



Business Services
Company

Legal Department

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February 10, 2008

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

**Re: James Tisdale v. PECO Energy Company
PUC Docket No. C-2008-2079351**

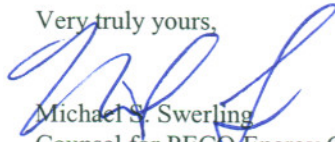
Dear Mr. McNulty:

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

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

M SS/zyr

Enc.

cc: James Tisdale
ALJ Angela T. Jones

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

JAMES TISDALE

v.

PECO ENERGY COMPANY

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DOCKET NO. C-2008-2079351

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.

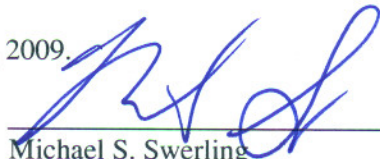
File with:

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, February 10, 2009.



Michael S. Swerling
Counsel for PECO Energy Company
2301 Market Street, S23-1
P.O. Box 8699
Philadelphia, PA 19101-8699
(215) 841-6841
Michael.Swerling@exeloncorp.com

BEFORE THE
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RESPONDENT, PECO ENERGY COMPANY'S MOTION FOR JUDGMENT ON THE PLEADINGS

Respondent, PECO Energy Company ("PECO Energy"), pursuant to 52 Pa. Code § 5.102(a) respectfully petitions this Honorable Commission to dismiss the instant Complaint for the following reasons:

1. On or about December 15, 2008, Complainant filed a Complaint with the Pennsylvania Public Utility Commission ("PUC") requesting a payment agreement.
2. On or about December 17, 2008, PECO Energy was served the above-mentioned Formal Complaint.
3. Pursuant to 52 Pa. Code § 5.101(b), PECO Energy simultaneously filed an Answer & New Matter to this Complaint on January 7, 2009.
4. Pursuant to 52 Pa. Code § 5.63, Complainant had twenty days from the filing date of PECO's New Matter, January 7, 2009, to respond.
5. To date, thirty-four days have passed since PECO filed its New Matter on January 7, 2009. As Complainant has failed to timely respond to the New Matter, PECO is filing this Motion seeking Judgment on the Pleadings.

6. Complainant is not entitled to Commission payment terms because he has violated a previous Bureau of Consumer Services (“BCS”) arrangement and his income has increased since the BCS arrangement was ordered.

7. Complainant received a previous agreement with the BSC at case 2293894 on September 13, 2007. The BCS issued its decision on December 7, 2007, granting a payment arrangement for Complainant to pay a \$114.00 budget plus a \$45.00 arrears installment beginning January 2008. Complainant broke this agreement. A copy of the BCS decision at case 2293894 is attached as Exhibit B.

8. As part of this BCS investigation, Complainant reported on August 30, 2007 that his total monthly household income was \$2,437.07 per month. See a copy of PECO’s response to the BCS complaint, which was submitted to the BCS on October 2, 2007, attached with Exhibit B.

9. Complainant filed a subsequent BCS complaint on October 9, 2008 at case 2456344. The BCS rendered its decision on November 7, 2008 holding that Complainant was not entitled to payment terms because he had violated the previous BCS arrangement. A copy of the BCS decision is attached as Exhibit C.

10. As part of this BCS investigation, Complainant reported on October 9, 2008 that his total monthly household income had increased to \$2,833.07. See a copy of PECO’s response to the BCS complaint, which was submitted to the BCS on October 29, 2008, attached with Exhibit C.

11. Complainant has filed this Formal Complaint as an appeal of the latest BCS decision because he is asking the Commission for payment terms so that he is only required to pay \$150.00 each month; payment terms that we denied by the BCS.

12. Complainant has not alleged any “change in income” that would warrant a second or subsequent payment arrangement. Complainant reported that his income status has increased.

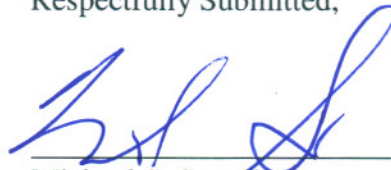
13. Complainant should not be entitled to any further Commission agreements pursuant to under 66 Pa. C.S. § 1405 (d), which states “[a]bsent a change in income, the commission shall not establish or order a public utility to establish a second or subsequent payment agreement if a customer has defaulted on a previous payment agreement.”

14. Change in income is defined in 66 Pa. C.S. § 1403 as “A decrease in household income of 200% or more if the customer’s household income level exceeds 200% of the Federal poverty level or a decrease in household income of 10% or more if the customer’s household income level is 200% or less of the Federal poverty level.”

15. Complainant has admitted to the BCS that his income has increased and has broken a former BCS issued agreement. Therefore, Complainant is not entitled to a new Commission agreement.

WHEREFORE, PECO Energy Company respectfully requests pursuant to 66 Pa. C.S. § 1405 (d), that your Honorable Commission dismiss the Complaint because Complainant has violated a past BCS payment arrangement and has not alleged any change in income.

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

Case Type: Full PAR

Final Position to BCS		<p>SERVICE IS ON</p> <p>On 08/30/2007, the customer reported income of \$2437.07 from employment with 3 adults = Level 2. Based on income information given to the company from the customer, the customer does not qualify for the CAP program.</p> <p>The customer has a current bill of \$134.11, with a due date of 10/09/07, and a past due balance of \$922.16. The company's final position is that the customer pays the past due balance immediately, then pays all current bills as rendered. If the customer is claiming to the PUC they are income Level 1, the Company requires documented verification of income before PUC Level 1 terms would be established.</p>
Last Contact With Customer	2007-09-13	<p>The customer contacted the company regarding payment arrangements and spoke with a company supervisor. The customer was informed of their past due and current balance and the due date, and informed the customer of their previous unkept agreements. Financial information was reviewed, and the utility report that was issued on 08/30/2007 to pay \$914.02 prior to 09/14/2007 still stood. The customer was informed to call the company back with their doctor's fax number.</p>

BCS Decision Report

BCS Case #: 002456344 Open Date: 2008-10-09
Customer Name: JAMES TISDALE
Service Address: 1412 E LUZERNE ST

PHILADELPHIA, PA 19124
BCS Bill Account #: 0750700209 Previous Case #: 2293894
Violation Type: NO Chapter Type:
Decision Type: W Section / Rule:
Investigator Name: ROBERT SHINDLE

Decision Issued Date: 2008-11-07
Case Closed Date: 2008-11-03

Letter Description:
VERBAL DISMISSAL/RECENT CASE/FORMAL COMPLAINT

Total Balance:	\$995.64	Balance Date:	2008-10-29
Amount to Restore Service:	\$0.00	Amount to Continue Service:	\$57.89
Date Payment Due:		Regular Budget Amount:	\$93.00
Special Budget Payment:	\$0.00	Final Bill Monthly Payment:	\$0.00
Plus Arrears Payment:	\$0.00	End of Month Payment:	\$0.00
Current Monthly Payment:	\$0.00		
Payment Terms:			

PAR Description:

Resolution Description:
CASE DISMISSED -- CUS HAD PRIOR PUC PAR -- DISMISSAL LTR DTD 11/07/08

Exhibit C

Case Type: Full PAR		
Final Position to BCS		<p>SERVICE IS ON</p> <p>On 10/9/08 the customer report income of \$2,833.07 from unemployment compensation with 3 adults = level 2.</p> <p>The customer had a prior PUC terms BCS#2293894, which was not kept. The customer did not make payments totaling the arrears from previous PUC agreement.</p> <p>The customer has a current bill \$68.02 due 11/7/08 and a past due balance \$927.62 due immediately. Final position is customer pays the past due balance immediately and then pays all bills as rendered.</p>
Last Contact With Customer	2008-10-09	<p>The customer's friend Lori contacted the company and representative:</p> <ul style="list-style-type: none"> -Explained current and past due bills and due dates. -The customer declined offer to pay by phone. -Obtained financial information. -Read utility report script for a Customer Refused utility report for \$913.56 by 10/10/08, -Stated son moved out and she moved in. She states she is on unemployment. -Customer stated will call PUC. -Stated will not get unemployment until next week.

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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: February 10, 2009



Michael S. Swerling

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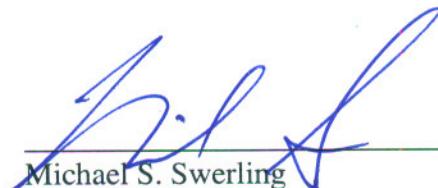
DOCKET NO. C-2008-2079351

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 Certified mail, properly addressed and postage prepaid to:

JAMES TISDALE
1412 E Luzerne Street
Philadelphia, PA 19124

Dated at Philadelphia, Pennsylvania, February 10, 2009.



Michael S. Swerling
Counsel for PECO Energy Company
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