

October 3, 2022

Via Electronic Filing

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

**Re: Docket No. C-2022-3035187
Tom Medwin, Sr. v. Metropolitan Edison Company
Preliminary Objections of Met-Ed**

Dear Secretary Chiavetta:

Attached for filing is the Preliminary Objections of Metropolitan Edison Company to the Complaint filed by Tom Medwin, Sr. (Complainant) in the above-captioned proceeding.

A copy of the Preliminary Objections has been provided 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

MAM/co
Enclosures

cc: Tori Giesler, Esquire, FirstEnergy Service Company [w/encls.]
Tom Medwin, Sr. [w/encls.]

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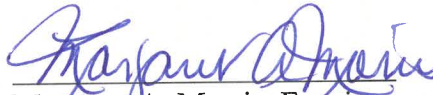
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been served upon the following person(s), in the manner indicated, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

Via Electronic and First-Class Mail

Tom Medwin, Sr.
568 Lakeside Drive
New Freedom, PA 17349
medwin717@comcast.net

Dated: October 3, 2022


Margaret A. Morris, Esquire

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

TOM MEDWIN, SR. :
 :
 : Docket No. C-2022-3035187
 v. :
 :
 :
 METROPOLITAN EDISON COMPANY :

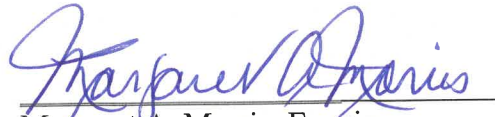
NOTICE TO PLEAD

Pursuant to 52 Pa. Code § 5.63, you are hereby notified that if you do not file a written response answering the enclosed Preliminary Objections of Metropolitan Edison Company within ten (10) days from service of this notice, the facts set forth by Metropolitan Edison Company in the Preliminary Objections may be deemed to be true, whereby requiring no other proof. All pleadings, such as a Reply to Preliminary Objections, must be filed with the Secretary of the Pennsylvania Public Utility Commission, with a copy served to counsel for Metropolitan Edison Company, Margaret A. Morris, Esq., and where applicable, the Administrative Law Judge presiding over the issue.

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
Reger Rizzo & Darnall LLP
Cira Centre, 13th Floor
2929 Arch Street
Philadelphia, PA 19104
mmorris@regerlaw.com

Date: October 3, 2022



Margaret A. Morris, Esquire
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Counsel for Metropolitan Edison Company

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

TOM MEDWIN, SR. :
v. : Docket No. C-2022-3035187
METROPOLITAN EDISON COMPANY :

**PRELIMINARY OBJECTIONS OF METROPOLITAN EDISON COMPANY
TO THE COMPLAINT OF TOM MEDWIN, SR.**

Metropolitan Edison Company (Met-Ed or Company), by and through its attorneys, Reger Rizzo & Darnall LLP, pursuant to 52 Pa. Code § 5.101, hereby files its Preliminary Objections to the Formal Complaint of Tom Medwin, Sr. (Complainant) filed in the above-captioned proceeding.

Met-Ed avers the Complainant lacks standing to bring this legal proceeding in either his individual or representative capacity. The Formal Complaint is therefore barred pursuant to 52 Pa. Code § 5.101(a)(7). Met-Ed requests that the Commission grant its Preliminary Objections and dismiss the Complaint without a hearing.

In support of its preliminary objections, Met-Ed states as follows:

I. Procedural Background

1. Met-Ed is an electric distribution company certificated as a public utility permitted to operate within the Commonwealth in Pennsylvania and provides residential electric service in the name of Thomas A. Medwin (Customer) to 568 Lakeside Drive, New Freedom, Pennsylvania (Service Location) under Account No. 100019294394 (Account). The Complainant is not the customer of record or the legal owner of 15422 Magnolia Drive, New Freedom, Pennsylvania (Service Location), the property at issue is the proceeding.

2. The Complainant filed a Formal Complaint alleging a reliability and safety hazard regarding Company facilities located at the Service Location. Compl. at ¶ 4.

3. In its Answer and New Matter being served contemporaneously with this Preliminary Objection, Met-Ed denied the allegations and raised the Complainant's ability to bring a formal complaint in the name of 1734 LLC, the Legal Owner of the Service Location. A copy of the Ownership Record is provided as Attachment 1.

4. Pursuant to 52. Pa. Code § 5.101, Met-Ed objects to the Formal Complaint on the grounds that the Complainant lacks standing to bring the claim on behalf of 1734 LLC, the Legal Owner of the Service Location.

II. Argument

5. The Commission's Rules of Practice and Procedure permit parties to file preliminary objections. The grounds for preliminary objections are limited to those set forth in 52 Pa. Code § 5.101(a) as follows:

- (1) Lack of Commission jurisdiction or improper service of the pleading initiating the proceeding.
- (2) Failure of a pleading to conform to this chapter or the inclusion of scandalous or impertinent matter.
- (3) Insufficient specificity of a pleading.
- (4) Legal insufficiency of a pleading.
- (5) Lack of capacity to sue, nonjoinder of a necessary party or misjoinder of a cause of action.
- (6) Pendency of a prior proceeding or agreement for alternative dispute resolution.
- (7) Standing of a party to participate in the proceeding.

6. Commission's procedure regarding the disposition of preliminary objections is similar to that utilized in Pennsylvania civil practice. *Equitable Small Transportation Intervenors v. Equitable Gas Company*, Docket No. C-00935435 (Opinion and Order entered July 18, 1994).

7. The Complainant lacks standing to file or to prosecute a complaint on behalf of the Legal Owner, 1734 LLC.

8. The Commission has held that a person or entity has standing when the person or entity has a direct, immediate and substantial interest in the subject matter of a proceeding. *Joint Application of Pennsylvania-American Water Co. and Evansburg Water Co. for Approval of the transfer, by sale, of the water works property and rights of Evansburg Water Co. to Pennsylvania-American Water Co.*, A-212285F0046/47 and A-210870F01 (Ordered entered July 9, 1998); *William Penn Parking Garage, Inc. v. City of Pittsburgh*, 464 Pa. 168, 346 A.2d 269 (1975); *Landlord Service Bureau, Inc. v. Equitable Gas Co.*, 79 Pa. P.U.C. 342 (1993); *Re Equitable Gas Co.*, 76 Pa. P.U.C. 23 (1992); *Manufacturers' Association of Erie v. City of Erie - Bureau of Water*, 50 Pa. P.U.C. 43 (1976); *Waddington v. Pennsylvania Public Utility Commission*, 670 A.2d 199 (Pa. Cmwlth. 1995), alloc. denied, 678 A.2d 368 (Pa. 1996).

9. Requiring a person or entity to have a direct, immediate, and substantial interest in the subject matter of a proceeding helps avoid frivolous, harassing lawsuits whose costs are ultimately borne, at least in part, by utility ratepayers. *Pennsylvania Public Utility Commission v. National Fuel Gas Distribution Corp.*, 73 Pa. P.U.C. 552 (1990).

10. The Complainant cannot assert a claim on behalf of 1734 LLC, the Legal Owner. Mere conjecture about possible future harm does not confer a direct interest in the subject matter of a proceeding. *Official Court Reporters of the Court of Common Pleas of Philadelphia County v. Pennsylvania Labor Relations Board*, 467 A.2d 311 (Pa. 1983).

WHEREFORE, Respondent, Metropolitan Edison Company, requests that the Formal Complaint filed by Tom Medwin, Sr. be dismissed with prejudice or denied in its entirety for lack of standing to file or to prosecute the Formal Complaint.

Respectfully submitted,

Date: October 3, 2022



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