

January 7, 2022

Via Electronic Filing

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

**Re: Docket No. C-2021-3028286
Michael R. Florio v. Metropolitan Edison Company
Motion of Met-Ed for Judgement on the Pleadings**

Dear Secretary Chiavetta:

Attached for filing is the Motion of Metropolitan Edison Company for Judgement on the Pleadings (Motion) in the above-captioned proceeding.

A copy of the enclosed Motion has been forwarded 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, Esquire

MAM/co
Enclosures

cc: The Hon. Mark A. Hoyer, PA Public Utility Commission [w/encls.]
The Hon. John Coogan, PA Public Utility Commission [w/encls.]
Tori Giesler, Esquire, FirstEnergy Service Company [w/encls.]
Michael R. Florio [w/encls.]

**Re: Docket No. C-2021-3028286
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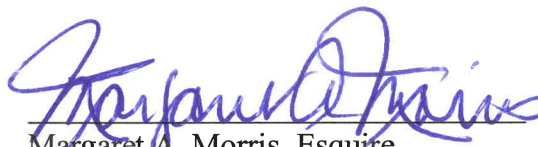
CERTIFICATE OF SERVICE

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

Via Electronic Mail

Michael R. Florio
1965 Sand Hill Road
Hershey, PA 17033
98ford.mike@gmail.com

Dated: January 7, 2022


Margaret A. Morris, Esquire

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

MICHAEL R. FLORIO

v.

METROPOLITAN EDISON COMPANY

:
:
:
:
:

Docket No. C-2021-3028286

NOTICE TO PLEAD

Pursuant to 52 Pa. Code § 5.102, you are hereby notified that if you do not file a written response answering the enclosed Motion for Judgement on the Pleadings 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 an Answer to the Motion, must be filed with the Secretary of the Pennsylvania Public Utility Commission, with an electronic copy served to counsel for Metropolitan Edison Company, Margaret A. Morris, Esq., and to the Honorable Mark A. Hoyer and the Honorable John Coogan, the Presiding Officers in the above-captioned proceeding.

File by Mail or e-filing with:

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

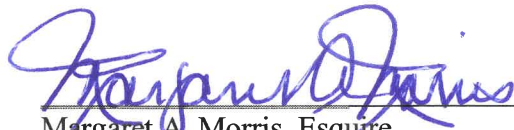
With a copy to:

Margaret A. Morris, Esquire
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2929 Arch Street
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mmorris@regerlaw.com

The Hon. Mark A. Hoyer
mhoyer@pa.gov

The Hon. John Coogan
jcoogan@pa.gov

Date: January 7, 2022



Margaret A. Morris, Esquire
Attorney ID No. 75048
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Counsel for Metropolitan Edison Company

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

MICHAEL R. FLORIO	:	
	:	
v.	:	Docket No. C-2021-3028286
	:	
METROPOLITAN EDISON COMPANY	:	

**MOTION OF METROPOLITAN EDISON COMPANY FOR
JUDGMENT ON THE PLEADINGS**

Metropolitan Edison Company (Met-Ed), by and through its attorneys, Reger Rizzo & Darnall LLP, pursuant to 52 Pa. Code § 5.102, hereby submits its Motion for Judgment on the Pleadings to the Complaint filed by Michael R. Florio (Complainant). Met-Ed avers and represents as follows:

PROCEDURAL BACKGROUND

1. The Complainant filed a Formal Complaint, dated August 29, 2021, against “First Energy/Met Ed” disputing the decision to replace overhead transmission facilities for the 72 (Campbelltown-Middletown-North Hershey) 69 kV Transmission Line (Transmission Line). Upon information and belief, the Complainant is a customer of PPL Electric Utilities, Inc. (PPL) and not of Met-Ed.

2. On September 21, 2021, Met-Ed efiled its Answer and New Matter arguing that the Transmission Line is owned exclusively by Mid-Atlantic Interstate Transmission, LLC (MAIT). Met-Ed averred that the Complainant filed against the wrong party.

3. On October 13, 2021, the Complainant efiled a Reply to the New Matter admitting, *inter alia*, that MAIT is the owner of the Transmission Line. Reply at P. 1.

4. The Formal Complaint was only served on Met-Ed and the caption only lists Met-Ed as the respondent.

5. By Notice, dated November 29, 2021, a Call-in Telephonic evidentiary hearing before Administrative Law Judges Mark A. Hoyer and John Coogan was scheduled for Friday, January 21, 2022.

LEGAL STANDARD

6. In accordance with the Commission's regulations, after the pleadings are closed but within such time as to not delay a hearing, a party may move for judgment on the pleadings. 52 Pa. Code § 5.102(a).

7. A presiding officer should grant a motion for judgment on the pleadings "if the pleadings, depositions, answers to interrogatories and admissions, together with affidavits, if any, show that there is no genuine issue as to a material fact and that the moving participant is entitled to judgment as a matter of law." 52 Pa. Code § 5.102 (d)(1). *Hammerstein v. Lindsay, M.D.*, 655 A.2d 597 (Pa. Super. 1995).

8. When deciding whether a motion for judgment on the pleadings should be granted the court must examine the record in the light most favorable to the non-moving party and all doubts as to the existence of a genuine issue of material fact must be resolved in favor of the non-moving party. *First Mortgage Co. of Pennsylvania v. McCall*, 459 A.2d 406 (Pa. Super. 1983).

9. The Commission's regulations related to a motion for judgment on the pleadings serves judicial economy where no factual dispute exists. If no factual dispute exists, a hearing is wholly unnecessary. 66 Pa.C.S. § 703(b). *Lehigh Valley Power Committee v. Pennsylvania Public Utility Commission*, 563 A.2d 557 (Pa. Cmwlth. 1989).

10. Section 5.102 of the Commission regulations provides for the granting of a Motion where there is no genuine issue as to a material fact and Respondent is entitled to a judgment as a matter of law. 52 Pa. Code § 5.102.

11. Section 701 of the Pennsylvania Public Utility Code (Code), 66 Pa.C.S. § 701, allows any person, having an interest in the subject matter, to file a formal complaint in writing with the Commission setting forth any act or thing done or omitted to be done by any public utility in violation, or claimed violation, of any law which the Commission has jurisdiction to administer. *See also*, 52 Pa. Code § 5.21(a).

12. By *Opinion and Order*, entered August 24, 2016, the Commission approved the Joint Petition for Full Settlement and approved the Joint Application of MAIT, Met-Ed and Penelec and took the following action: (1) issued to MAIT a Certificate of Public Convenience under 66 Pa.C.S. § 1102(a)(3) authorizing the transfer of certain transmission assets from Met-Ed and Penelec to MAIT; (2) a Certificate of Public Convenience conferring upon MAIT the status of a Pennsylvania Public Utility under 66 Pa.C.S. § 102; and (3) approval of certain affiliate Interest Agreements under 66 Pa.C.S. § 2102.

13. Met-Ed is not the owner of the Transmission Line in question.

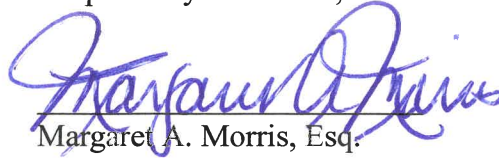
14. The Complainant has filed against the wrong party.

CONCLUSION

There is no dispute that the owner of the Transmission Line is MAIT. The Complainant has filed against the wrong party. A hearing is not required. Met-Ed is entitled to judgment as a matter of law; judgment on the pleadings is appropriate.

WHEREFORE, Respondent, Metropolitan Edison Company, requests that the Commission grant this Motion for Judgment on the Pleadings and dismiss, with prejudice, the Formal Complaint of Michael R. Florio against Metropolitan Edison Company, in its entirety.

Respectfully submitted,



Margaret A. Morris, Esq.

Attorney ID No. 75048

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Date: January 7, 2022

Counsel for Metropolitan Edison Company