

Legal Department

Exelon Business Services Company
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Business Services Company

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July 8, 2010

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

RECEIVED

JUL - 8 2010

Re: **Ben Franklin Foods v. PECO Energy Company**
PUC Docket No. C-2010-2181759

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

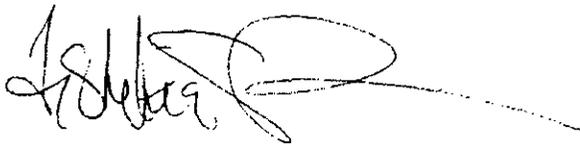
Dear Ms. Chiavetta:

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,



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

Scheduling Recommendation: Call of the Docket Non Call of the Docket X

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

BEN FRANKLIN FOODS

v.

PECO ENERGY COMPANY

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DOCKET NO. C-2010-2181759

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 Preliminary Objection of PECO Energy Company, within 10 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 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.

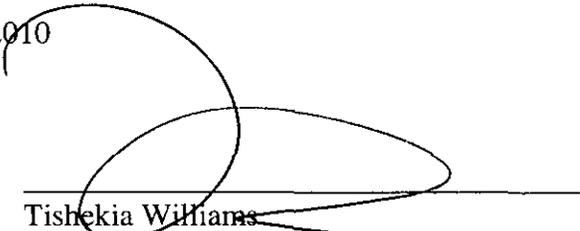
File with:

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, July 8, 2010



Tishekia Williams
Counsel for PECO Energy Company
2301 Market Street S-23
Philadelphia, PA 19101-8699
215-841-6841
Tishekia.Williams@exeloncorp.com

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION
PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

BEN FRANKLIN FOODS :
v. : DOCKET NO. C-2010-2181759
PECO ENERGY COMPANY :

PRELIMINARY OBJECTION OF RESPONDENT, PECO ENERGY COMPANY

Respondent, PECO Energy Company ("PECO Energy"), pursuant to 52 Pa. Code § 5.101(a)(1) & (4) respectfully petitions this Honorable Commission to dismiss this Complaint inasmuch as it requests damages.

1. Complainant's request for damages should be dismissed pursuant to 52 Pa. Code § 5.101(a)(1), because the Commission lacks power to award damages.

2. Complainant filed a Formal Complaint with the Pennsylvania Public Utility Commission on or about June 7, 2010, wherein Complainant requested reimbursement for property allegedly damaged by PECO Energy.

3. PECO is filing an Answer and New Matter in conjunction with this Preliminary Objection.

4. To the extent that Complainant is seeking compensation for the alleged damages, the request should be denied.

5. The Public Utility Commission is without the power to award damages to Complainant. *See Feingold v. Bell of Pennsylvania*, 477 Pa. 1, 383 A.2d 791 (1977). Therefore, the Complaint is insufficient as to substance because it fails to state a claim upon which the Commission can grant relief. Accordingly, to the extent the Complaint seeks monetary damages it should be dismissed pursuant to 52 Pa. Code § 5.101(a)(4).

WHEREFORE, PECO Energy Company respectfully requests that your Honorable Commission dismiss the instant Complaint inasmuch as it requests damages, pursuant to 52 Pa. Code § 5.101(a)(1) & (4) because the Commission lacks power to award damages and the Complaint is legally insufficient.

Respectfully Submitted,



Tishkia Williams
Counsel for PECO Energy Company
2301 Market Street, S23-1
P.O. Box 8699
Philadelphia, PA 19101-8699
(215) 841-6841
Tishkia.williams@exeloncorp.com

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

BEN FRANKLIN FOODS

v.

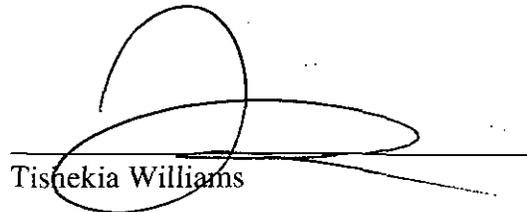
PECO ENERGY COMPANY

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DOCKET NO. C-2010-2181759

VERIFICATION

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.


Tishekia Williams

Date: July 8, 2010

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SECRETARY'S BUREAU

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

BEN FRANKLIN FOODS

v.

PECO ENERGY COMPANY

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DOCKET NO. C-2010-2181759

CERTIFICATE OF SERVICE

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

Ben Franklin Foods
P.O. Box 11312
Philadelphia, PA 19127

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Dated at Philadelphia, Pennsylvania, July 8, 2010.

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU



Tishkia Williams
Counsel for PECO Energy Company
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