

Legal Department

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March 29, 2010

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

**Re: Gerald Hill v. PECO Energy Company
PUC Docket No. C-2010-2154854**

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 (E-filed and 1 original)
___	Reply Exceptions (E-filed and 1 original)
___	Brief (E-filed and 1 original)
___	Reply Brief (E-filed and 1 original)

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,



Tishekia Williams
Counsel for PECO Energy Company

TW/zyr

Enc.

cc: ALJ Marlene Chestnut

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

GERALD HILL

v.

PECO ENERGY COMPANY

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DOCKET NO. C-2010-2154854

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 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, March 30, 2010



Tishekia Williams
Counsel for PECO Energy Company
2301 Market Street S-23
Philadelphia, PA 19101-8699
215-841-6863
tishekia.williams@exeloncorp.com

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

GERALD HILL

v.

PECO ENERGY COMPANY

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DOCKET NO. C-2010-2154854

**MOTION FOR JUDGMENT ON THE PLEADINGS
OF RESPONDENT, PECO ENERGY COMPANY**

Pursuant to 52 Pa. Code § 5.102, PECO Energy Company ("PECO Energy") respectfully requests that your Honorable Commission dismiss this case because it is time barred under 66 Pa.C.S§ 3314, and because pursuant to 66 Pa.C.S§ 1312, Complainant fails to state a claim upon which relief can be granted.

1. On January 25, 2010, Complainant filed a Formal Complaint against Respondent, PECO Energy Company disputing charges in the amount of \$505.61 from service provided to 4228 Romain Street from August 2004 until January 13, 2005.

2. On February 16, 2010, Respondent filed an Answer, New Matter and Notice to Plead. In its New Matter, Responded raised the statute of limitations as an affirmative defense and averred the following facts, among others (among others):

- a. Complainant received electric service at 4228 Romain Street, Philadelphia Pennsylvania from August 2004 until January 13, 2005.
- b. The account at 4228 Romaine Street was finalized on or about January 13, 2005. A final bill in the amount of \$505.61 was rendered to Complainant at the service address.

3. More than 23 days have passed and Complainant has not responded to the New Matter. Accordingly, Respondent request that the facts alleged in the New Matter be admitted without further proof.

4. PECO further responds that on October 22, 2004, Complainant filed an informal complaint with the Bureau of Consumer Services, case number 1796532, and disputing liability for the same charges.

5. The BCS issued its decision on April 28, 2005, finding that Complainant is responsible for the final unpaid balance in the amount of \$505.61 for service provided to 4228 Romain Street.¹

6. Complainant did not appealing the BCS decision.²

7. Complainant was been aware of the debt since January 2005 when PECO rendered its final bill. Additionally, the BCS affirmed the debt in its decision issued in April 2005.

8. Five years have since passed. Complainant now attempts to dispute responsibility for the unpaid debt.

9. PECO avers that Complainant's attempt to dispute responsibility for the unpaid balance is barred by the applicable limitation on actions. 66 Pa.C.S. §§ 1312, 3314.

¹ The \$505.61 balance included \$233.96 for services rendered to 1431 Rosalie Street. That balance was transferred to Complainants account at Romain Street on .

² PECO adds that pursuant to Commission regulations, 52 Pa.Code § 56.172, Complainant was required to provide a notice of appeal within 20-days of BCS decision. Section 56.172 states:

Within 20 days of notification or mailing of the informal complaint report **and not thereafter except for good cause**, an appeal from the report of the Consumer Service Representative may be initiated by means of a written intention to appeal. Upon receipt of this written intention, the Secretary's Bureau will determine whether the appeal is from a mediation decision of the Bureau of Consumer Services—to be docketed with the prefix "Z"—or another type of appeal. Thereafter, formal complaint forms shall be filed by the party taking the appeal.

Five (5) years has passed since the BCS issued its decision. Complainant failed to file a timely appeal.

10. 66 Pa.C.S. § 3314 "Limitation of actions" states:

(a) **General rule.**--No action for the recovery of any penalties or forfeitures incurred under the provisions of this part, and no prosecutions on account of any matter or thing mentioned in this part, shall be maintained unless brought within three years from the date at which the liability therefor arose, except as otherwise provided in this part.

§ 1312 states:

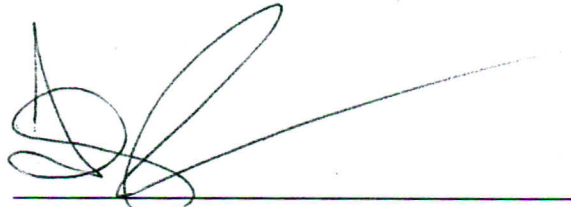
(a) **General rule.**--If, in any proceeding involving rates, the commission shall determine that any rate received by a public utility was unjust or unreasonable, or was in violation of any regulation or order of the commission, or was in excess of the applicable rate contained in an existing and effective tariff of such public utility, the commission shall have the power and authority to make an order requiring the public utility to refund the amount of any excess paid by any patron, in consequence of such unlawful collection, within four years prior to the date of the filing of the complaint, together with interest at the legal rate from the date of each such excessive payment. ...

11. PECO issued its final bill on in January 2005. The debt is more than five-years

old.

WHEREFORE, PECO Energy Company respectfully requests that your Honorable Commission dismiss this case as time barred under 66 Pa.C.S§ 3314, and because pursuant to 66 Pa.C.S§ 1312, Complainant fails to state a claim upon which relief can be granted.

Respectfully Submitted,

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke extending to the right, positioned above a solid horizontal line.

Tishkia Williams
Counsel for PECO Energy Company
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P.O. Box 8699
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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

GERALD HILL

v.

PECO ENERGY COMPANY

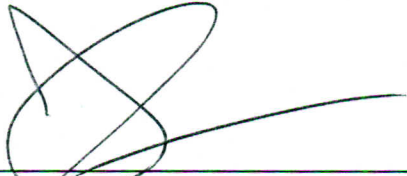
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DOCKET NO. C-2010-2154854

VERIFICATION

I, Tishekia Williams, hereby declare that I am counsel for 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: March 26, 2010



Tishekia Williams

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

GERALD HILL

v.

PECO ENERGY COMPANY

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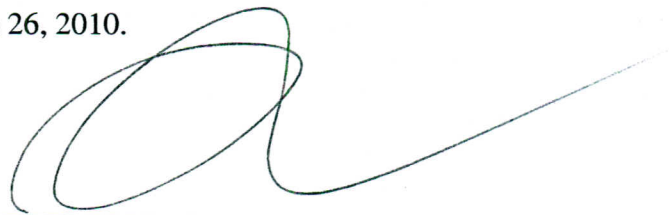
DOCKET NO. C-2010-2154854

CERTIFICATE OF SERVICE

I, Tishekia Williams, hereby certify that I have this day served a copy of PECO Energy Company's Answer in the above matter upon all interested parties by mailing a copy, properly addressed and postage prepaid to:

Gerald Hill
4600 Paul Street, Apt 608
Philadelphia, PA 19124

Dated at Philadelphia, Pennsylvania, March 26, 2010.



Tishekia Williams
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