

**Legal Department**

Exelon Business Services Company  
2301 Market Street/S23-1  
P.O. Box 8699  
Philadelphia, PA 19101-8699

Telephone 215.841.4000  
Fax 215.568.3389  
www.exeloncorp.com

Direct Dial: 215.841.6841

February 10, 2008

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

**Re: Rita L. Vinson v. PECO Energy Company**  
**PUC Docket No. C-2008-2079427**

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. Swering  
Counsel for PECO Energy Company

M SS/zyr

Enc.

cc: Rita L. Vinson  
ALJ Angela T. Jones (Via Fax and US Mail)

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

RITA L. VINSON

v.

PECO ENERGY COMPANY

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DOCKET NO. C-2008-2079427

**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



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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**

RITA L. VINSON

v.

PECO ENERGY COMPANY

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DOCKET NO. C-2008-2079427

**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 December 9, 2008 requesting a payment agreement.
2. PECO Energy was served the above-mentioned formal Complaint on December 17, 2008.
3. Pursuant to 52 Pa. Code § 5.101(b), PECO simultaneously filed an Answer and New Matter to the Complaint on January 7, 2009.
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, thirty-four days have passed since PECO filed its New Matter on January 7, 2009. PECO has not been served with a response to its New Matter. 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 her utility charges.

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

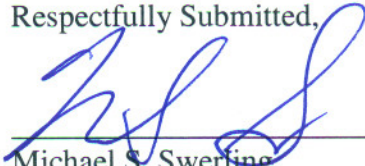
8. In her Complaint, Ms. Vinson indicates “What I am asking the PUC to do is have PECO set up arrangement that’s affordable.”

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.

10. As Complainant receives a reduced rate through the CAP program, 66 Pa. C.S. § 1405 (c) does not allow further Commission ordered payment terms.

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

Respectfully Submitted,



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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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DOCKET NO. C-2008-2079427

**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

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

RITA L. VINSON

v.

PECO ENERGY COMPANY

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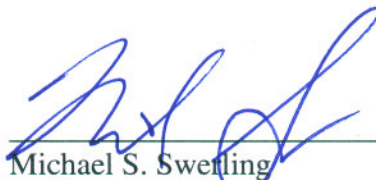
DOCKET NO. C-2008-2079427

**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:

RITA L. VINSON  
705 Arch Street  
Norristown, PA 19401

Dated at Philadelphia, Pennsylvania, February 10, 2009.



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Michael S. Swerling  
Counsel for PECO Energy Company  
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P.O. Box 8699  
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