

**Legal Department**

Exelon Business Services Company  
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## Business Services Company

Direct Dial: 215.841.6841

December 29, 2009

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

**Re: Irene Parker v. PECO Energy Company**  
**PUC Docket No. C-2009-2140206**

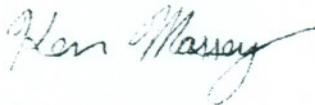
Dear Mr. McNulty:

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>	Motion for Judgment on the Pleadings (e-filed and 1 original)
—	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.

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**IRENE PARKER**

v.

**PECO ENERGY COMPANY**

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**DOCKET NO. C-2009-2140206**

**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, December 29, 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**

**SABRINA DAVIS**

v.

**PECO ENERGY COMPANY**

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**DOCKET NO. C-2009-2117596**

**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 disputing the manner in which PECO credited Complainant's deposit to her account because Complainant is not entitled to any relief.

**Factual and Procedural Background**

1. Complainant initiated service at 172 W. Albemarle Avenue in Lansdowne in October 2005. PECO Energy assessed a deposit of \$418.00 on the account due to Complainant's inability to establish creditworthiness, pursuant to 66 Pa. C.S. § 1403(a).
2. Complainant has not claimed that PECO improperly assessed the deposit.
3. PECO properly credited the deposit with interest. By January 2009, the deposit amount including interest equaled \$429.20.
4. After receiving payments for several consecutive months, on January 21, 2009 PECO credited Complainant's account the deposit amount of \$429.20. (*See Exhibit 1, account summary*).
5. On October 20, 2009 the Bureau of Consumer Services (BCS) agreed that PECO correctly credited Complainant's account the deposit amount consistent with Pennsylvania law. (*See Exhibit 2, BCS Decision No. 002519676*).

6. Complainant filed a Pennsylvania Public Utility Commission formal complaint on or around November 6, 2009 requesting that the company refund her deposit through a check rather than an account credit.

7. PECO simultaneously filed an Answer and New Matter to the Complaint on December 1, 2009 pursuant to 52 Pa. Code § 5.101(b).

8. Complainant had twenty days from the filing date of PECO's New Matter to respond. *See* 52 Pa. Code § 5.63.

9. Complainant did not respond to PECO's New Matter.

10. The pleadings in this matter are complete. This proceeding is ripe for a motion for judgment on the pleadings pursuant to 52 Pa. Code § 5.102.

11. The parties held a mediation settlement call on December 29, 2009 at 1:00 p.m. The parties were unable to reach an agreement to resolve the dispute.

#### **The Complaint Is Without Merit And Ripe For Dismissal**

12. The Commission may grant this Motion and dismiss the Complaint "if the applicable pleadings, depositions, answers to interrogatories and admissions, together with affidavits, if any, show that there is no genuine issue as to a material fact and that the moving party is entitled to a judgment as a matter of law." 52 Pa. Code § 5.102(b)(1).

13. There is no genuine issue of material fact in dispute. The parties agree that PECO Energy assessed a deposit on Complainant when initiating service and then credited Complainant's account the deposit with interest on January 21, 2009.

14. The only dispute between the parties according to the pleadings is whether PECO is obligated to refund the deposit to Complainant through a check payment.

15. PECO is not obligated to refund a deposit through a check payment to a customer. PECO may elect to issue a credit or a refund check when it decides to return a deposit. PECO Energy may “deduct the outstanding balance from the deposit and return *or credit* any positive difference to the customer.” (66 Pa. C.S. § 1404(c)(3) (emphasis added)).

16. PECO Energy accordingly moves to dismiss the Complaint because Complainant, as a matter of law, was not entitled to a check for the deposit amount. PECO properly credited Complainant’s account with the deposit plus interest, in accordance with 66 Pa. C.S. § 1404(c)(3).

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

Respectfully Submitted,



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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**

**IRENE PARKER**

v.

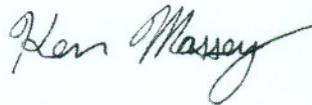
**PECO ENERGY COMPANY**

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**DOCKET NO. C-2009-2140206**

**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 29, 2009

\_\_\_\_\_  
Ken Massey

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**IRENE PARKER**

v.

**PECO ENERGY COMPANY**

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**DOCKET NO. C-2009-2140206**

**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:

Irene Parker  
172 W. Albemarle Ave.  
Lansdowne, PA 19050

Dated at Philadelphia, Pennsylvania, December 29, 2009.



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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

\*\*\* Account Information \*\*\*

Account Number: 80401-01907  
Account Status: Active  
Requested By: IRENE V PARKER  
(610)284-1035 Extension:

Mail To: IRENE V PARKER  
172 W ALBEMARLE AV  
LANSLOWNE PA 19050

\*\*\* Current Account Status \*\*\*

Current Bill: \$0.00  
Billed Prior: \$0.00  
Balance Due: \$0.00  
Service Address: 172 W ALBEMARLE AV  
LANSLOWNE PA 19050

Credit Amount: \$0.00  
Deposit Requested: \$418.00  
Deposit On-Hand: \$0.00  
Meter Bill Grp: 06  
Rate: Gas Residential Heating Service  
Electric Residential Service

*Peco ex. 1*

DATE	CHARGE TYPE	BILLING PERIOD	READ	METER #	CHARGE AMOUNT	CREDIT AMOUNT	NOGAP TOTAL BILL	BALANCE FORWARD	DUE DATE	KWH	CCF	FW
2/09/07	GAS SERVICE	11/04/07 12/05/07	8225	016378692	\$155.77							
2/09/07	ELECTRIC SERVICE	11/04/07 12/05/07	45120	105234334	\$30.48							
2/09/07	Regular Bill						\$1777.45	\$1591.20	12/27	171	112	
01/09/08	GAS SERVICE	12/05/07 01/08/08	8393	016378692	\$222.52							
01/09/08	ELECTRIC SERVICE	12/05/07 01/08/08	45333	105234334	\$36.69							
01/09/08	Regular Bill						\$2036.66	\$1777.45	01/30	213	168	
01/30/08	Payment					\$259.21						
02/05/08	Late Payment Charge				\$26.57							
02/11/08	GAS SERVICE	01/08/08 02/10/08	8583	016378692	\$250.53							
02/11/08	ELECTRIC SERVICE	01/08/08 02/07/08	45513	105234334	\$31.48							
02/11/08	Regular Bill						\$2086.03	\$1804.02	03/03	180	190	
03/10/08	GAS SERVICE	02/10/08 03/09/08	8736	016378692	\$208.30							
03/10/08	ELECTRIC SERVICE	02/07/08 03/09/08	45685	105234334	\$30.31							
03/10/08	Late Payment Charge				\$30.80							
03/10/08	Regular Bill						\$2355.44	\$2116.83	04/01	172	153	
04/08/08	GAS SERVICE	03/09/08 04/07/08	8831	016378692	\$138.82							
04/08/08	ELECTRIC SERVICE	03/09/08 04/07/08	45867	105234334	\$31.77							
04/08/08	Late Payment Charge				\$34.37							
04/08/08	Regular Bill						\$2560.40	\$2389.81	04/30	182	95	
05/07/08	GAS SERVICE	04/07/08 05/06/08	8854	016378692	\$39.03							
05/07/08	ELECTRIC SERVICE	04/07/08 05/06/08	46023	105234334	\$27.97							
05/07/08	Regular Bill						\$2627.40	\$2560.40	05/29	156	23	
06/06/08	GAS SERVICE	05/06/08 06/05/08	8854	016378692	\$7.16							
06/06/08	ELECTRIC SERVICE	05/06/08 06/05/08	46177	105234334	\$27.67							
06/06/08	Regular Bill						\$2662.23	\$2627.40	06/30	154		
06/20/08	Payment					\$300.00						
07/09/08	GAS SERVICE	06/05/08 07/08/08	8854	016378692	\$7.16							
07/09/08	ELECTRIC SERVICE	06/05/08 07/08/08	46400	105234334	\$37.80							
07/09/08	Regular Bill						\$2407.19	\$2362.23	07/31	223		
08/07/08	GAS SERVICE	07/08/08 08/06/08	8854	016378692	\$7.16							
08/07/08	ELECTRIC SERVICE	07/08/08 08/06/08	46662	105234334	\$43.52							
08/07/08	Regular Bill						\$2457.87	\$2407.19	08/29	262		
08/11/08	Deposit Interest					\$25.15						
08/28/08	Payment					\$458.00						
09/08/08	GAS SERVICE	08/06/08 09/07/08	8854	016378692	\$7.16							
09/08/08	ELECTRIC SERVICE	08/06/08 09/07/08	46847	105234334	\$32.22							
09/08/08	Regular Bill						\$2014.10	\$1974.72	09/30	185		
09/25/08	Payment					\$40.00						
10/07/08	GAS SERVICE	09/07/08 10/06/08	8854	016378692	\$7.16							
10/07/08	ELECTRIC SERVICE	09/07/08 10/06/08	47005	105234334	\$28.25							
10/07/08	Regular Bill						\$2009.51	\$1974.10	10/29	158		
10/29/08	Payment					\$335.00						
11/04/08	Late Payment Charge				\$23.76							
11/05/08	GAS SERVICE	10/06/08 11/04/08	8854	016378692	\$7.16							
11/05/08	ELECTRIC SERVICE	10/06/08 11/04/08	47179	105234334	\$30.60							
11/05/08	Regular Bill						\$1736.03	\$1698.27	12/01	174		
11/26/08	Payment					\$1038.00						
12/08/08	Payment Agreement					\$698.03						
12/08/08	GAS SERVICE	11/04/08 12/07/08	8854	016378692	\$7.16							
12/08/08	ELECTRIC SERVICE	11/04/08 12/07/08	47368	105234334	\$32.82							
12/08/08	Regular Bill						\$39.98		12/30	189		
12/31/08	Payment					\$39.98						
1/09/09	GAS SERVICE	12/07/08 01/08/09	8854	016378692	\$8.06							

DATE	CHARGE TYPE	BILLING PERIOD	READ	METER #	CHARGE AMOUNT	CREDIT AMOUNT	TOTAL BILL	BALANCE FORWARD	DUE DATE	KWH	CUF	EW
01/09/09	ELECTRIC SERVICE	12/07/08 01/08/09	47563	105234334	\$33.68							
01/09/09	SPECIAL PAYMENT AGREEMENT				\$69.31							
01/09/09	Regular Bill						\$111.05		02/02	195		
01/21/09	Deposit					\$429.20						
01/21/09	Payment					\$111.05						
02/10/09	GAS SERVICE	01/08/09 02/09/09	8854	016378692	\$10.76							
02/10/09	ELECTRIC SERVICE	01/08/09 02/09/09	47753	105234334	\$33.35							
02/10/09	SPECIAL PAYMENT AGREEMENT				\$69.31							
02/10/09	Regular Bill							\$-315.78	03/04	190		
03/11/09	GAS SERVICE	02/09/09 03/10/09	8854	016378692	\$10.76							
03/11/09	ELECTRIC SERVICE	02/09/09 03/10/09	47931	105234334	\$31.56							
03/11/09	SPECIAL PAYMENT AGREEMENT				\$69.31							
03/11/09	Regular Bill							\$-204.15	04/02	178		
03/20/09	Transfer											
03/20/09	Transfer Debit				\$204.15							
03/23/09	Payment					\$204.15						
03/23/09	Payment					\$112.00						
04/09/09	GAS SERVICE	03/10/09 04/08/09	8854	016378692	\$10.76							
04/09/09	ELECTRIC SERVICE	03/10/09 04/08/09	48094	105234334	\$29.34							
04/09/09	SPECIAL PAYMENT AGREEMENT				\$69.31							
04/09/09	Regular Bill							\$-2.59	05/04	163		
05/07/09	Payment					\$109.41						
05/11/09	CANCELED GAS SERVICE	04/08/09 05/08/09	8877	016378692	\$38.96							
05/11/09	ELECTRIC SERVICE	04/08/09 05/07/09	48256	105234334	\$29.18							
05/11/09	SPECIAL PAYMENT AGREEMENT				\$69.31							
05/11/09	Regular Bill						\$25.45		06/02	162	23	
06/03/09	Payment					\$94.45						
06/10/09	CANCELED GAS SERVICE	05/08/09 06/09/09	8877	016378692	\$10.76							
06/10/09	ELECTRIC SERVICE	05/07/09 06/08/09	48420	105234334	\$29.48							
06/10/09	SPECIAL PAYMENT AGREEMENT				\$69.31							
06/10/09	Regular Bill						\$40.55		07/02	164		
07/01/09	Payment					\$109.66						
07/10/09	CANCELED GAS SERVICE	06/09/09 07/09/09	8877	016378692	\$10.76							
07/10/09	ELECTRIC SERVICE	06/08/09 07/08/09	48572	105234334	\$27.83							
07/10/09	SPECIAL PAYMENT AGREEMENT				\$69.31							
07/10/09	Regular Bill						\$38.59		08/03	152		
08/03/09	Payment					\$108.00						
08/10/09	Finance Charge					\$21.86						
08/10/09	CANCELED GAS SERVICE	07/09/09 08/07/09	8877	016378692	\$10.76							
08/10/09	ELECTRIC SERVICE	07/08/09 08/06/09	48732	105234334	\$29.02							
08/10/09	SPECIAL PAYMENT AGREEMENT				\$51.23							
08/10/09	Paid In Advance				\$21.86							
8/10/09	Regular Bill						\$21.60		09/01	160		
8/28/09	Payment					\$72.83						
9/09/09	Estimated Bill					\$71.24						
9/09/09	GAS SERVICE	04/08/09 05/08/09	8854	016378692	\$10.76							
9/09/09	GAS SERVICE	05/08/09 06/09/09	8854	016378692	\$10.76							
9/09/09	GAS SERVICE	06/09/09 07/09/09	8854	016378692	\$10.76							
9/09/09	GAS SERVICE	07/09/09 08/07/09	8854	016378692	\$10.76							
9/09/09	GAS SERVICE	08/07/09 09/07/09	8857	016378692	\$13.97							
9/09/09	ELECTRIC SERVICE	08/06/09 09/07/09	48924	105234334	\$33.78							
9/09/09	Regular Bill							\$-31.68	10/01	192	3	
10/07/09	GAS SERVICE	09/07/09 10/06/09	8872	016378692	\$26.88							
10/07/09	ELECTRIC SERVICE	09/07/09 10/06/09	49086	105234334	\$29.31							
10/07/09	Regular Bill						\$24.51		10/29	162	15	
10/28/09	Payment					\$24.51						
10/05/09	GAS SERVICE	10/06/09 11/04/09	8957	016378692	\$102.08							
10/05/09	ELECTRIC SERVICE	10/06/09 11/04/09	49248	105234334	\$29.31							
10/05/09	Regular Bill						\$131.39		11/30	162	85	
10/30/09	Payment					\$131.39						

