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March 16, 2020

**VIA ELECTRONIC FILING**

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

**Re: Judith D. Hendin v. Metropolitan Edison Company**  
**Docket No. C-2018-3003324**

Dear Secretary Chiavetta:

Enclosed please find the Motion of Metropolitan Edison Company for the admission of Metropolitan Edison statement No. 3r, the Rebuttal Testimony and exhibits of Dr. Mark A. Israel 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,



Tori L. Giesler

Enclosures

c: As Per Certificate of Service

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Judith D. Hendin,

Complainant,

v.

Metropolitan Edison Company,

Respondent.

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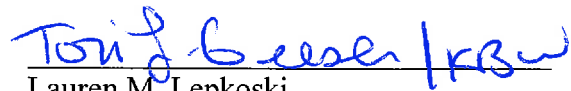
Docket No. C-2018-3003324

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**NOTICE TO PLEAD**

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YOU ARE HEREBY ADVISED THAT, PURSUANT TO 52 PA. CODE § 5.103(c), YOU MAY FILE A REPLY TO THE ENCLOSED MOTION WITHIN TWENTY (20) DAYS AFTER THE DATE OF SERVICE. YOUR REPLY SHOULD BE FILED WITH THE SECRETARY OF THE PENNSYLVANIA PUBLIC UTILITY COMMISSION, P.O. BOX 3265, HARRISBURG, PA 17105-3265. A COPY OF YOUR REPLY SHOULD ALSO BE SERVED ON THE UNDERSIGNED COUNSEL.



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Dated: March 16, 2020

Counsel for Metropolitan Edison Company

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Judith D. Hendin,	:	
	:	
Complainant,	:	
	:	
v.	:	Docket No. C-2018-3003324
	:	
Metropolitan Edison Company,	:	
	:	
Respondent.	:	

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**MOTION OF METROPOLITAN EDISON COMPANY FOR  
THE ADMISSION OF METROPOLITAN EDISON STATEMENT NO. 3R, THE  
REBUTTAL TESTIMONY AND EXHIBITS OF DR. MARK A. ISRAEL**

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**TO DEPUTY CHIEF ADMINISTRATIVE LAW JUDGE JOEL H. CHESKIS:**

Metropolitan Edison Company (“Met-Ed” or the “Company”) hereby files this Motion pursuant to Section 5.103 of the Pennsylvania Public Utility Commission’s (“Commission”) regulations, 52 Pa. Code § 5.103, for the admission of the Confidential and Non-Confidential versions of Metropolitan Edison Statement No. 3R, the rebuttal testimony and exhibits of Dr. Mark A. Israel. Dr. Israel’s expert testimony and exhibits are highly relevant to the medical issues in this proceeding and are directly responsive to the health-related allegations made by Judith Hendin (“Complainant”) and her witness, Dr. Kracht.

At the January 24, 2020 hearing, Met-Ed moved for the admission of Dr. Israel’s testimony and exhibits. *See* Tr. 281, lines 11-14. Since there were some “housekeeping matters” that needed to be addressed after the hearing, Deputy Chief Administrative Law Judge Joel H. Cheskis (“ALJ”) held the admission of the testimony and exhibits in abeyance until the transcripts of the December 19-20, 2019 and January 24, 2020 hearings were issued. On January 8-9, 2020, and February 18, 2020, respectively, the transcripts of those hearings were completed.

Furthermore, the parties' Main Briefs are being filed today, March 16, 2020. Therefore, the admission of the Confidential and Non-Confidential versions of Metropolitan Edison Statement No. 3R, including all attached exhibits, is ripe for consideration.

As explained herein, Met-Ed respectfully requests that the Confidential and Non-Confidential versions of Metropolitan Edison Statement No. 3R be formally admitted into the record.

In support thereof, Met-Ed states the following:

**I. INTRODUCTION**

1. On or about June 29, 2018, the Complainant filed the above-captioned Formal Complaint against Met-Ed with the Commission regarding 402 Woodland Road, Easton, PA 18042 ("Service Location"), which was electronically served on the Company on July 11, 2018.

2. On July 31, 2018, the Company filed its Answer and New Matter denying the material allegations. On the same day, the Company also filed Preliminary Objections to the Formal Complaint.

3. On August 21, 2018, the Complainant filed a Request for Extension of Time to File Reply to Answer, New Matter and Preliminary Objections. The Complainant also filed a Letter Addendum to her Request for Extension of Time on August 22, 2018.

4. On August 23, 2018, Administrative Law Judge Jeffrey A. Watson ("ALJ Watson") was assigned as the Presiding Officer in the above-captioned proceeding.

5. On August 24, 2018, ALJ Watson issued an Interim Order, which granted the Complainant's request for an extension of time to file responses to the Preliminary Objections and New Matter until September 12, 2018.

6. On October 2, 2018, the Complainant filed a letter requesting a continuance of the proceeding until December 15, 2018.

7. On October 18, 2018, ALJ Watson issued an Interim Order, which denied the Company's Preliminary Objections. ALJ Watson also issued an Interim Order Establishing an Initial Litigation Schedule.

8. On October 29, 2018, the Complainant filed her response to the Company's Preliminary Objections.

9. On November 1, 2018, Joanna Waldron entered a Notice of Appearance on behalf of the Complainant.

10. On January 18, 2019, Met-Ed filed a letter identifying the witnesses it intended to offer, consistent with the Interim Order issued by ALJ Watson on October 18, 2018.

11. On January 29, 2019, the Complainant filed a letter identifying the fact and expert witnesses she intended to call.

12. On May 9, 2019, the Complainant filed a letter providing the ALJ with a status update, which *inter alia* indicated that the Complainant wished to discuss possible meter relocation options with the Company.

13. On May 10, 2019, the Company filed a letter providing the ALJ with a status update, which *inter alia* requested a prehearing conference be scheduled to facilitate the parties' discussion regarding meter relocation as well as to make certain revisions to the procedural schedule.

14. On May 23, 2019, ALJ Watson issued an Interim Order Requiring Proposed Prehearing Conference and Hearing Dates, which set a date for a prehearing conference and established dates for the submission of written testimony.

15. On July 16, 2019, the parties each submitted their second status update.

16. On July 26, 2019, the Complainant filed a Motion to Extend the Schedule Pending Prehearing Conference.

17. On August 13, 2019, ALJ Watson issued an Interim Order, which granted the Complainant's Motion to Extend.

18. On August 21, 2019, the Company filed a Motion in Limine which requested that the ALJ: (1) exclude evidence; (2) preclude the Complainant from presenting the expert testimony of David O. Carpenter; and (3) preclude the Complainant from presenting testimony related to her Formal Complaint. Therein, Met-ED averred that the Complainant had failed to serve her own testimony and failed to timely serve the direct testimony of Dr. David O. Carpenter.

19. On August 29, 2019, the Complainant filed an additional status report.

20. On September 3, 2019, Met-Ed filed an additional status report.

21. On September 5, 2019, the Complainant filed a letter indicating service of her witness statement upon the Company had been made.

22. Also on September 5, 2019, the Commission issued a Hearing Notice scheduling evidentiary hearings before Deputy Chief Administrative Law Judge Joel H. Cheskis for December 19-20, 2019.

23. On September 10, 2019, the Complainant filed an Answer to Met-Ed's Motion in Limine.

24. On September 13, 2019, the Presiding Officer issued a Prehearing Order.

25. On September 19, 2019, the Complainant served an Amended Witness Statement on behalf of Judith Hendin (Confidential and Public versions).

26. On October 21, 2019, the Company served written rebuttal testimony of Dr. Christopher C. Davis, Ph.D., Dr. Mark Israel, M.D., and John Ahr on behalf of the Company.

27. On December 11, 2019, Met-Ed filed an Entry of Appearance and Motion for Admission Pro Hac Vice.

28. Evidentiary hearings were held as scheduled on December 19 and 20, 2020. An additional day of hearings was scheduled for January 24, 2020.

29. A Protective Order was issued on December 26, 2019.

30. On January 17, 2020, the Company served copies of an additional exhibit to John Ahr's Direct Testimony. Also on January 17, 2020, the Company resubmitted Confidential and Non-Confidential versions of the testimony and exhibits of Dr. Mark Israel, M.D.

31. On January 20, 2020, the Complainant resubmitted Confidential and Non-Confidential versions of the Complainant's Amended Witness Statement, Plaintiff's Supplement and the Witness Statement of Dr. Kracht.

32. On January 22, 2020, the Complainant filed a Motion for Extension of Time and Motion for Leave to File Surrebuttal Testimony.

33. On January 24, 2020, the additional day of evidentiary hearings was held. At the hearing, the ALJ held the admission of Dr. Israel's rebuttal testimony and exhibits in abeyance until the hearing transcripts were issued. Tr. 281, lines 15-16.

34. On February 10, 2020, Met-Ed filed its Answer to the Complainant's Motion for Extension of Time and Motion for Leave to file Surrebuttal Testimony.

35. On February 19, 2020, the ALJ issued an Order denying the Complainant's Motion for Extension of Time and Leave to File Surrebuttal Testimony.

## II. MOTION FOR ADMISSION

36. Met-Ed respectfully requests that the ALJ admit the Confidential and Non-Confidential versions of Metropolitan Edison Statement No. 3R, the rebuttal testimony and exhibits MI-1 through MI-4 of Dr. Mark A. Israel, into the record.

37. Under Section 5.401 of the Commission's regulations, all relevant and material evidence is generally admissible, subject to exclusion on certain grounds such as unfair prejudice, confusion of the issues, or undue delay or waste of time. 52 Pa. Code § 5.402(a)-(b).

38. Here, Dr. Israel's expert testimony and exhibits are highly relevant to the medical issues in this proceeding and are directly responsive to the health-related allegations made by the Complainant and her witness, Dr. Kracht.

39. Dr. Israel's expert testimony and exhibits are critical because they: (1) concern Dr. Israel's medical evaluation of the health-related allegations raised in this proceeding; (2) explain that the Complainant's and Dr. Kracht's positions lack merit; and (3) establish that there is no reliable medical basis to conclude that the Company's smart meters cause, contribute to, or exacerbate adverse health effects. (*See* Metropolitan Edison Statement No. 3R, pp. 1-19.)

40. Further, there are no procedural issues that would warrant the exclusion of Dr. Israel's rebuttal testimony and exhibits from the evidentiary record.

41. Met-Ed timely served Dr. Israel's rebuttal testimony and exhibits in accordance with the litigation schedule established in this proceeding.

42. Then, at the evidentiary hearings, Met-Ed laid the foundation for Dr. Israel's testimony and exhibits (Tr. 205, line 15 to 206, line 18), and the Complainant was able to cross-examine Dr. Israel about his testimony. Upon completion of the Complainant's cross-examination, Met-Ed properly moved for the admission of the evidence pursuant to Section 5.402(a) of the Commission's regulations. *See* Tr. 281, lines 11-14; 52 Pa. Code § 5.402(a) ("A

party shall move the admission of evidence into the record upon presentation of the sponsoring witness, and after opportunity for other parties to examine the witness.”).

43. Finally, the instant Motion is ripe for the ALJ’s consideration.

44. The ALJ held the admission of the testimony and exhibits in abeyance until the transcripts of the December 19-20, 2019 and January 24, 2020 hearings were issued.

45. On January 8-9, 2020, and February 18, 2020, respectively, the transcripts of those hearings were completed. Furthermore, the parties’ Main Briefs are being filed today, March 16, 2020.

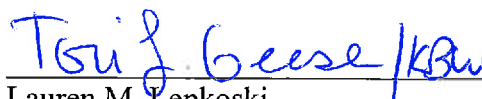
46. Thus, the Company’s Motion for Admission of the Confidential and Non-Confidential versions of Metropolitan Edison Statement No. 3R, including all attached exhibits, is ripe for consideration.

47. For these reasons, the Company respectfully requests that the ALJ now formally admit the Confidential and Non-Confidential versions of Metropolitan Edison Statement No. 3R, including all exhibits, into the evidentiary record.

**III. CONCLUSION**

WHEREFORE, the Company respectfully requests that Deputy Chief Administrative Law Judge Joel H. Cheskis grant this Motion and formally admit the Confidential and Non-Confidential versions of Metropolitan Edison Statement No. 3R, the rebuttal testimony and exhibits of Dr. Mark A. Israel, into the evidentiary record.

Respectfully submitted,

Handwritten signature in blue ink that reads "Lauren M. Lepkoski" with a vertical line to the right of the name.

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Attorney No. 207742

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Dated: March 16, 2020

Counsel for Metropolitan Edison Company

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**JUDITH D. HENDIN**

v.

**METROPOLITAN EDISON COMPANY**

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**Docket No. C-2018-3003324**

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a true copy of the Motion of Metropolitan Edison Company for the admission of Metropolitan Edison statement No. 3r, the Rebuttal Testimony and exhibits of Dr. Mark A. Israel upon the individuals listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

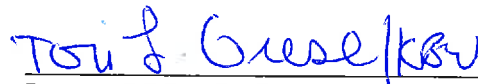
Service by First Class Mail, postage prepaid, as follows:

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Administrative Law Judge Jeffrey A. Watson  
Pennsylvania Public Utility Commission  
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Dated: March 16, 2020



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