

Legal Department

Exelon Business Services Company
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Business Services
Company

Direct Dial: 215.841.6841

May 11, 2010

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

RECEIVED

MAY 10 2010

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Re: **Mark Mazza v. PECO Energy Company**
PUC Docket No. C-2010-2171324

Dear Ms. Chiavetta:

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

<u> X </u>	Answer (Original)
<u> </u>	Motion to Consolidate (original)
<u> </u>	Motion for Judgment on the Pleadings (original)
<u> X </u>	Preliminary Objection (original)
<u> </u>	Exceptions (original)
<u> </u>	Reply Exceptions (original)
<u> </u>	Brief (original)
<u> </u>	Reply Brief (original)

I have enclosed a Certificate of Service showing that a copy of the above document was served on the interested parties. Also enclosed is an extra copy of this letter, which I request that you date stamp and return to me in the envelope provided as proof of filing. Thank you for your time and attention on this matter.

Very truly yours,



Tishkia Williams
Counsel for PECO Energy Company
TW/adz
Enc.

Scheduling recommendation: CALL OF THE DOCKET NON-CALL OF THE DOCKET

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

MARK MAZZA

v.

PECO ENERGY COMPANY

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DOCKET NO. C-2010-2171324

NOTICE TO PLEAD

Pursuant to 52 Pa. Code §§ 5.102 and 5.62(c), 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, and 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 Motion 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.

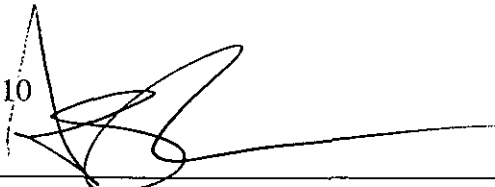
File with:

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, May 11, 2010



Tishekia Williams
Counsel for PECO Energy Company
2301 Market Street, S23-1
P.O. Box 8699
Philadelphia, PA 19101-8699
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PECO ENERGY COMPANY

PRELIMINARY OBJECTION OF RESPONDENT,
PECO ENERGY COMPANY

Respondent, PECO Energy Company ("PECO"), pursuant to 52 Pa. Code §5.101(6), respectfully petitions this Honorable Commission to dismiss the instant complaint as a hearing is currently underway regarding the same matter.

1. On July 10, 2009, PECO was served with a formal complaint filed by Complainant at docket number C-2009-2118230. In this complaint, Complainant alleged improper termination notice and requested a payment agreement.

2. On July 22, 2009, PECO received a second formal complaint at docket number C-2009-212041. Complainant raised the same allegations in this complaint. Complainant alleged improper termination notice and requested a payment agreement.

3. On July 30, 2009, PECO filed an Answer and Motion to consolidate the two matters.

4. On September 16, 2009, the Motion to Consolidate was granted.

5. By hearing notice dated December 22, 2009, a hearing was scheduled for March 5, 2010. On February 10, 2010, Complainant requested a continuance citing a need to secure child care. Complainant's request for continuance was granted.

6. By hearing notice dated March 15, 2010, the hearing was rescheduled for April 13, 2010. The initial hearing convened as scheduled. PECO presented two exhibits: an account

activity statement and collection history exhibit. The account activity statement was admitted into evidence without objection. Complainant objected to the admission of the collection history. The collection history is a summary of all collection activity contained in the Company's billing system. The presiding Administrative Law Judge exercised her discretion in the matter by continuing the hearing so the foundation could be provided for the exhibit.¹ By hearing notice dated April 27, 2010, the matter was re-scheduled for June 15, 2010.

7. On April 21, 2010, PECO was served with the instant complaint at docket number C-2010-2171324. Complainant again claims improper termination notice and requests a payment agreement. Complainant is disputing a termination a 10-day notice issued on March 26, 2010 for the past due balance of \$754.83 (post-complaint arrears).

8. PECO avers that the notice was issued prior to the hearing that occurred on April 13, 2010 and was included in PECO's collection history exhibit.

9. PECO avers that a further hearing is scheduled for June 15, 2010 to determine whether Complainant is entitled to a payment agreement and whether proper notice of termination was provided. The termination notices will be addressed at this time.

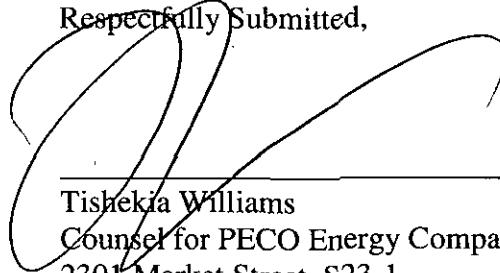
10. PECO request that the instant complaint be dismissed for pendency of a prior proceeding.

¹ P.R.E. Rule 1006 states that the contents of voluminous writings, recording, or photographs which cannot be conveniently examined in court may be presented in the form of a summary. The originals need to be available for parties to examine. Also, a court may order that they be produced in court. "Where, however, the original evidence is voluminous and detailed so that an examination thereof would be impracticable in the trial court, it is within the discretion of the trial judge to admit as valid secondary evidence a summary of the original evidence made by a competent person familiar with the original records." *Royal Pioneer Paper Box Mfg. Co. v. Louis DANONE & Co.*, 179 Pa. Super. 155, 167 (Pa. Super. Ct. 1955). "Certain criteria have evolved to guide a court in exercising its discretion. So, a proper foundation must be laid with reference to the admissibility of the originals. More importantly, it must be shown that the summation accurately summarizes the materials involved by not referring to information not contained in the original." *Pritchard v. Liggett & Myers Tobacco Co.*, 295 F.2d 292, 301 (3d Cir. Pa. 1961)

11. PECO also request that Complainant be required to pay all current charges as rendered.

WHEREFORE, PECO Energy Company respectfully requests that your Honorable Commission dismiss the instant complaint.

Respectfully Submitted,



Tishkia Williams
Counsel for PECO Energy Company
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Philadelphia, PA 19101-8699
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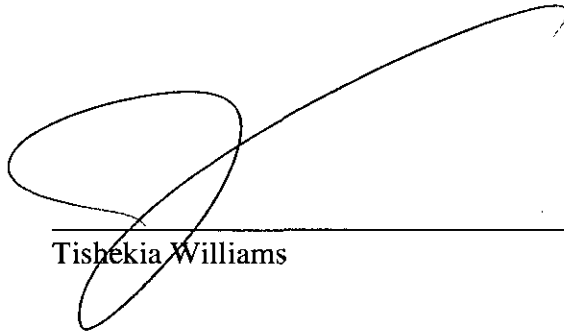
MAY 10 2010

VERIFICATION

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

I, Tishekia Williams, 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: May 11, 2010



Tishekia Williams

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

MARK MAZZA

v.

PECO ENERGY COMPANY

:
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DOCKET NOS. *C-2010-2171324*
~~C-2009-2120401~~
~~G-2009-2118230~~

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:

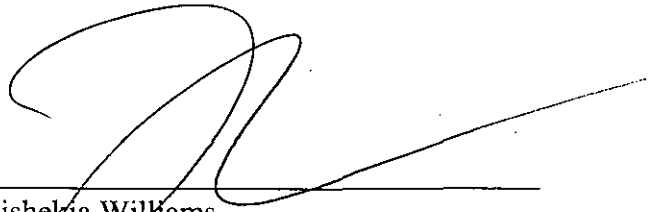
Mark Mazza
1271 Farm Road
Berwyn, PA 19312

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Dated at Philadelphia, Pennsylvania, May 11, 2010.



Tishkia Williams
Counsel for PECO Energy Company
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