

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

The Aria Condominium Association	:	
	:	
v.	:	C-2023-3038702
	:	
Vicinity Energy Philadelphia, Inc.	:	
	:	

**NOTICE TO PLEAD**

Pursuant to 52 Pa. Code § 5.421, The Aria Condominium Association (“Association”) has filed an Application for Subpoena in the above-referenced matter. You are hereby notified that you may file a written response or objection within ten (10) days of service of the Application, pursuant to 52 Pa. Code § 5.421(b)(3). An original copy of your response must be sent to:

Rosemare Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
PO Box 3265  
Harrisburg PA 17105

A copy must be served on the presiding officer and undersigned counsel.

Respectfully submitted,

HORN WILLIAMSON, LLP

By: /s/ Matthew C. Collins  
Matthew C. Collins, Esquire  
Paige L. Baldwin, Esquire  
Two Penn Center, Suite 1700  
Philadelphia PA 19102  
*Attorneys for The Aria Condominium Association*

Dated: December 21, 2023

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

The Aria Condominium Association	:	
	:	
v.	:	C-2023-3038702
	:	
Vicinity Energy Philadelphia, Inc.	:	
	:	

**APPLICATION FOR SUBPOENA**

AND NOW comes Complainant, The Aria Condominium Association (“Association”) and files this Application to Subpoena David Egan of Cemtech Energy Controls, Inc. (“Cemtech”), to testify at the hearing scheduled in the above-captioned case, pursuant to 52 Pa. Code § 5.421(a)(2).

In support thereof, Association avers as follows:

**I. INTRODUCTION**

1. On March 2, 2023, the Association filed a Formal Complaint against Respondent, Vicinity Energy Philadelphia, Inc. (“Vicinity”).

2. The Association filed its Formal Complaint to dispute, *inter alia*, billing charges and to dispute the alleged steam usage as reflected on bills from Vicinity in 2022.

3. To facilitate its investigation, the Association retained David Egan, III, as an expert and manufacturer’s representative of the Yokogawa Steam Meter. Mr. Egan’s territory includes, but is not limited to: Eastern PA, Southern NJ, Delaware, Maryland, Washington D.C., and Virginia.

4. On May 22, 2023, Mr. Egan visited the site to obtain meter readings and other data from the Yokogawa Steam Meter as is installed at the Aria Condominium.

5. Additionally, information was provided to Mr. Egan demonstrating the historical steam usage at the Aria Condominium.

6. Since May 22, 2023, the Association has attempted to contact Mr. Egan numerous times via email and telephone call.

7. Mr. Egan has not responded to any communications, has not provided any information obtained from the site visit, has not issued a report articulating his findings, nor have recommendations been made by him or any other representative of Cemtech Energy Controls, Inc.

8. Most recently, on December 5, 2023, the Association attempted to contact David Egan, III to request his participation in the January 24, 2024 Hearing before the Commission.

## **II. GROUNDS FOR THE SUBPOENA**

9. Section 5.421(a)(2) of the Commission's regulations permits a party to submit a written application for subpoena to the presiding officer. 52 Pa. Code § 5.421(a)(2). The application for subpoena must specify the general relevance, materiality and scope of the testimony or documentary evidence sought, including specification of the documents desired. 52 Pa. Code § 5.421(b)(1).

10. David Egan, III is the President of Cemtech Energy Controls, Inc. and manufacturer's representative for the Yokogawa Steam Meter, the equipment utilized by the Association.

11. In order to properly understand the Association's claims at the January 24, 2024 Hearing, the Association is requesting a proposed subpoena directing Mr. Egan's participation in the hearing be issued.

12. A proposed subpoena of Mr. Egan has been included with this Application.

### III. CONCLUSION

WHEREFORE, for the foregoing reasons, the Association respectfully requests that the president Administrative Law Judge issue a Subpoena requiring David Egan, III to attend the hearing in this matter scheduled for January 24, 2024.

Respectfully submitted,

HORN WILLIAMSON, LLP

By: /s/ Matthew C. Collins  
Matthew C. Collins, Esquire  
Paige L. Baldwin, Esquire  
Two Penn Center, Suite 1700  
Philadelphia PA 19102  
*Attorneys for The Aria Condominium Association*

Dated: December 21, 2023



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION

In the Matter of:

Docket No. C-2023-3038702

The Aria Condominium Association
v.
Vicinity Energy Philadelphia, Inc.

SUBPOENA

David Egan, III, Cemtech Energy
Controls, Inc., 1400 North
Providence Rd, Rose Tree
Corporate Center II, #6040,

To: Media, PA 19063

(Name and Address)

Pursuant to the authority of this Commission under §§309, 331(d)(2) and 333(j) of the Public Utility Code:

1. YOU ARE ORDERED by the Commission to come to Appear Virtually at
ALJ Hearing Room (link to be provided by PUC), at Philadelphia (place)

Pennsylvania, on January 24, 2024, at 10:00 am o'clock, in the above case, to testify
(date)
on behalf of the The Aria Condominium Association and to remain until excused;

2. And bring with you and produce the following:
Any and all reports, field notes, photographs, videos, research completed or obtained by Cemtech Energy
Controls, Inc., inspection data, tests, test results, and calibration data regarding the Yokogawa Steam Meter
located at The Aria Condominium Association.

This subpoena is issued subject to the provisions of 52 Pa. Code §5.421 (with regard to issuance, notice, service and witness fees).

BY THE COMMISSION

Date

Administrative Law Judge

Commonwealth of Pennsylvania )  
 ) SS:  
Count of )

**AFFIDAVIT OF SERVICE**

Before me, the undersigned authority, personally appeared \_\_\_\_\_  
who, being duly sworn according to law, deposes and says that he/she served a true and correct  
copy of the within SUBPOENA upon \_\_\_\_\_  
by handing the same to him/her at \_\_\_\_\_ on the  
\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ at \_\_\_\_\_ a.m./p.m.

\_\_\_\_\_  
(Signature)

Sworn to and subscribed before me  
this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
*Notary Public*

## CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Application for Subpoena has been served upon the following parties as indicated below:

Via E-Filing and E-Mail  
Maura L. Burke, Esquire  
FisherBroyles LLP  
1650 Market Street, 36th Floor  
Philadelphia PA 19103  
[Maura.Burke@FisherBroyles.com](mailto:Maura.Burke@FisherBroyles.com)  
*Attorney for Vicinity Energy Philadelphia, Inc.*

/s/ Matthew C. Collins  
Matthew C. Collins, Esquire

Dated: December 21, 2023