

**Legal Department**

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December 23, 2009

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

**Re: Sonia Rosado v. PECO Energy Company**  
**PUC Docket No. F-2009-2109770**

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)
<u>X</u>	Motion to Dismiss (e-filed and 1 original)
—	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: Sonia Rosado  
Special Agent Eranda Vero

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**SONIA ROSADO**

v.

**PECO ENERGY COMPANY**

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**DOCKET NO. F-2009-2109770**

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

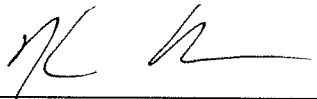
File with:

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, December 23, 2009.



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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**

**SONIA ROSADO**

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**DOCKET NO. F-2009-2109770**

**PECO ENERGY COMPANY’S MOTION TO DISMISS  
WITH PREJUDICE FOR FAILURE TO PROSECUTE**

Respondent, PECO Energy Company (“PECO”), pursuant to 52 Pa. Code § 5.103, respectfully petitions this Honorable Commission to dismiss the instant Complaint with prejudice because the Complainant failed appear for the telephonic hearing scheduled on December 17, 2009 as required by the Hearing Notice issued on December 3, 2009. The hearing was originally scheduled on December 2, 2009 but was rescheduled after the Complainant failed to appear. PECO requests for dismissal given the Complainant’s failure to provide prior notice of her intent to not appear at either hearing.

**I. Procedural and Factual Background**

1. Complainant filed the instant formal complaint on or around May 29, 2009.
2. Pursuant to 52 Pa. Code § 5.101(b), PECO filed an Answer to the Complaint on June 16, 2009 denying all material allegations.
3. Special Agent Ernando Vero issued a Hearing Notice on September 1, 2009 that a telephonic hearing would be held on December 2, 2009.
4. Special Agent Ernando Vero subsequently issued a Prehearing Order on September 11, 2009 confirming the hearing date.
5. Complainant failed to appear at the December 2, 2009 telephonic hearing.

6. Complainant failed to provide notice to the PUC, Special Agent Vero, or PECO that she would not appear at the December 2 hearing.

7. After subsequently being informed that the Complainant could not appear due to a health issue, Special Agent Ernando Vero sent a hearing notice on December 3, 2009 that the hearing would be continued to December 17, 2009.

8. Again, Complainant failed to appear at the December 2, 2009 telephonic hearing.

9. Complainant also failed to provide notice to the PUC, Special Agent Vero, or PECO that she would not appear at the December 17 hearing.

## **II. The Complaint Should Be Dismissed for Failure to Prosecute**

10. PECO expended considerable resources in preparing for the Hearing and securing the availability of counsel and its witness.

11. Further delay of the hearing would be prejudicial to PECO and its ratepayers. PECO strives to resolve all customer disputes efficiently and quickly to enable it to address all customer complaints as they become known.

12. PECO respectfully requests that Complaint be dismissed with prejudice due to the Complainant's failure to appear or provide any notice that she would not appear for either the December 2 or December 17 telephonic hearing. *See Turner vs. PECO Energy Co.*, No. C-00956999, 1996 Pa. PUC LEXIS 25, at \*6-7 (Chestnut, J.) ("The result [of the customer's failure to appear] is that I (and PECO) unnecessarily expended considerable time preparing for the hearing. It must be remembered that there is a real cost associated with this, in the time that I spent preparing for the hearing, the hearing facility and court reporter that had to be engaged, the time of the respondent's attorney and witnesses who not only had to prepare for the hearing, but

also had to travel and attend the hearing. It is unfortunate that this cost is necessarily borne by the company's paying customers.”).

**WHEREFORE**, PECO Energy Company respectfully requests that your Honorable Commission dismiss the instant Complaint, without the need for a further hearing, for the Complainant’s failure to appear at either the December 2 or December 17, 2009 telephonic hearing.

Respectfully Submitted,



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

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PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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**DOCKET NO. F-2009-2109770**

**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: December 23, 2009



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Ken Massey

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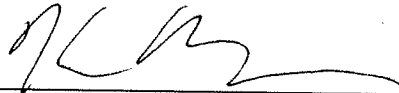
**DOCKET NO. F-2009-2109770**

**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:

Sonia Rosado  
2613 N. Braddock St.  
Philadelphia, PA 19125

Dated at Philadelphia, Pennsylvania, December 23, 2009.



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Ken Massey  
Counsel for PECO Energy Company  
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