

Legal Department

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July 13, 2010

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

**Re: York Road Realty Company v. PECO Energy Company
PUC Docket No. C-2010-2176164**

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)
<u>X</u>	Motion for Judgment on the Pleadings (1 original)
—	Preliminary Objection (1 original)
—	Exceptions (1 original)
—	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,



Tishekia Williams
Counsel for PECO Energy Company

TW/adz
Enc.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

YORK ROAD REALTY Co.

v.

PECO ENERGY COMPANY

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:
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DOCKET NO. C-2010-2176164

NOTICE TO PLEAD

Pursuant to 52 Pa. Code §§ 5.102(a) 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, the Commission may make a ruling not in your favor and your Complaint may be dismissed. All pleadings, such as a Reply to Motion, must be filed with the Secretary of the Pennsylvania Public Utility Commission, with a copy served to counsel for PECO Energy Company, Tishekia E. Williams, and where applicable, the Administrative Law Judge presiding over the issue.

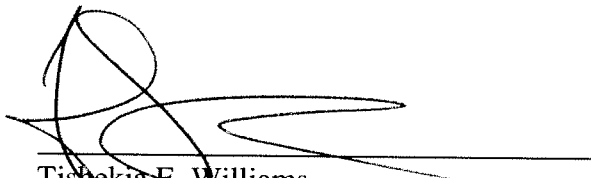
File with:

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

With a copy to:

Tishekia E. Williams, Esq.
PECO Energy Company
2301 Market Street, S-23
Philadelphia, PA 19103

Dated at Philadelphia, PA, July 13, 2010



Tishekia E. Williams
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Tishekia.williams@exeloncorp.com

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

YORK ROAD REALTY Co.	:	
	:	
v.	:	DOCKET NO. C-2010-2176164
	:	
PECO ENERGY COMPANY	:	

PECO ENERGY COMPANY’S MOTION FOR JUDGMENT ON THE PLEADINGS

PECO respectfully requests that this Honorable Commission dismiss the complaint at docket number C-2010-2176164 pursuant to 52 Pa. Code § 5.101(d)(2) because Complainant fails to state a claim for which relief can be granted.

1. On May 12, 2010, Complainant filed a complaint disputing the commercial security deposit assessed to its account as a result of account delinquency.
2. On June 3, 2010 PECO Energy filed an Answer and New Matter to the complaint.
3. According to 52 Pa. Code § 5.63, Complainant had twenty days from the filing date of PECO’s New Matter to respond. Forty (40) days have passed and Complainant has not responded to the Answer and New Matter.
4. In it’s Answer in New Matter, Respondent averred that Complainant has a history of late payments and has had its security requirement waived twice. Complainant does not deny these allegations.
5. Indeed, in its complaint, Complainant admits to paying its bills late, which is the reason Complainant has been charged a deposit. In its complaint, Complainant states, “while we sometime are late, the bills are paid... .”

6. Complainant's admission that it pays its bill late is outcome determinative of the relevant issue under PECO's Commission approved tariff,¹ which was attached and incorporated to PECO's Answer.

7. PECO's Tariff provides:

5.3 GUARANTEE OF PAYMENTS. ...In addition, the Company may require industrial and commercial customers for which it provides Consolidated EDC Billing or Separate EDC Billing to post a deposit at any time if the Company determines that the customer is no longer creditworthy or has bad credit.

Complainant's continues to render late payments, resulting continual account delinquency. Accordingly, Complainant is not creditworthy.

8. Complainant also does not dispute that it pays its bills late. Therefore, Complainant's account is admittedly delinquent.

9. Complainant claims, "We can not afford to pay a deposit," and should not be charged a deposit because its bills are eventually paid.

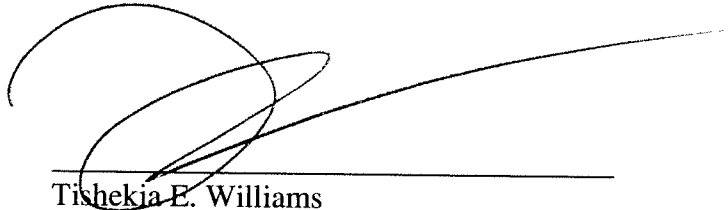
10. PECO avers that if all of Complainant's averments are taken as true, this is not a valid basis for relief under the applicable law. Complainant cannot be granted its requested relief.

11. PECO avers that there is no genuine issue as to a material fact and that it is entitled to judgment as a matter of law on all outstanding issues.

¹ PECO's Commission approved tariff is prima facie reasonable and has the full force and effect of law. 66 Pa.C.S. § 316; *Kossmann v. PA PUC*, 694 A.2d 1147 (Pa Cmwlft 1997); *Brockway Glass Co. v. PA. PUC*, 437 A.2d 1067 (Pa. Cmwlft 1981).

WHEREFORE, PECO respectfully requests that this Honorable Commission dismiss Complainant's claim pursuant to 52 Pa. Code § 5.101(d)(2) because Complainant admits that it pays it bill late, which is the basis for disputed security deposit. Therefore, Complainant fails to state a claim in which relief can be granted.

Respectfully Submitted,

A handwritten signature in black ink, consisting of a large, stylized loop followed by a long horizontal stroke extending to the right.

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

YORK ROAD REALTY Co.

v.

PECO ENERGY COMPANY

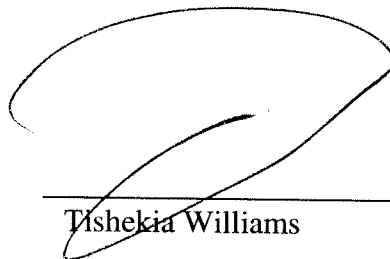
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DOCKET NO. C-2010-2176164

VERIFICATION

I, Tishekia E. 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: July 13, 2010



A handwritten signature in black ink, appearing to read 'Tishekia Williams', is written over a horizontal line. The signature is stylized and loops back under the line.

Tishekia Williams

