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Caravan II, LLC
Andrew C. Menichino
1465 Sampson Street
New Castle, PA 16101
April 24, 2018

VIA USPS OVERNIGHT DELIVERY AND EMAIL

The Honorable Benjamin J. Myers:
Pennsylvania Public Utility Commission
Office of Administrative Law Judge
400 North Street
Harrisburg, PA 17120
BenMyers@ta.gov

**Re: Andrew C. Menichino for Caravan II, LLC v. Pennsylvania Power Company
Docket No. C-2018-2647292**

The Honorable Judge Myers:

An initial telephonic hearing has been scheduled for April 26, 2018 at 10:00 a.m.
I have enclosed paperwork respectfully requesting a 60 day extension for this hearing.

I have spoken to a representative for opposing counsel from Pennsylvania Power Company and sent them documentation as well.

Thank you for your time and consideration.

Respectfully,



Andrew C. Menichino

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PENNSYLVANIA POWER COMPANY

v.

DOCKET NO. C-2018-2647292

**ANDREW C. MENICHINO FOR
CARAVAN II, LLC**

The Honorable Benjamin J. Myers:

I, Andrew C. Menichino, respectfully request a 60 day extension in regard to an initial telephonic hearing scheduled for April 26, 2018 at 10:00 a.m.

I had a near death car accident nine months ago and suffered a broken sternum, three broken vertebra in my neck, and a crushed vertibular artery in my brain. Eighteen days later I suffered a stroke directly related to the crushed artery. I remain under doctors' care and have rehabilitation therapy three times per week. I have trouble maintaining concentration and get frustrated after twenty to thirty minutes of same. This has made it difficult to gather the necessary documentation for this hearing and present it to my attorney in a timely manner.

I have contacted two attorneys regarding this matter and have not received an acceptance from either due to unavailability at that time.

Caravan II, LLC has a signed contract for a partnership, waiting closing which will meet the financial needs of the company. Should we close within sixty days this would give the company funds to negotiate an acceptable agreement with Pennsylvania Power Company.

Wherefore, I respectfully request this Honorable Court for a sixty day extension to this matter.

Respectfully Submitted,



Andrew C. Menichino

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PENNSYLVANIA POWER COMPANY

v.

DOCKET NO. C-2018-2647292

**ANDREW C. MENICHINO FOR
CARAVAN II, LLC**


CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the Proposed Motion for Caravan II, LLC. (I am in the process of hiring an attorney and have consulted two.) in regard to Formal Complaint before Pennsylvania Power Company to the individual listed below, in accordance with the requirements of 52 PA. Code § 1.54.

Service by USPS Overnight Delivery and Email as follows:

Lauren M. Lepkoski
FirstEnergy Service Company
2800 Pottsville Pike
P.O. Box 16001
Reading, Pennsylvania 19612-6001
(610) 921-6203
lgiesler@firstenergycorp.com
Counsel for Pennsylvania Power Company

Dated: April 24, 2018



Andrew C. Menichino
For Caravan II, LLC
1465 Sampson Street
New Castle, PA 16101



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Lauren M. Lepkoski, Esq.
(610) 921-6203
(330) 315-9263 (Fax)

PA PUC
SECRETARY'S BUREAU
FRONT DESK

April 24, 2018

VIA EMAIL AND FIRST CLASS MAIL

The Honorable Benjamin J. Myers
Pennsylvania Public Utility Commission
Office of Administrative Law Judge
400 North Street
Harrisburg, PA 17120

Re: Andrew C. Menichino for Caravan II, LLC v. Pennsylvania Power Company
Docket No. C-2018-2647292

Dear Judge Myers:

I was just contacted today by Mr. Menichino stating that he was seeking a sixty-day continuance of the hearing scheduled for April 26, 2018 at 10:00 a.m. Please be advised that Pennsylvania Power Company (the "Company") is not agreeable to the request for continuance. First, Caravan II, LLC has an outstanding balance owed to the Company in the amount of \$73,959.59. Second, no payments have been received from Caravan II, LLC since March 20, 2017. Lastly, the Company and its witnesses have already expended a significant amount of time and resources in preparation for the hearing scheduled to be held in two-days time. The Company believes that Mr. Menichino's request for continuance is simply a tactic to delay the formal complaint process until he is able to complete a sale of the property located at 1465 Sampson Street, New Castle, Pennsylvania 16101, which is the property where service is being provided by the Company and is the subject of the alleged dispute, and is not being made in good faith. While Mr. Menichino claims that the 60-day extension is due to medical reasons, Mr. Menichino provided me with his medical records, which indicated that he did fracture his vertebrae in August of 2017 and was referred to physical therapy for four to six weeks. There was no mention of any other medical issues. Furthermore, the accident and physical therapy all occurred before Mr. Menichino even filed his Formal Complaint with the Commission on February 6, 2018.

Additionally, please allow this letter to serve as a Motion to Dismiss the Formal Complaint of Andrew C. Menichino for Caravan II, LLC due to lack of filing of an entry of appearance by an attorney on behalf of Caravan II, LLC. 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."¹ An adversarial

¹ 52 Pa. Code § 1.21.

April 24, 2018

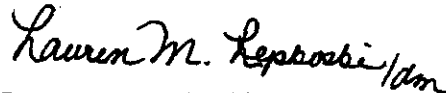
proceeding begins with the filing of an Answer.² The Commission's regulations requiring attorney representation in adversarial proceedings are consistent with Pennsylvania court decisions holding that a corporation must have counsel in order to proceed in any legal action because a corporation cannot represent itself.³ Pennsylvania courts have ruled that a corporation can only act through its agents, and an agent representing it in court must be an attorney admitted to practice.⁴ More recently, in *Cars R Us c/o Holman Copeland v. Phila. Gas Works*, Docket No. C-2008-2033437 (Order entered February 4, 2010) and *Torino Inc. v. PECO Energy Co.*, Docket No. C-2008-2034595 (Order entered February 2, 2010), the Commission affirmed its decision in *New Fizon* that a corporate officer may file a complaint on behalf of a corporation but that the corporation must be represented by an attorney in an adversarial proceeding.

As this is not Mr. Menichino's first formal complaint filed with the Commission, the Company avers that Mr. Menichino is well-versed in the fact that he must have counsel in order to proceed with the Formal Complaint which was filed on February 7, 2018. Further, Mr. Menichino and Caravan II, LLC filed no reply to the Company's Answer and New Matter filed on March 5, 2018 which specifically addressed the need for Caravan II, LLC to obtain counsel and have said counsel file an entry of appearance. Further, the Telephonic Hearing Notice issued on March 15, 2018 states unequivocally that Mr. Menichino and Caravan II, LLC must be represented by an attorney and that attorney should file an entry of appearance before the hearing. Mr. Menichino has had plenty of time to obtain counsel.

The Company hereby respectfully requests that the Formal Complaint of Andrew C. Menichino for Caravan II, LLC be dismissed with prejudice for lack of counsel.

Please contact me if you have any questions.

Very truly yours,



Lauren M. Lepkoski

krak
Enclosures

c: Secretary Rosemary Chiavetta (Cover letter and Certificate of Service only via e-filing)
As Per Certificate of Service

² *New Fizion Catering, Inc. v. PECO Energy Co.*, Docket Nos. C-2008-2065498 and C-2008-2079076 (Order entered June 24, 2009).

³ *Smaha v. Landy*, 638 A.2d 392 (Pa. Cmwlth. 1994).

⁴ *Walcavage v. Excell 2000, Inc.*, 480 A.2d 281 (Pa. Super. 1984).

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**ANDREW C. MENICHINO FOR
CARAVAN II, LLC**

DOCKET NO. C-2018-2647292

v.

PENNSYLVANIA POWER COMPANY


CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document of Pennsylvania Power Company to the Formal Complaint of Andrew C. Menichino for Caravan II, LLC 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 and e-mail as follows:

Andrew C. Menichino for Caravan II, LLC
1465 Sampson Street
New Castle, PA 16101
iiiacm@aol.com

Dated: April 24, 2018


Lauren M. Lepkoski
FirstEnergy Service Company
2800 Pottsville Pike
P.O. Box 16001
Reading, Pennsylvania 19612-6001
(610) 921-6203
tgiesler@firstenergycorp.com

Counsel for Pennsylvania Power Company