

HALBERSTADT CURLEY
ATTORNEYS AT LAW

February 5, 2010

Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

RE: Collins Family Market LLC v. PECO Energy Company
Docket No. C-2009-2131728

Dear Sir/Madam:

Enclosed please find an original and one copy of a Petition for Leave to Withdraw Motion to Compel Discovery in the above-referenced matter. Please file the original of record and return a time stamped copy to the undersigned in the self-addressed stamped envelope provided.

Thank you for your assistance in this matter. If you should have any questions or concerns, please do not hesitate to contact me.

Very truly yours,

HALBERSTADT CURLEY LLC

By: Melissa A. Simola
Melissa A. Simola

MAS/jc
Encl.

cc: Ward L. Smith, Esquire

RECEIVED
2010 FEB 11 PM 1:23
PA.P.U.C.
SECRETARY'S BUREAU

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

COLLINS FAMILY MARKET LLC,
Complainant

v.

PECO ENERGY COMPANY
Respondent

Docket No. C-2009-21231728

NOTICE TO PLEAD

Pursuant to 52 Pa. Code § 5.94(a), you are hereby notified that you may object to Complainant's Petition for Leave to Withdraw Motion to Compel Discovery within 20 days of the date of service of this Petition by filing a response with James J. McNulty, Secretary, Pennsylvania Public Utility Commission, Commonwealth Keystone Building, 400 North Street, Second Floor, Harrisburg, PA 17120.

HALBERSTADT CURLEY LLC

By: Melissa A. Simola
Charles V. Curley
Melissa A. Simola
Attorneys for Defendant

Dated: 2/5/10

RECEIVED
2010 FEB 11 PM 1:23
PA.P.U.C.
SECRETARY'S BUREAU

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

<p>COLLINS FAMILY MARKET LLC, Complainant</p> <p style="text-align: center;">v.</p> <p>PECO ENERGY COMPANY Respondent</p>	<p>Docket No. C-2009-21231728</p>
---	-----------------------------------

ORDER

AND NOW, this _____ day of _____, 2010 upon consideration of Complainant's Petition for Leave to Withdraw Motion to Compel Discovery and any response thereto, it is hereby ORDERED that:

1. The Petition is GRANTED;
2. Complainant's Motion to Compel Discovery is withdrawn without prejudice.

BY THE COURT:

_____ J.

RECEIVED
2010 FEB 11 PM 1:24
PA.P.U.C.
SECRETARY'S BUREAU

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

RECEIVED

2010 FEB 11 PM 1:24

COLLINS FAMILY MARKET LLC, Complainant v. PECO ENERGY COMPANY Respondent	PA.P.U.C. SECRETARY'S BUREAU Docket No. C-2009-21231728
--	---

**COMPLAINANT'S PETITION FOR LEAVE
TO WITHDRAW MOTION TO COMPEL DISCOVERY**

1. Petitioner herein is Complainant Collins Family Market LLC ("Collins Family Market").
2. Respondent herein is PECO Energy Company ("PECO").
6. On December 7, 2009, Collins Family Market's counsel served counsel for PECO with Requests for Production, which noted that a response was required within ten days pursuant to 52 Pa. Code § 5.349.
7. Receiving no response within the time specified, and having made several efforts to communicate with PECO's counsel regarding PECO's overdue response, on January 19, 2010, Collins Family Market filed a Motion to Compel Discovery. A true and correct copy of the Motion to Compel Discovery is attached hereto as Exhibit "A."
8. PECO has subsequently produced documents responsive to the Requests for Production.

WHEREFORE, Petitioner herein, Complainant Collins Family Market LLC, respectfully requests that this Court grant Collins Family Market leave to withdraw its Motion to Compel Discovery.

HALBERSTADT CURLEY LLC

By: Melissa A. Simola
Charles V. Curley
Melissa A. Simola
Attorneys for Defendant

Dated: 2/5/10

RECEIVED

2010 FEB 11 PM 1:24

PA.P.J.C.
SECRETARY'S BUREAU

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

COLLINS FAMILY MARKET LLC, Complainant	Docket No. C-2009-21231728
v.	
PECO ENERGY COMPANY Respondent	

NOTICE TO PLEAD

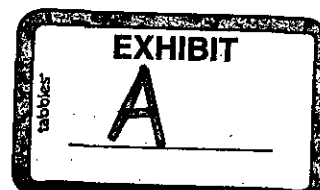
Pursuant to 52 Pa. Code § 5.103(b), you are hereby notified that you are required to file a responsive pleading within 20 days of the date of service of this Motion with James J. McNulty, Secretary, Pennsylvania Public Utility Commission, Commonwealth Keystone Building, 400 North Street, Second Floor, Harrisburg, PA 17120.

HALBERSTADT CURLEY LLC

By: Melissa A. Simola
Charles V. Curley
Melissa A. Simola
Attorneys for Defendant

Dated: 1/18/10

RECEIVED
2010 FEB 11 PM 1:24
PA. P.U.C.
SECRETARY'S BUREAU



**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

<p>COLLINS FAMILY MARKET LLC, Complainant</p> <p style="text-align: center;">v.</p> <p>PECO ENERGY COMPANY Respondent</p>	<p>Docket No. C-2009-21231728</p>
---	-----------------------------------

ORDER

AND NOW, this _____ day of _____, 2010 upon consideration of Complainant's Motion to Compel Discovery and any response thereto, it is hereby ORDERED that:

1. The Motion is GRANTED;
2. Respondent PECO Energy Company must respond to Complainant's Requests for Production of Documents Directed to Respondent (First Set) within ten (10) days.

BY THE COURT:

J.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

COLLINS FAMILY MARKET LLC, Complainant	Docket No. C-2009-21231728
v.	
PECO ENERGY COMPANY Respondent	

COMPLAINANT'S MOTION TO COMPEL DISCOVERY

1. Movant herein is Complainant Collins Family Market LLC ("Collins Family Market").
 2. Respondent herein is PECO Energy Company ("PECO").
 3. At all relevant times, Collins Family Market was a commercial customer receiving electric service from PECO at its property at 1568 Chester Pike, Eddystone, Pennsylvania 19022.
 4. Collins Family Market alleges that PECO failed to discuss the rate options that were available to it and that PECO violated Section 1303 of the Public Utility Code by failing to compute Collins Family Market's bills under the most advantageous rate.
- ***
6. On December 7, 2009, Collins Family Market's counsel served counsel for PECO with Requests for Production, which noted that a response was required within ten days pursuant to 52 Pa. Code § 5.349.
 7. Receiving no response within the time specified, on December 30, 2009, Collins Family Market's counsel sent a letter to counsel for PECO notifying him that PECO's response was overdue.

8. Counsel for Collins Family Market subsequently telephoned PECO's counsel regarding PECO's overdue responses.

9. PECO's counsel has failed to respond to the December 30, 2009 letter or to Collins Family Market's counsel's subsequent telephone call.

10. PECO has failed to provide any response to Collins Family Market's Requests for Production.

11. Collins Family Market is therefore entitled to an Order compelling PECO to respond to the Requests for Production within ten (10) days.

WHEREFORE, Movant herein, Complainant Collins Family Market LLC, respectfully requests an Order compelling PECO to respond to the Requests for Production within ten (10) days, along with such other relief as warranted by law.

HALBERSTADT CURLEY LLC

By: Melissa A. Simola
Charles V. Curley
Melissa A. Simola
Attorneys for Defendant

Dated: 1/19/10

VERIFICATION

I, Melissa A. Simola, attorney for Complainant Collins Family Market LLC in the within action, verify that the statements made in the foregoing Complainant's Motion to Compel Discovery are true and correct to the best of my knowledge, information and belief. This verification is taken by counsel pursuant to Pa.R.C.P. 1024(c). I understand that false statements herein are made subject to the penalties of 18 Pa. C.S.A. Section 4904, relating to unsworn falsification to authorities.

Date: 1/18/10

Melissa A. Simola
Melissa A. Simola

RECEIVED

2010 FEB 11 PM 1:26

PA.R.C.P.
SECRETARY'S BUREAU

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

COLLINS FAMILY MARKET LLC, Complainant	
v.	
PECO ENERGY COMPANY Respondent	Docket No. C-2009-21231728

CERTIFICATE OF SERVICE

I, Melissa A. Simola, hereby certify that I caused a true and correct copy of the foregoing Complainant's Motion to Compel Discovery to be served via U.S. Mail, First Class upon the following:

Ward L. Smith, Esquire
2301 Market Street, S23-1
P.O. Box 8699
Philadelphia, PA 19101-8699

HALBERSTADT CURLEY, LLC

Date: 1/18/10

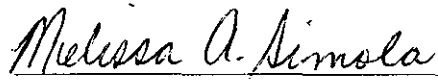
By: Melissa A. Simola
Melissa A. Simola

RECEIVED
2010 FEB 11 PM 1:26
PA.P.U.C.
SECRETARY'S BUREAU

VERIFICATION

I, Melissa A. Simola, attorney for Complainant Collins Family Market LLC in the within action, verify that the statements made in the foregoing Complainant's Petition for Leave to Withdraw Motion to Compel Discovery are true and correct to the best of my knowledge, information and belief. This verification is taken by counsel pursuant to Pa.R.C.P. 1024(c). I understand that false statements herein are made subject to the penalties of 18 Pa. C.S.A. Section 4904, relating to unsworn falsification to authorities.

Date: 2/6/10



Melissa A. Simola

RECEIVED
2010 FEB 11 PM 1:26
PA. JUD.
SECRETARY'S BUREAU

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

COLLINS FAMILY MARKET LLC, Complainant	Docket No. C-2009-21231728
v.	
PECO ENERGY COMPANY Respondent	

CERTIFICATE OF SERVICE

I, Melissa A. Simola, hereby certify that I caused a true and correct copy of the foregoing Complainant's Petition For Leave to Withdraw Motion to Compel Discovery to be served via U.S. Mail, First Class upon the following:

Ward L. Smith, Esquire
2301 Market Street, S23-1
P.O. Box 8699
Philadelphia, PA 19101-8699

HALBERSTADT CURLEY, LLC,

By: Melissa A. Simola
Melissa A. Simola

Date: 2/5/10

RECEIVED
2010 FEB 11 PM 1:26
PA.P.U.C.
SECRETARY'S BUREAU