by April 13, 2018.

14. To date, no responses to the Company’s Discovery Requests have been provided to the Company by the Complainant, nor has any communication from the Complainant been received by the Company. Not only did the Complainant ignore ALJ Watson’s Interim Order granting the company’s Motion to Compel, but the Complainant also ignored his January 10, 2018, Prehearing Order requiring the exchange expert and factual witness information by March 9, 2018.

15. On March 22, 2018, in accordance with 52 Pa. Code §§ 5.371-5.372, the Company filed a Motion to Dismiss due to the Complainant’s failure to submit responses to discovery, failure

to provide witness information and failure to follow Orders issued by ALJ Watson on January 3, 2018 and January 10, 2018.

16. On April 2, 2018, ALJ Watson issued an Interim Order which granted in part and denied in part without prejudice the Company's Motion to Dismiss and which ordered the following: (1) the Complainant is to provide full and complete responses to Discovery on or before April 9, 2018 as previously ordered on January 3, 2018; (2) the Complainant is to provide all information and documentation as previously ordered on January 10, 2018; (3) that in the event the Complainant fails to comply with the Interim Order, the Company may file a motion for sanctions, motion to dismiss or other appropriate motion for relief; and (4) that the Complainant shall file any response to such motion not later than five calendar days following the date that service was made upon Complainant of such motion from the Company.

17. To date, the Complainant has failed to comply with the provisions of ALJ Watson's Interim Order of April 2, 2018 as the Company has received no documentation or communication from the Complainant.

II. MOTION TO DISMISS

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

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

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

21. The information sought here by the Company is relatively simple and straightforward. It is directly relevant and material to the issues raised by the Complainant. The Company is entitled to the requested information to enable it to fully investigate and defend against the Complainant’s allegations.

22. The Commission’s Regulations at 52 Pa. Code § 5.371 address the consequences of a participant’s failure to comply with the Commission’s discovery regulations and provides that the Commission or the presiding officer may, on motion, make an appropriate order if a party fails to appear, answer, file sufficient answers, file objections, make a designation or otherwise respond to discovery requests.

23. Further, 52 Pa. Code § 5.372 provides that the presiding officer may impose appropriate sanctions upon a party found to be found in violation of the obligations set forth in the Commission’s Regulations.

24. As a result of the Complainant’s failure to provide any response to the Company’s Discovery Requests, which demonstrates her lack of cooperation and willingness to participate in

this proceeding as required under the Commission's regulations, the Formal Complaint in this proceeding should be dismissed in its entirety.

WHEREFORE, Metropolitan Edison Company respectfully requests that the Commission dismiss in its entirety the Complaint of Alexandre Foursevich with prejudice.

Respectfully submitted,

Dated: April 16, 2018



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Counsel for Metropolitan Edison Company

**BEFORE THE
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ALEXANDRE FOURSEVITCH

v.

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CERTIFICATE OF SERVICE

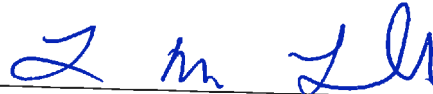
I hereby certify that I have this day served a true copy of the Motion to Dismiss of Metropolitan Edison Company upon the individual listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

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

Alexandre Foursevitch
300 Kendale Road
Lot 56
Red Lion, Pennsylvania 17356

Administrative Law Judge Jeffrey A. Watson
Pennsylvania Public Utility Commission
Office of Administrative Law Judge
Piatt Place, Suite 220
301 5th Avenue
Pittsburgh, PA 15222

Dated: April 16, 2018



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