

Legal Department

Exelon Business Services Company
2301 Market Street/523-1
P.O. Box 8699
Philadelphia, PA 19101-8699

Telephone 215.841.4000
Fax 215.568.3389
www.exeloncorp.com

Direct Dial: 215.841.6841

April 9, 2009

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

Re: Brian C. Harmer v. PECO Energy Company
PUC Docket No. C-2009-2094766

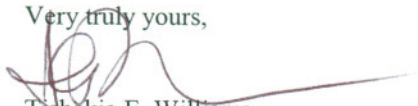
Dear Mr. McNulty:

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

<input checked="" type="checkbox"/>	Answer and New Matter (original and 3 copies)
<input type="checkbox"/>	Motion to Consolidate Complaints & Dismiss (original and 3 copies)
<input type="checkbox"/>	Motion For Judgment on the Pleadings (original and 3 copies)
<input checked="" type="checkbox"/>	Preliminary Objection (original and 3 copies)
<input type="checkbox"/>	Exceptions (original and 9 copies)
<input type="checkbox"/>	Reply Exceptions (original and 9 copies)
<input type="checkbox"/>	Brief (original and 9 copies)
<input type="checkbox"/>	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,



Tishkia E. Williams
Counsel for PECO Energy Company

TEW/zyr

Enc.

SCHEDULING RECOMMENDATION: CALL OF THE DOCKET NON-CALL OF THE DOCKET

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

BRIAN C. HARMER

v.

PECO ENERGY COMPANY

:
:
:
:
:

DOCKET NO. C-2009-2094766

NOTICE TO PLEAD

Pursuant to 52 Pa. Code §§ 5.101 and 5.62(c), you are hereby notified that, if you do not file a written response denying or correcting the enclosed Preliminary Objection of PECO Energy Company, within 10 days from service of this notice, and if you do not file a written response denying or correcting the enclosed New Matter within 20 days from service of this notice, the facts set forth by PECO Energy Company in the New Matter may be deemed to be true, thereby requiring no other proof. All pleadings, such as a Reply to Preliminary Objection and Reply to New Matter, must be filed with the Secretary of the Pennsylvania Public Utility Commission, with a copy served to counsel for PECO Energy Company, Tishekia Williams, 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:

Tishekia Williams, Esq.
PECO Energy Company
2301 Market Street, S-23
Philadelphia, PA 19103

Dated at Philadelphia, PA, April 9, 2009.



Tishekia Williams
Counsel for PECO Energy Company
2301 Market Street S-23
Philadelphia, PA 19101-8699
215-841-6841
tishekia.williams@exeloncorp.com

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

BRIAN C. HARMER

v.

PECO ENERGY COMPANY

:
:
:
:
:

DOCKET NO. C-2009-2094766

PRELIMINARY OBJECTION OF RESPONDENT, PECO ENERGY COMPANY

Respondent, PECO Energy Company (“PECO Energy”), pursuant to 52 Pa. Code § 5.101(a)(3) respectfully petitions this Honorable Commission to dismiss this Complaint inasmuch as it requests damages for the following reasons:

1. This Complaint should be dismissed inasmuch as it is request for damages pursuant to 52 Pa. Code § 5.101(a)(1) because the Commission lacks jurisdiction to award damages.
2. Complainant claims that he purchased approximately \$100.00 worth of perishable food items that spoiled during a power outage. Complainant asks to be reimbursed for the loss of those items. This request is clearly a request for damages.
3. The Public Utility Commission is without the power or jurisdiction to award damages to Complainant and therefore the Complaint is insufficient as to substance because it fails to state a claim upon which the Commission can grant relief. Therefore, since the Commission lacks the jurisdiction to award damages and the Complaint is insufficient in as much as it requests monetary relief, the part of the Complaint seeking damages should be dismissed pursuant to 52 Pa. Code § 5.101(a)(1).

WHEREFORE, PECO Energy Company respectfully requests that your Honorable Commission dismiss the instant Complaint inasmuch as it is request for damages pursuant to 52 Pa. Code § 5.101(a)(1) because the Commission lacks jurisdiction to award damages.

Respectfully Submitted,



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

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

BRIAN C. HARMER

v.

PECO ENERGY COMPANY

:
:
:
:
:

DOCKET NO. C-2009-2094766

VERIFICATION

I, Tishekia Williams, 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: April 9, 2009



Tishekia Williams

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

BRIAN C. HARMER

v.

PECO ENERGY COMPANY

:
:
:
:
:

DOCKET NO. C-2009-2094766

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:

BRIAN C. HARMER
630 MT Alverno Road
Media, PA 19063

Dated at Philadelphia, Pennsylvania, April 9, 2009.



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