

period. According to the certificate of service covering both the Complaint and the Motion, the Motion was served only on John Alford, Secretary to the Commission. The Commission's rules provide that participants in a proceeding shall file pleadings on other participants. 52 Pa. Code §1.54. The rules do not provide that the Commission will serve motions or any other pleadings, and as a matter of long established practice, it does not do so.

The two named landlords should have notice of and opportunity to respond to Met Ed's Motion to join them. Met Ed should also serve them with notice to plead in response. The Commission's rules provide for various kinds of motions, and variously allow a response time of 10 or 20 days. 52 Pa. Code §§5.101-5.103. An ALJ has 30 days to rule on preliminary motions.

This motion does not fit easily into any of the various categories. The rules provide 20 days to answer a petition or complaint. 52 Pa. Code §5.61. In this instance, where the parties to be joined may have no prior knowledge of this proceeding, it would be fair and appropriate to allow a 20-day response period.

ORDER

1. Met Ed's Motion to Join Indispensable Parties is hereby dismissed without prejudice.
2. Met Ed shall re-file its Motion, simultaneously serving the parties it seeks to have joined, with a notice to plead in response within 20 days of service.
3. If Met Ed's Motion is considered as a preliminary

motion, the time for decision shall run from the re-filing and service dates.

4. The complaint docketed at C-00967757, Elizabeth Santos v. Metropolitan Edison Company shall be assigned to an ALJ for hearing.

Allison K. Turner
ALLISON K. TURNER
Administrative Law Judge

Dated: March 18, 1996

LAW OFFICES
RYAN, RUSSELL, OGDEN & SELTZER
1100 BERKSHIRE BOULEVARD

SAMUEL B. RUSSELL
W. EDWIN OGDEN
ALAN MICHAEL SELTZER
JEFFREY A. FRANKLIN
JANET E. ARNOLD

P.O. BOX 6219
READING, PA. 19610-0219
610-372-4761
FAX 610-372-4177

HAROLD J. RYAN (1972)
JOHN S. MCCONAGHY (1981)

March 27, 1996

John G. Alford, Secretary
Pennsylvania Public Utility Commission
North Office Building
P.O. Box 6219
Harrisburg, Pennsylvania 17105-3265

DOCUMENT
FOLDER

Re: Elizabeth Santos v.
Metropolitan Edison Company
Docket No. C-00967757

Dear Secretary Alford:

Enclosed for filing are an original and two copies of the Motion of Metropolitan Edison Company to Join Indispensable Parties in the above-captioned proceeding.

As indicated by the Certificate of Service, a copy of the Motion has been served upon the parties sought to be joined and Elizabeth Santos, the Complainant before the Bureau of Consumer Services.

Please contact me with any questions.

Very truly yours,

RYAN, RUSSELL, OGDEN & SELTZER

Janet E. Arnold

JEA/jlc

Enclosures

cc: Elizabeth Santos
Cesar S. Pomaes
Loan Phan

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INFORMATION
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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

IN RE: COMPLAINT OF :
ELIZABETH SANTOS :
 :
 : Complaint Docket
v. : No. C-00967757
 :
 :
METROPOLITAN EDISON COMPANY, :
Appellant :

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true and correct copy of the Motion of Metropolitan Edison Company to Join Indispensable Parties upon the individuals listed below via First Class Mail, postage prepaid, addressed as follows:

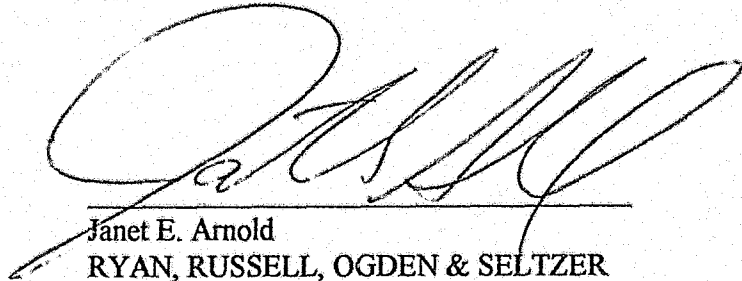
John G. Alford, Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Loan Phan
801 Hamilton Street, No. 1
Allentown, PA 18103

Cesar S. Pomales
212 South 9th Street
Reading, PA 18602

Elizabeth Santos
212 South 9th Street
Second Floor
Reading, PA 19602

Dated: March 27, 1996



Janet E. Arnold
RYAN, RUSSELL, OGDEN & SELTZER
1100 Berkshire Boulevard
P.O. Box 6219
Reading, Pennsylvania 19610-0219
(610) 372-4761

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

IN RE: COMPLAINT OF
ELIZABETH SANTOS

v.

METROPOLITAN EDISON COMPANY,
Appellant

:
:
:
: Complaint Docket
: No. C-00967757
:
:
:

NOTICE TO PLEAD

TO: Loan Phan
801 Hamilton Street, No. 1
Allentown, Pennsylvania 18103

You are hereby notified to file a written response to the enclosed Motion to Join Indispensable Parties within twenty (20) days from service hereof or a Judgment may be entered against you.

Janet E. Arnold
RYAN, RUSSELL, OGDEN & SELTZER
1100 Berkshire Boulevard
P.O. Box 6219
Reading, Pennsylvania 19610-0219
(610) 372-4751

Attorneys for
Metropolitan Edison Company

Date of Service: March 27, 1996

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

IN RE: COMPLAINT OF
ELIZABETH SANTOS

v.

METROPOLITAN EDISON COMPANY,
APPELLANT

:
:
: Complaint Docket
: No. C-00967757

:
: DOCUMENT DOCKETED
: FOLDER
: APR 02 1996

MOTION TO JOIN INDISPENSABLE PARTIES

TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

AND NOW, Metropolitan Edison Company ("Met-Ed") by and through its counsel, Janet E. Arnold and Ryan, Russell, Ogden & Seltzer, hereby moves for the joinder of Loan Phan and Cesar S. Pomaes as an indispensable parties to this proceeding and in support of its Motion, states as follows:

1. Met-Ed is a Pennsylvania Public Utility Corporation, subject to the jurisdiction of the Pennsylvania Public Utility Commission (the "Commission").

2. Met-Ed furnishes retail electric service to, inter alia, portions of Reading, Berks County, Pennsylvania, pursuant to its certificate of public convenience and the terms of its Commission-approved tariff.

3. Elizabeth Santos ("Santos") is an adult individual who, at all times material hereto, was a tenant in the second floor apartment of a building located at 212 South 9th Street, Reading, Pennsylvania 19602 ("the Building").

4. Santos was the Met-Ed customer of record for residential electric service to 212 South 9th Street, Second Floor, Reading, Pennsylvania 19602.

5. The electric service account for the Santos apartment, number 731141430058, was opened on January 10, 1995.

6. Santos was charged for electric service to the apartment under, and in accordance with, Met-Ed Rate RS-Residential Service, as specified in the Met-Ed tariff, which has been duly filed with and approved by the Commission.

7. On or about May 11, 1995, Santos filed an Informal Complaint with the Bureau of Consumer Services ("BCS"), BCS Docket No. 0274904, alleging she was paying for the provision of electric service to her apartment, a barber shop and a church.

8. On May 10, 1995, Met-Ed personnel visited the Building and confirmed that a meter for the Santos apartment was also serving a church and a barber shop.

9. On May 11, 1995, Met-Ed removed Santos' name from the bill and placed the bill in the name of the building owner, Loan Phan, consistent with the requirements of Section 1529.1 of the Public Utility Code, 66 Pa. C.S. § 1529.1.

10. Loan Phan is an adult individual who, at all times material hereto, has resided at 801 Hamilton Street, No. 1, Allentown, Pennsylvania, 18103.

11. Loan Phan was the owner of the Building during the time Ms. Santos was a tenant in that building.

12. Loan Phan was not a party to the Informal Complaint.

13. On or about May 23, 1995, the building was sold by Loan Phan to Cesar S. Pomales.

14. Cesar S. Pomales is an adult individual currently residing at 212 South 9th Street, Reading, Pennsylvania 19602.

15. Cesar S. Pomales was the owner of the building on December 22, 1995, the date the BCS Decision was issued.

16. Cesar S. Pomales was not a party to the Informal Complaint.

17. On December 22, 1995, the BCS issued its Decision in the Informal Complaint of Elizabeth Santos, BCS No. 0274904, ordering Met-Ed to place Santos' outstanding balance of \$348.55 in "the landlord's account". BCS Decision at 3.

18. At the time the Informal Complaint was filed, Loan Phan was the Landlord. At the time the BCS issued its Decision, Cesar S. Pomales was the landlord.

19. It is fundamental in Pennsylvania that a Court cannot grant relief without the joinder of all indispensable parties. Reifsnnyder v. Pittsburgh Outdoor Advertising Co., 396 Pa. 320, 152 A.2d 894 (1959); Powell v. Shepard, 381 Pa. 405, 113 A.2d 261 (1955). It has also been held that "the absence of indispensable parties goes absolutely to the jurisdiction, and without their presence the Court can grant no relief. Posel v. Redevelopment Authority, 73 Pa. Commw. 115, 456 A.2d 243 (1983); Renner v. Metropolitan Edison Co., (Docket No. F-00246922, Order dated December 22, 1994).

20. A party is deemed indispensable when his rights are "so connected with the claims of the litigants that no degree can be fashioned between them without impairing those rights".

Reifsnnyder v. Pittsburgh Outdoor Advertising Co., 396 Pa. 320, 152 A.2d 894 (1959); Posel v. Redevelopment Authority, supra, at 246.

21. The BCS decision in this matter required Met-Ed to transfer the outstanding balance to "the landlord's account". The landlord at the time Santos filed her informal Complaint was Loan Phan. When the BCS decision was issued, the landlord was Cesar S. Pomales. Implementation of the BCS decision therefore would potentially involve both Loan Phan and Cesar S. Pomales.

22. Similarly, the rights of both Loan Phan and Cesar S. Pomales may be affected as a result of Met-Ed's appeal of the BCS decision. Both individuals have owned the Building at times relevant to this proceeding. The Commission may decide that either Loan Phan or Cesar S. Pomales is responsible for payment to Met-Ed of the outstanding balance of Santos' electric account.

23. Consequently, it cannot be disputed that the rights of Loan Phan and Cesar S. Pomales are so directly connected to the claims of the litigants that no order can be fashioned between Met-Ed and Santos without impairing those rights.

24. Loan Phan and Cesar S. Pomales must therefore be joined as indispensable parties to this proceeding, and afforded an opportunity to be heard.

WHEREFORE, Metropolitan Edison Company respectfully requests that this Commission issue an Order:

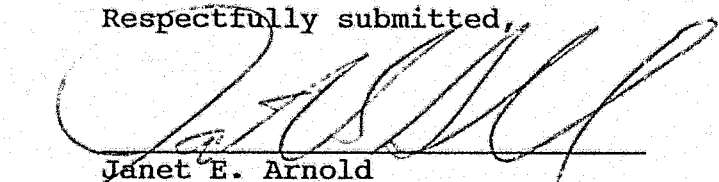
1. Joining Loan Phan, 801 Hamilton Street, No. 1, Allentown, 18103 as an indispensable party to this proceeding,

2. Adding Loan Phan, 801 Hamilton Street, No. 1, Allentown, Pennsylvania 18103 to the service list in the above-captioned matter.

3. Joining Cesar S. Pomales, 212 South 9th Street, Reading, Pennsylvania 19602 as an indispensable party to this proceeding.

4. Adding Cesar S. Pomales, 212 South 9th Street, Reading, Pennsylvania 19602 to the service list in the above-captioned matter.

Respectfully submitted,



Janet E. Arnold
RYAN, RUSSELL, OGDEN & SELTZER
1100 Berkshire Boulevard
P.O. Box 6219
Reading, Pennsylvania 19610-0219

Dated: March 27, 1996

Attorneys for
Metropolitan Edison Company



COMMONWEALTH OF PENNSYLVANIA
Pennsylvania Public Utility Commission
PO Box 3265, Harrisburg, PA 17105-3265

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April 4, 1996

P.A. P.U.C.
INFO. CONTROL DIV.
IN REPLY PLEASE
REFER TO OUR FILE

JANET E ARNOLD ESQUIRE
RYAN RUSSELL OGDEN & SELTZER
1100 BERKSHIRE BOULEVARD
PO BOX 6219
READING PA 19610-4761

APR 08 1996

Re: Elizabeth Santos v. Metropolitan Edison Company
Docket No. C-00967757

Dear Ms. Arnold:

A Motion to Join Indispensable Parties, dated March 27, 1996, has been filed and served. This motion has been assigned to Administrative Law Judge (ALJ) Allison K. Turner for ruling. If you file any pleadings or documents relating to this motion with the Secretary of the Commission, please provide a copy to ALJ Turner as well.

If you have any questions or comments, you may contact ALJ Turner at (717) 787-8813.

Very truly yours,

Robert A. Christianson
Acting Chief Administrative Law Judge

RAC:gp

pc: Elizabeth Santos
Loan Phan
Cesar Pomaies
ALJ Allison Turner
Eric Rohrbaugh
Joyce McGrady
Janice Zurat
Gloria Pressley

DOCUMENT
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