

Legal Department

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December 23, 2008

James McNulty, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, Second Floor
Harrisburg, PA 17120

Re: Delores Alston v. PECO Energy Company
PUC Docket No. C-2008-2072287

Dear Mr. McNulty:

Enclosed for filing with the Commission are the following documents and copies in the matter referenced above.

<u> </u>	Answer (original and 3 copies)
<u> </u>	Motion to Consolidate Complaints (original and 3 copies)
<u> X </u>	Motion For Judgment on the Pleadings (original and 3 copies)
<u> </u>	Preliminary Objection (original and 3 copies)
<u> </u>	Exceptions (original and 9 copies)
<u> </u>	Reply Exceptions (original and 9 copies)
<u> </u>	Brief (original and 9 copies)
<u> </u>	Reply Brief (original and 9 copies)

Also enclosed is an extra copy of this letter, which I request that you date stamp and return to me in the envelope provided as proof of filing. I have enclosed a Certificate of Service showing that a copy of the above document was served on the interested parties.

Very truly yours,



Michael S. Swerling
Counsel for PECO Energy Company

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Enc.

cc: Delores Alston

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

DELORES ALSTON

v.

PECO ENERGY COMPANY

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DOCKET NO. C-2008-2072287

NOTICE TO PLEAD

Pursuant to 52 Pa. Code §§ 5.102(a) you are hereby notified that, if you do not file a written response denying or correcting the enclosed Motion of PECO Energy Company, within 20 days from service of this notice, the Commission may make a ruling not in your favor and your Complaint may be dismissed. All pleadings, such as a Reply to Motion, must be filed with the Secretary of the Pennsylvania Public Utility Commission, with a copy served to counsel for PECO Energy Company, Michael S. Swerling, and where applicable, the Administrative Law Judge presiding over the issue.


File with:

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, Second Floor
Harrisburg, PA 17120

With a copy to:

Michael S. Swerling, Esq.
PECO Energy Company
2301 Market Street, S-23
Philadelphia, PA 19103

Dated at Philadelphia, PA, December 23, 2008



Michael S. Swerling
Counsel for PECO Energy Company
2301 Market Street S-23
Philadelphia, PA 19101-8699
215-841-6841
Michael.Swerling@exeloncorp.com

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

DELORES ALSTON

v.

PECO ENERGY COMPANY

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DOCKET NO. C-2008-2072287

PECO ENERGY COMPANY'S MOTION FOR JUDGMENT ON THE PLEADINGS

Respondent, PECO Energy Company ("PECO"), pursuant to 52 Pa. Code § 5.102 respectfully petitions this Honorable Commission to dismiss the instant Complaint because the Commission is not legally empowered to grant the requested relief.

1. Complainant filed a Pennsylvania Public Utility Commission formal complaint on October 27, 2008 requesting a payment agreement.
2. PECO Energy was served the above-mentioned formal Complaint on November 3, 2008.
3. Pursuant to 52 Pa. Code § 5.101(b), PECO simultaneously filed an Answer and New Matter to the Complaint on November 24, 2008.
4. According to 52 Pa. Code § 5.63, Complainant had twenty days from the filing date of PECO's New Matter to respond.
5. To date, twenty-nine days have passed since PECO filed its New Matter on November 24, 2008. As Complainant has failed to timely respond to the New Matter, PECO is filing this Motion seeking Judgment on the Pleadings.
6. Complainant currently participates in the residential utility discount Customer Assistance Program ("CAP") and receives a monthly discount on his utility charges.

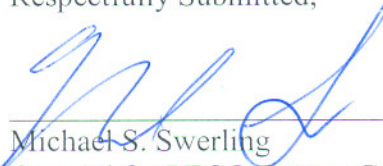
7. In his Complaint, Ms. Alston indicates she would like a payment agreement as she was “incarcerated when my agreement broke.”

8. PECO raised this as an affirmative defense in its New Matter.

9. Complainant is requesting further payment arrangements that the Commission cannot establish. Section 1405(c) of the Public Utility Code provides that customer assistance program rates shall be timely paid and shall not be the subject of payment agreements negotiated or approved by the Commission. 66 Pa. C.S. § 1405(c); Walton v. PECO Energy Company, Pa. PUC Docket Z-01593807, Initial Decision issued January 11, 2005.

WHEREFORE, PECO Energy Company respectfully requests that your Honorable Commission dismiss the Complaint pursuant to 66 Pa. C.S. § 1405(c).

Respectfully Submitted,



Michael S. Swerling
Counsel for PECO Energy Company
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P.O. Box 8699
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(215) 841-6841
Michael.Swerling@exeloncorp.com

**BEFORE THE
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DELORES ALSTON

v.

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DOCKET NO. C-2008-2072287

VERIFICATION

I, Michael S. Swerling, hereby declare that I am an attorney representing PECO Energy Company; that as such I am authorized to make this verification on its behalf; that the facts set forth in the foregoing Pleading are true to the best of my knowledge, information and belief, and that I make this verification subject to the penalties of 18 Pa. C.S. §4904 pertaining to false statements to authorities.

Date: December 23, 2008



Michael S. Swerling

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

DELORES ALSTON

v.

PECO ENERGY COMPANY

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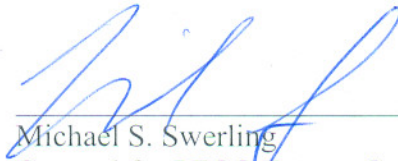
DOCKET NO. C-2008-2072287

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of PECO Energy Company's Motion to Dismiss in the above matter upon all interested parties by mailing a copy thereof, properly addressed and postage prepaid to:

DELORES ALSTON
302 W Wellens Ave
Philadelphia, PA 19120

Dated at Philadelphia, Pennsylvania, December 23, 2008.



Michael S. Swerling
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