

May 24, 2021

Via Electronic Filing

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

**Re: Docket No. C-2021-3024417
Florence R. Parker Chaila v. Met-Ed and Choice Energy LLC
Answer of Met-Ed to Motion for Protective Order**

Dear Secretary Chiavetta:

Attached for filing is the Answer of Metropolitan Edison Company (Respondent) to the Motion of Florence R. Parker Chaila for Protective Order in the above-referenced proceeding.

A copy of the enclosed Answer to Motion for Protective Order has been forwarded to the named parties 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/co
Enclosures

cc: The Hon. John Coogan, PA Public Utility Commission [w/encl.]
Tori Giesler, Esquire, FirstEnergy Service Company [w/encl.]
Brian C. Deeney, Esquire, Lewis BrisBois Bisgaard & Smith LLP [w/encl.]
John D. Coyle, Esquire, Coyle Law Group LLP
Florence R. Parker Chaila [w/encl.]

**Re: Docket No. C-2021-3024417
Florence R. Parker Chaila v. Met-Ed and Choice Energy LLC
Answer of Met-Ed to Motion for Protective Order**

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 Mail

Florence R. Parker Chaila
thebusiness2@yahoo.com

Brian C. Deeney, Esquire
brian.deeney@lewisbrisbois.com

John D. Coyle, Esquire
jcoyle@coylelawgroup.com

Dated: May 24, 2021


Margaret A. Morris, Esquire

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

FLORENCE R. PARKER CHAILLA	:	
	:	
v.	:	Docket No. C-2021-3024417
	:	
METROPOLITAN EDISON COMPANY	:	
and	:	
CHOICE ENERGY LLC	:	
d/b/a 4 CHOICE ENERGY	:	

**ANSWER OF METROPOLITAN EDISON COMPANY TO
MOTION FOR PROTECTIVE ORDER
OF FLORENCE R. PARKER CHAILLA**

Metropolitan Edison Company (Met-Ed), by and through its attorneys, Reger Rizzo & Darnall LLP, pursuant to the directive of the Honorable John Coogan and 52 Pa. Code § 5.102, hereby submits its Answer to the document captioned as *52 Pa. Code § 5.353. Stay of Proceedings* with the following attachments captioned as *Notice of Intent to Serve a Subpoena* filed by Florence R. Parker Chaila (Complainant). The efiled pleading is very difficult to understand and consists of non-sequiturs. While stating that the document is a “motion for a protective order” there is no explanation as to why one is needed. Furthermore, the attached requested subpoena does not conform to Commission regulations.

In response thereto, Respondent avers and represents as follows:

I. Procedural Background

1. On April 30, 2021, the Commission issued the Judge Assignment Notice notifying the parties that the Honorable John Coogan (Judge Coogan) was assigned to address the Complainant’s Motion for Protective Order.

2. On May 4, 2021, Met-Ed efiled a letter to Judge Coogan advising that it had not been served with any pleadings filed by the Complainant.

3. By email, dated May 4, 2021, the parties were permitted to file a responsive pleading by May 24, 2021.

II. Protective Order

4. In addition to failing to serve Met-Ed with her pleading, Complainant's filing lacks the mandatory notice which states that a responsive pleading shall be filed within 20 days of the date of service of the motion. Notice required under 52 Pa. Code § 5.103(b).

5. 52 Pa. Code § 5.362 is the applicable Commission regulations regarding requests for a protective order.

6. 52 Pa. Code § 5.362 authorizes Judge Coogan, for good cause shown, to issue an order which justice requires to protect a party or person from unreasonable annoyance, embarrassment, oppression, burden or expense **which limits discovery or deposition**. Specifically, the regulation addresses the need to protect trade secret or other confidential research, development or commercial information.

7. The filing does not explain why a protective order is required. Other than the Complainant's request for a subpoena, no other discovery has been propounded.

8. The Complainant requests that its "Answer to [Met-Ed's] New Matter be stayed pending production of documents subpoenaed, consistent with 52 Pa. Code § 5.363."

9. 52 Pa. Code § 5.363 automatically stays the propounded discovery until a ruling is made on a motion for protective order.

10. It appears that the only reason for the motion was to trigger the stay of the proceedings.

11. The request for a protective order does not meet the standard for issuance and should be denied.

III. Request for Subpoena

12. The Complainant erroneously cites the regulations of the Civil Service Commission, 4 Pa. Code § 105.14a, in support of her request for a subpoena.

13. 52 Pa. Code 5.421 is the applicable Commission regulations regarding requests for a subpoena.

14. Specifically 52 Pa. Code § 5.421 states:

(a) *Issuance.*

(1) A subpoena may be issued by the Commission upon its own motion.

(2) Other than under paragraph (1), a subpoena will issue only upon application in writing to the presiding officer, except that during a hearing in a proceeding, the application may be made orally on the record before the presiding officer, who will determine the necessity of issuing the subpoena.

(b) *Form.* The written application:

(1) Must specify as nearly as possible the general relevance, materiality and scope of the testimony or documentary evidence sought, including, as to documentary evidence, specification as nearly as possible of the documents desired.

(2) Must list the facts to be proved by the documents in sufficient detail to indicate the necessity of the documents.

(3) Must contain a notice that a response or objection to the application shall be filed with the Commission and presiding officer within 10 days of service of the application.

(4) Must include a certificate of service.

(5) May attach the proposed subpoena to the application.

15. The Complainant's filing is procedurally defective.

16. The Complainant's filing did not list the facts to be proved in sufficient detail in violation of Section 5.421(b)(2).

17. The Complainant's filing did not include the required notice that an objection must be filed in 10 days of service of the application in violation of Section 5.421(b)(3).

18. The Complainant's filing did not include the required certificate of service in violation of Section 5.421(b)(4).

19. The request for subpoena fails to afford Met-Ed a reasonable basis for response.

20. It should be noted that the Complainant acknowledges that, even under the regulations of the Civil Service Commission, a copy of the request must be sent to the opposing party and failure to adhere to those requirements may result in the subpoena request being refused.

21. The request for subpoena is procedurally defective and should be denied.


IV. Conclusion

The Complainant has failed to show why a protective order is required. She is seeking discovery on Met-Ed. No discovery has been propounded to the Complainant. The sole

reason for seeking the order appears to be able to stay the Complainant's reply to Met-Ed's New Matter. The request for subpoena is procedurally defective and should not be granted.

WHEREFORE, Respondent, Metropolitan Edison Company, requests that the Motion for Protective Order, which includes a request for a subpoena, filed by Florence R. Parker Chaila be denied in its entirety.

Respectfully submitted,



Margaret A. Morris, Esq.
Attorney ID No. 75048
Cira Centre, 13th Floor
2929 Arch Street
Philadelphia, PA 19104
(215) 495-6524
(215) 495-6600
mmorris@regerlaw.com

Dated: May 24, 2021

Counsel for Metropolitan Edison Company