

Legal DepartmentExelon Business Services Company
2301 Market Street/ S23-1
P.O.Box 8699
Philadelphia, PA 19101-8699Telephone 215.841.5544
Fax 215.568.3389
www.exeloncorp.com

Direct Dial: 215.841.6841

November 20, 2009

James McNulty, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, Second Floor
Harrisburg, PA 17120**Re: Sabrina Davis v. PECO Energy Company**
PUC Docket No. C-2009-2117596

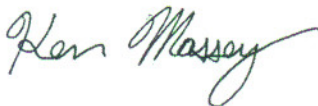
Dear Mr. McNulty:

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

___	Answer (e-filed and 1 original)
___	Motion for Continuance (e-filed and 1 original)
<u>X</u>	Revised Motion for Judgment on the Pleadings (original and 3 copies)
___	Preliminary Objection (E-filed and 1 original)
___	Exceptions (original and 9 copies)
___	Reply Exceptions (original and 9 copies)
___	Brief (original and 9 copies)
___	Reply Brief (original and 9 copies)

I have enclosed a Certificate of Service showing that a copy of the above document was served on the interested parties. Thank you for your time and attention on this matter.

Very truly yours,

Ken Massey
Counsel for PECO Energy Company

KM/zyr

Enc.

cc: ALJ Cynthia W. Fordham (Via Fax and FedEx)
Sabrina Davis (Via FedEx)

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

SABRINA DAVIS

v.

PECO ENERGY COMPANY

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DOCKET NO. C-2009-2117596

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, Tishekia Williams, and where applicable, the Administrative Law Judge presiding over the issue.

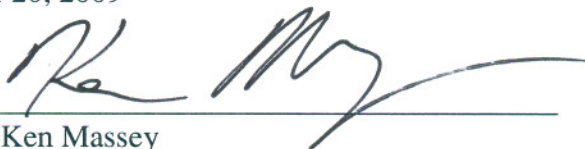
File with:

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

With a copy to:

Ken Massey, Esq.
PECO Energy Company
2301 Market Street, S-23
Philadelphia, PA 19103

Dated at Philadelphia, PA, November 20, 2009



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

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

SABRINA DAVIS

v.

PECO ENERGY COMPANY

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DOCKET NO. C-2009-2117596

**PECO ENERGY COMPANY’S REVISED MOTION FOR JUDGMENT ON THE
PLEADINGS DUE TO VIOLATION OF PREHEARING ORDER**

Respondent, PECO Energy Company (“PECO”), pursuant to 52 Pa. Code § 5.102 respectfully petitions this Honorable Commission to dismiss the instant Complaint disputing certain utility charges and seeking a payment agreement because (1) Complainant violated the Corrected Prehearing Order issued November 3, 2009; and (2) the Commission lacks authority to issue another payment agreement to the Complainant.

Procedural Background

1. Complainant filed a Pennsylvania Public Utility Commission formal complaint on July 2, 2009 requesting, in part, a payment agreement.
2. PECO Energy was served the above-mentioned formal Complaint on July 8, 2009.
3. Pursuant to 52 Pa. Code § 5.101(b), PECO simultaneously filed an Answer and New Matter to the Complaint on July 28, 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. Complainant did not respond to PECO’s New Matter.

6. PECO filed a Motion seeking Judgment on the Pleadings on August 24, 2009 (“Motion”).

7. The Honorable Cynthia Williams Fordham denied PECO’s Motion on November 3, 2009 in a Prehearing Order. Among other things, the Order required that:

- a. Complainant shall contact PECO to arrange for a high bill field visit. Complainant must also let PECO enter her premises to investigate her foreign wiring complaint in order for her to present evidence on this matter.
- b. Complainant shall make payments on the undisputed amount of the bill.

Complainant Failed to Comply with the Prehearing Order and Allow PECO to Conduct a High Bill Investigation

8. PECO spoke with Complainant on November 12, 2009 and scheduled a high bill field visit for November 19, 2009.

9. Complainant failed to allow PECO to enter her residence on November 19, 2009. A man claiming to be Complainant’s husband answered the door when PECO knocked. The man claimed Complainant was in the hospital and professed to be unaware of the prearranged high bill field visit.

10. Complainant violated the Prehearing Order by not allowing PECO to enter her residence on November 19, 2009, as had been previously arranged. Complainant also failed to inform PECO before the alleged hospitalization that she would not be at her residence.

11. Complainant has denied PECO access to her residence on similar visits before.

12. On July 21, 2009 PECO visited Complainant to conduct the high bill investigation. There was no answer at the door. The PECO agent then called Complainant, who responded that she would not allow PECO to enter because of her physical condition.

13. On September 10, 2009, PECO spoke with Complainant and arranged for another high bill field visit on September 22, 2009.

14. On September 22, 2009, PECO was again denied access by Complainant. There was no answer at the door and nobody answered the call to the telephone number on record.

15. PECO Energy moves to dismiss the Complaint for Complainant's failure to obey the Prehearing Order. Moreover, PECO Energy should not be prejudiced by Complainant's failure to cooperate.

The Commission May Not Grant Complainant, a CAP Customer, a Payment Agreement

16. Complainant currently participates in the residential utility discount Customer Assistance Program ("CAP") and receives a monthly discount on her utility charges. (*See* Exhibit 1, account summary).

17. PECO raised this as an affirmative defense in its New Matter and in its Motion.

18. In her Complaint, Ms. Davis indicates "I want to stop my shut off due to health reasons and make an agreement by paying the current bill plus \$20.00 extra a month starting in July 2009."

19. Complainant requests 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.

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

21. Furthermore, Complainant has failed to abide by the Prehearing Order regarding payment of undisputed charges.

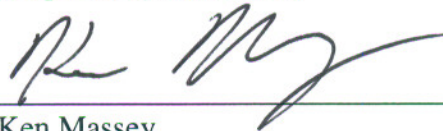
22. Complainant's most recent PECO bill required payment by November 12, 2009.
(See Exhibit 2).

23. Complainant has made no payment since October 14, 2009. (See Exhibit 1).

24. PECO Energy moves to dismiss the Complaint to the extent it seeks a payment agreement because (1) the Commission lacks authority pursuant to 66 Pa. C.S. § 1405(c) to grant a CAP customer a payment agreement, and (2) Complainant violated the Prehearing Order requiring her to pay current charges.

WHEREFORE, PECO Energy Company respectfully requests that your Honorable Commission dismiss the Complaint for the above stated reasons.

Respectfully Submitted,



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

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

SABRINA DAVIS

v.

PECO ENERGY COMPANY

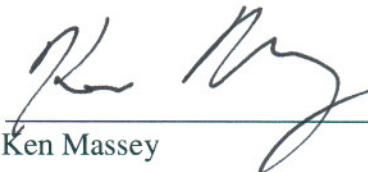
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DOCKET NO. C-2009-2117596

VERIFICATION

I, Ken Massey, 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: November 20, 2009



Ken Massey

Name: SABRINA DAVIS
Service Address: 5432 N MARVINE ST, PHILADELPHIA
Phone Number: 215-455-7480
Account Number: 56712-00500
Issue Date: 10/20/2009

General Information

Next scheduled meter reading: November 18, 2009
Payment Information: PECO Energy, 2301 Market St, Philadelphia, PA, 19101, walk-in business hours Monday through Friday 8:30AM to 5:00PM. For additional payment options, go to www.peco.com/ehome. If you have any questions or concerns, please call 1-800-494-4000 before the due date.
To pay by phone, call 1-877-432-9384. (A convenience fee will apply.)
Si tiene alguna pregunta, favor de llamar al numero 1-800-494-4000 antes de la fecha de vencimiento.

Meter Information

Table with columns: Read Date, Meter Number, Load Type, Reading Type, Meter Reading (Previous, Present), Diff, Mult X, Usage. Row 1: 10/19 105591576 General Service Tot kWh 25468 ACT 26161 ACT 693 1 693. Total kWh Used 693.

Current Period

Table with columns: Description, kWh, X, Amount, Amount. Includes categories like Customer charge, Generation Charges, Transmission Charges, Distribution Charges, Transition Charges, State Tax Adjustment. Total current charges \$52.51. Your Electric CAP savings this month is \$55.74.

When paying in person, please bring the entire bill.

Return only this portion with your check made payable to PECO. Please write your account number on your check.



- Check here to enroll in Power Pay automatic account debit and complete form on reverse side.
Check here to pledge a donation to MEAF and complete form on reverse side.

To pay by phone call 1-877-432-9384. A convenience fee will apply.

56712 0050 00000 0000

13445 1 AV 0.335 13445/013445/028599 062 01 GX9HPA 135 10212009
SABRINA DAVIS
5432 N MARVINE ST
PHILADELPHIA PA 19141-3010

Account Number 56712-00500 Payment Receipt Stamp

Payment Amount box

PECO ENERGY - PAYMENT PROCESSING
PO BOX 37629
PHILADELPHIA, PA 19101

Please pay this amount by 11/12/2009 \$7,597.05

00000052510000667687

567120050000075970593167597053

peco ex. 2

Page 2

Name: SABRINA DAVIS
Service Address: 5432 N MARVINE ST, PHILADELPHIA
Phone Number: 215-455-7480
Account Number: 56712-00500
Issue Date: 10/20/2009

Other Basic Charges

Thank you for your payment of \$75.00	
Charges from previous bill	\$6,676.87
Late payment charge	\$867.67
Total other charges	\$7,544.54
Total amount due	\$7,597.05

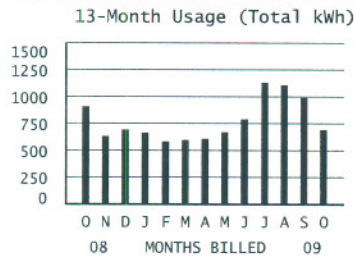
Message Center

You are on the Customer Assistance Program (CAP) Rate. You are saving money by paying a CAP rate.

New charges contain estimated total state taxes of \$3.86, including \$3.10 for State Gross Receipts Tax. PECO's new charges contain \$7.67 Intangible Transition Charges.

Your Usage Profile

Electric Residential Service CAP Opt D



Month Billed	Avg Daily Usage	Avg Daily Temp
Current Month	23.8	60
Last Month	31.0	72
Last Year	29.1	63
Avg kWh per Month		764
Total Annual kWh Usage		9177

DO NOT MAIL THIS PORTION WITH YOUR PAYMENT

peco ex-2

*** Account Information ***

Account Number: 56712-00500
 Account Status: Active
 Requested By: SABRINA DAVIS
 (215)455-7480 Extension:
 Mail To: SABRINA DAVIS
 5432 N MARVINE ST
 PHILADELPHIA PA 19141

*** Current Account Status ***

Current Bill: \$74.28
 Billed Prior: \$7597.05
 Balance Due: \$7671.33
 Service Address: 5432 N MARVINE ST
 PHILADELPHIA PA 19141
 Credit Amount: \$0.00
 Deposit Requested: \$0.00
 Deposit On-Hand: \$0.00
 Meter Bill Grp: 15
 Rate: CAP Opt D Electric Residential Service

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DATE	CHARGE TYPE	BILLING PERIOD	READ	METER #	CHARGE AMOUNT	CREDIT AMOUNT	NOGAP TOTAL BILL	BALANCE FORWARD	DUE DATE	KWH	CCF	KW
12/14/07	Late Payment Charge					\$1.18						
12/17/07	Late Payment Charge				\$7.14							
12/19/07	ELECTRIC SERVICE	11/15/07 12/18/07	3948	105591576	\$166.93							
12/19/07	SPECIAL PAYMENT AGREEMENT				\$4569.37							
12/19/07	Regular Bill						\$5222.39	\$486.09	01/09	1480		
12/28/07	Late Payment Charge					\$2.36						
12/28/07	Payment Agreement					\$5220.03						
01/23/08	ELECTRIC SERVICE	12/18/07 01/22/08	5665	105591576	\$198.30							
01/23/08	SPECIAL PAYMENT AGREEMENT				\$87.00							
01/23/08	Regular Bill						\$285.30		02/13	1717		
02/19/08	Late Payment Charge				\$4.28							
02/21/08	ELECTRIC SERVICE	01/22/08 02/20/08	7392	105591576	\$197.18							
02/21/08	SPECIAL PAYMENT AGREEMENT				\$87.00							
02/21/08	Regular Bill						\$573.76	\$289.58	03/13	1727		
03/18/08	Late Payment Charge				\$8.55							
03/24/08	ELECTRIC SERVICE	02/20/08 03/21/08	8745	105591576	\$148.27							
03/24/08	SPECIAL PAYMENT AGREEMENT				\$5046.03							
03/24/08	Regular Bill						\$5776.61	\$582.31	04/15	1353		
04/21/08	ELECTRIC SERVICE	03/21/08 04/20/08	9415	105591576	\$58.97							
04/21/08	Regular Bill						\$5835.58	\$5776.61	05/13	670		
04/22/08	Late Payment Charge				\$86.46							
05/08/08	LIHEAP Payment					\$301.00						
05/20/08	ELECTRIC SERVICE	04/20/08 05/19/08	10137	105591576	\$65.75							
05/20/08	Late Payment Charge				\$82.82							
05/20/08	Regular Bill						\$5769.61	\$5703.86	06/11	722		
06/17/08	Late Payment Charge				\$83.81							
06/19/08	ELECTRIC SERVICE	05/19/08 06/18/08	11313	105591576	\$125.13							
06/19/08	Regular Bill						\$5978.55	\$5853.42	07/11	1176		
07/03/08	Late Payment Charge					\$229.82						
07/03/08	Payment Agreement					\$5748.73						
07/22/08	ELECTRIC SERVICE	06/18/08 07/21/08	13083	105591576	\$202.82							
07/22/08	SPECIAL PAYMENT AGREEMENT				\$95.81							
07/22/08	Regular Bill						\$298.63		08/13	1770		
08/19/08	Late Payment Charge				\$4.48							
08/20/08	ELECTRIC SERVICE	07/21/08 08/19/08	14607	105591576	\$170.64							
08/20/08	SPECIAL PAYMENT AGREEMENT				\$95.81							
08/20/08	Regular Bill						\$569.56	\$303.11	09/11	1524		
09/16/08	Late Payment Charge				\$8.48							
09/19/08	ELECTRIC SERVICE	08/19/08 09/18/08	16079	105591576	\$163.85							
09/19/08	SPECIAL PAYMENT AGREEMENT				\$95.81							
09/19/08	Regular Bill						\$837.70	\$578.04	10/14	1472		
10/20/08	ELECTRIC SERVICE	09/18/08 10/19/08	16984	105591576	\$89.69							
10/20/08	SPECIAL PAYMENT AGREEMENT				\$95.81							
10/20/08	Regular Bill						\$1023.20	\$837.70	11/12	905		
10/21/08	Late Payment Charge				\$12.38							
11/18/08	ELECTRIC SERVICE	10/19/08 11/17/08	17616	105591576	\$53.99							
11/18/08	SPECIAL PAYMENT AGREEMENT				\$95.81							
11/18/08	Late Payment Charge				\$15.17							
11/18/08	Regular Bill						\$1200.55	\$1050.75	12/10	632		
12/16/08	Reinstate AR from DPA- Db				\$5746.83							
12/16/08	Reinstate AR from DPA- Db				\$1.90							
12/16/08	Bill Out DPA due to Default				\$5269.68							
12/16/08	Late Payment Charge				\$17.42							

DATE	CHARGE TYPE	BILLING PERIOD	READ	METER #	CHARGE AMOUNT	CREDIT AMOUNT	TOTAL BILL	BALANCE FORWARD	DUE DATE	KWH	CCF	KW
12/17/08	Reinstate AR from DPA- Cr					\$5748.73						
12/19/08	ELECTRIC SERVICE	11/17/08 12/18/08	18310	105591576	\$62.09		\$6549.74	\$6485.75	01/12	694		
12/19/08	Regular Bill											
01/20/09	Late Payment Charge				\$92.68							
01/23/09	ELECTRIC SERVICE	12/18/08 01/22/09	18978	105591576	\$58.69		\$6701.11	\$6642.42	02/17	668		
01/23/09	Regular Bill											
02/23/09	ELECTRIC SERVICE	01/22/09 02/22/09	19559	105591576	\$42.28		\$6743.39	\$6701.11	03/17	581		
02/23/09	Regular Bill											
02/24/09	Late Payment Charge				\$93.56							
03/24/09	ELECTRIC SERVICE	02/22/09 03/23/09	20160	105591576	\$43.55							
03/24/09	Late Payment Charge				\$94.19							
03/24/09	Regular Bill						\$6974.69	\$6931.14	04/15	601		
04/21/09	Late Payment Charge				\$94.84							
04/22/09	ELECTRIC SERVICE	03/23/09 04/21/09	20768	105591576	\$44.00		\$7113.53	\$7069.53	05/14	608		
04/22/09	Regular Bill											
05/19/09	Late Payment Charge				\$95.50							
05/21/09	ELECTRIC SERVICE	04/21/09 05/20/09	21442	105591576	\$49.86		\$7258.89	\$7209.03	06/12	674		
05/21/09	Regular Bill											
06/17/09	Late Payment Charge				\$96.25							
06/22/09	ELECTRIC SERVICE	05/20/09 06/21/09	22234	105591576	\$65.44		\$7420.58	\$7355.14	07/14	792		
06/22/09	Regular Bill											
07/22/09	ELECTRIC SERVICE	06/21/09 07/21/09	23367	105591576	\$110.58		\$7531.16	\$7420.58	08/13	1133		
07/22/09	Regular Bill											
08/20/09	ELECTRIC SERVICE	07/21/09 08/19/09	24476	105591576	\$107.41		\$7638.57	\$7531.16	09/11	1109		
08/20/09	Regular Bill											
08/25/09	Payment					\$111.00						
09/21/09	ELECTRIC SERVICE	08/19/09 09/20/09	25468	105591576	\$91.97		\$7619.54	\$7527.57	10/13	992		
09/21/09	Regular Bill											
10/14/09	Payment					\$75.00						
10/20/09	ELECTRIC SERVICE	09/20/09 10/19/09	26161	105591576	\$52.51		\$7597.05	\$7544.54	11/12	693		
10/20/09	Regular Bill											
11/18/09	ELECTRIC SERVICE	10/19/09 11/17/09	27019	105591576	\$74.28		\$7671.33	\$7597.05	12/10	858		
11/18/09	Regular Bill											

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**BEFORE THE
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SABRINA DAVIS

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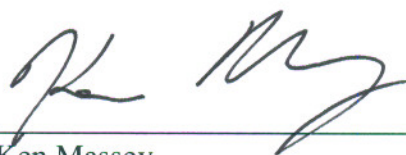
DOCKET NO. C-2009-2117596

CERTIFICATE OF SERVICE

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

SABRINA DAVIS
5432 N Marvine Street
Philadelphia, PA 19141

Dated at Philadelphia, Pennsylvania, November 20, 2009.



Ken Massey
Counsel for PECO Energy Company
2301 Market Street, S23-1
P.O. Box 8699
Philadelphia, PA 19101-8699
(215) 841-6841
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