

Legal Department

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June 23, 2010

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

**Re: Peter Ouellette v. PECO Energy Company
PUC Docket No. F-2010-2151048**

Dear Ms. Chiavetta:

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

—	Answer (1 original)
—	Motion for Continuance (1 original)
—	Motion for Judgment on the Pleadings (1 original)
—	Preliminary Objection (1 original)
—	Exceptions (1 original)
<u>X</u>	Reply Exceptions (1 original)
—	Brief (1 original)
—	Reply Brief (1 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.

REPLY EXCEPTIONS

PECO Energy Company (“PECO Energy”) hereby replies to the Exceptions filed by Peter Ouellette (“Complainant”) in the above-referenced matter on June 17, 2010. On January 6, 2010, Complainant filed a formal complaint against PECO Energy. Complainant alleged that PECO Energy Company wrongfully charged him with a \$920.00 revenue protection fee for tampering with its meter and requested that the fee be waived. Respondent, PECO Energy filed an Answer on January 22, 2010. An initial hearing was held before Administrative Law Judge Ky Van Nguyen on April 9, 2010. By initial decision issued on May 13, 2010 (“Initial Decision”), ALJ Nguyen held that the revenue protection fee assessed to Complainant’s account was proper and the Complainant was not entitled to a fee waiver because he has not carried his burden of proof and the law is well established that a Commission-approved utility tariff is binding on both the utility and the utility’s customers.

The Commission should sustain the Initial Decision. Complainant does not allege the ALJ made an error of law or abused his discretion with any trace of specificity. Instead, Complainant excepts to the Initial Decision only because he generally “[does] not feel it was a fair hearing, nor did PECO prove that [he] tampered with the meter, and that is because [he] did not tamper with it.” Pursuant to 52 Pa. Code 5.533(b), “[e]ach exception must . . . identify the finding of fact or conclusion of law to which exception is taken and cite relevant pages of the decision,” and “[s]upporting reasons for the exceptions shall follow each specific exception.” Complainant’s attempt to further litigation in this matter by simply disagreeing with the outcome of the Initial Decision without identifying any specific error of law or abuse of discretion fails to satisfy the requirements is procedurally improper and should be dismissed summarily.

As ALJ Nguyen states in the Initial Decision, the law is well established that, as the proponent of a rule or order, Complainant bears the burden of proof by a preponderance of the evidence.¹ Namely, Complainant must prove that PECO Energy has wrongfully charged him with a revenue protection fee or that the fee is no longer reasonable. The record shows that Complainant has failed to carry that burden and thus must be held responsible for the \$920.00 revenue protection fee for tampering with PECO Energy's meter.

The record demonstrates that:

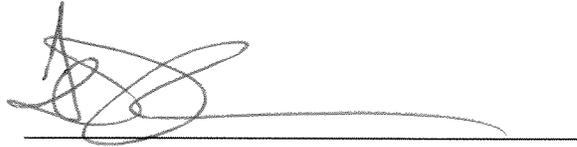
- PECO Energy cut off Complainant's service on September 1, 2009. N.T. 18.
- On September 11, 2009, PECO Energy issued a service order to investigate an unauthorized use of its service at Complainant's address because PECO Energy still received signals indicating that the Complainant used its service even though the service was terminated on September 1, 2009. N.T. 18; PECO Exhibit B.
- PECO Energy daily receives a customer's meter readings from an automatic meter reader device. If a customer's service is terminated, PECO Energy will not receive readings, but if PECO Energy still receives signals from a terminated service, then this indicates that the use of unauthorized service occurs. N.T. 12.
- The "Flags" and "Consumption" sections of Complainant's daily meter readings indicated that Complainant's service had been terminated for nonpayment but that there was an uninterrupted of service. N.T. 13-15; PECO Exhibit C.
- On October 12, 2009, Complainant was charged with a one-time standard revenue protection tampering fee of \$920.00 for using unauthorized service. Exhibit A.

The facts of the record clearly demonstrate that Complainant failed to present any evidence that PECO Energy has wrongfully charged him with a \$920.00 revenue protection tampering fee or that the fee is no longer reasonable. Instead, Complainant is attempting to

¹ See 66 Pa.C.S. § 332(a) ("the proponent of a rule or order has the burden of proof"); see also *Patterson v. Bell Tel. Co. of Pa.*, 72 Pa.P.U.C. 196, 199 (1990) (ruling that the Complainant bears the burden of proving by a preponderance of evidence that PECO is responsible or accountable for the problem described in the Complaint); *Se-Ling Hosiery v. Margulies*, 364 Pa. 45, 51, 70 A.2d 854, 857 (1950) (ruling that Complainant must present evidence more convincing, by even the smallest amount, than presented by the other party); *Norfolk & W. Ry. Co. v. Pa. Pub. Util. Comm'n*, 489 Pa. 109, 128, 413 A.2d 1037, 1047 (1980) (ruling that the Commission's decision must be supported by substantial evidence on the record—more than a mere trace of evidence or suspicion of the existence of a fact sought to be established).

avoid his financial obligation by prolonging litigation in this matter through filing uncorroborated assertions. For the foregoing reasons, the Commission should sustain the decision of Administrative Law Judge Nguyen.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Tishekia Williams', is written over a horizontal line. The signature is stylized and somewhat cursive.

Tishekia Williams
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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PETER OUELLETTE,

COMPLAINANT

v.

PECO ENERGY COMPANY,

RESPONDENT

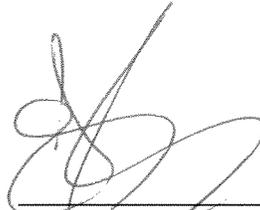
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Docket Nos. F-2010-2151048

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 Reply Exceptions 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: June 23, 2010



Tishekia Williams

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PETER OUELLETTE,

COMPLAINANT

v.

PECO ENERGY COMPANY,

RESPONDENT

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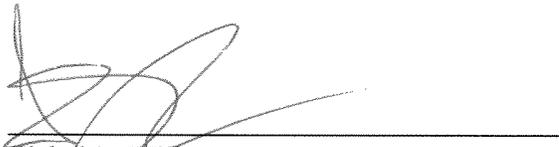
Docket Nos. F-2010-2151048

CERTIFICATE OF SERVICE

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

Peter Ouellette
509 Felton Avenue
Collingdale, PA 19023

Dated at Philadelphia, Pennsylvania, June 23, 2010.



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