

Legal Department

Exelon Business Services Company  
2301 Market Street/S23-1  
P.O. Box 8699  
Philadelphia, PA 19101-8699

Telephone 215.841.4000  
Fax 215.568.3389  
www.exeloncorp.com

Business Services  
Company

Direct Dial: 215.841.6841

August 17, 2010

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

## RECEIVED

AUG 17 2010

Re: **Robert J. Stover v. PECO Energy Company**  
**PUC Docket No. C-2010-2190354**

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)
—	Motion to Consolidate (original)
—	Motion for Judgment on the Pleadings (original)
X	Preliminary Objection (original)
—	Exceptions (original)
—	Reply Exceptions (original)
—	Brief (original)
—	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,



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

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

**Legal Department**

Exelon Business Services Company  
2301 Market Street/S23-1  
PO. Box 8699  
Philadelphia, PA 19101-8699

Telephone 215.841.4000  
Fax 215.568.3389  
www.exeloncorp.com

Business Services  
Company

Direct Dial: 215 841-6841

August 17, 2010

Robert J. Stover  
3100 Grant Avenue  
Apartment E26  
Philadelphia, PA 19114

**RECEIVED**

AUG 17 2010

**Re: Robert J. Stover v. PECO Energy Company**  
**PUC Docket No. C-2010-2190354**

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

Dear Mr. Stover:

Enclosed is a copy of PECO Energy Company's response to the formal complaint filed in the above-referenced docket. The law requires PECO Energy to file an answer to your Public Utility Commission complaint. Keep these papers for your records. This is not a decision on your complaint. If there is a "Notice to Plead" attached to this Answer, you should review the Notice to Plead for information on how to respond to a New Matter, Motion or Preliminary Objection that may have been included with the Answer. Please note that if you do not respond to a New Matter, Motion, or Preliminary Objection an unfavorable decision may be rendered against you.

Soon, the Public Utility Commission will schedule either a settlement conference or a hearing on your complaint. The Commission will let you know by mail whether there will be a conference or a hearing and will include instructions on what to do next. If the matter is set for hearing, the notice will provide you with information about the date, time and place of the hearing. If we are unable to resolve your complaint and have to proceed with a hearing, a judge will be at the hearing and will decide your complaint. You must call the Public Utility Commission if you have any questions about the hearing or if you cannot attend the hearing.

If you have any questions or concerns at any time, please do not hesitate to contact me at the above listed number.

Very truly yours,



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

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**ROBERT STOVER** :  
 :  
v. : **DOCKET NO. C-2010-2190354**  
 :  
**PECO ENERGY COMPANY** :

**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

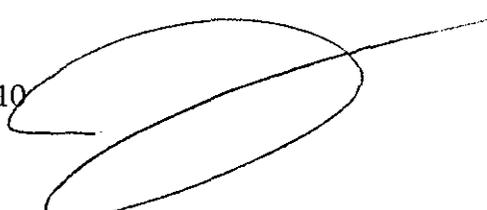
With a copy to:  
Tishekia Williams, Esq.  
PECO Energy Company  
2301 Market Street, S-23  
Philadelphia, PA 19103

Dated at Philadelphia, PA, August 17, 2010

**RECEIVED**

AUG 17 2010

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

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

RECEIVED

AUG 17 2010

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

ROBERT STOVER :  
 :  
v. : DOCKET NO. C-2010-2190354  
 :  
PECO ENERGY COMPANY :

**PRELIMINARY OBJECTION OF RESPONDENT, PECO ENERGY COMPANY**

Respondent, PECO Energy Company (“PECO”), pursuant to 52 Pa. Code § 5.101(a)(1) & (4) respectfully petitions this Honorable Commission to dismiss this Complaint inasmuch as it requests damages and to dismiss this action as legally insufficient. Complainant fails to state a claim upon which relief can be granted. 52 Pa. Code § 5.101(a)(4).

1. Commission procedure regarding the disposition of preliminary objections is similar to that utilized in Pennsylvania civil procedure.<sup>3</sup>
2. In deciding preliminary objections, the Public Utility Commission must determine, based on the factual pleadings of the petitioner, if relief or recovery is possible.<sup>4</sup>
3. A complaint must be able to recover under the law to survive a preliminary objection.<sup>5</sup>
4. 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.

---

<sup>3</sup> *Equitable Small Transportation Interveners v. Equitable Gas Co.*, 1994 Pa. P.U.C. LEXIS 69, Docket No. C-00935435 (July 18, 1994)

<sup>4</sup> 2006 Pa. P.U.C. Lexis 111, \*7.

<sup>5</sup> *Milliner v. Enck*, 709 A.2d 417, 418 (Pa. Super. Ct. 1998) (“preliminary objection should be sustained only where it appears with certainty that, upon the facts averred, the law will not allow the plaintiff to recover”).

5. Complainant filed a Formal Complaint with the Pennsylvania Public Utility Commission on or about July 29, 2010, wherein Complainant requested reimbursement for property allegedly damaged by PECO Energy. A copy of the complaint is attached as Exhibit 3.

6. PECO is filing an Answer in conjunction with this Preliminary Objection.

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

8. 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).

9. Also in his formal complaint, Complainant demanded for PECO “to acknowledge that [his] wife’s disability is permanent and that providing a doctor’s certification once a year is sufficient proof of permanent disability.”

10. However, 52 Pa. Code § 56.114 states that all medical certificates are valid for only thirty days. *See also Jackson v. Pa. Pub. Util. Comm’n*, 522 A.2d 1187, 1189-90 (Pa. Commw. Ct. 1987) (holding that medical certification procedures for obtaining medical certifications, which are valid for thirty days, apply not only to short-term illnesses, but also to chronic illnesses where there is no favorable prognosis).

11. Complainant also demanded for PECO “to be required to accept payments through My Check Free and to develop software to verify payments made through that system or to eliminate the \$3.50 fee PECO charges to make a payment by phone for customers on payment plans.”

12. However, PECO has no way of verifying payments made through third-party vendors such as My Check Free. Furthermore, PECO denies any responsibility for Complainant's \$3.50 service fee to use My Check Free because (1) My Check Free, and not PECO, charges this fee, and (2) PECO does not receive any portion of this fee from My Check Free.

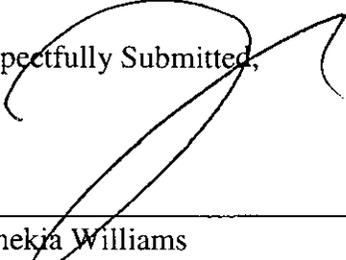
13. Complainant additionally demanded that the Commission issue a rule "requiring PECO to base eligibility for its CAP Rate program on net income and not gross income."

14. However, PECO evaluates all CAP applicants based upon gross income pursuant to PECO's Commission-approved Electric Tariff.

15. In essence, Complainant does not dispute any facts but instead argues that the law should be different than it is. Therefore, the Complaint is insufficient as to substance because it fails to state a claim upon which the Commission can grant relief.

**WHEREFORE**, PECO Energy Company respectfully requests that your Honorable Commission dismiss the instant Complaint inasmuch as it requests damages and as it fails to state a claim upon which the Commission can grant relief, 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,



---

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

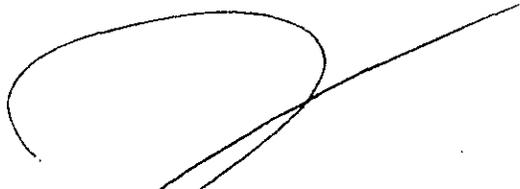
**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

<b>ROBERT STOVER</b>	:	
	:	
v.	:	<b>DOCKET NO. C-2010-2190354</b>
	:	
<b>PECO ENERGY COMPANY</b>	:	

**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: August 17, 2010

  
\_\_\_\_\_  
Tishekia Williams

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**ROBERT STOVER** :  
 :  
v. : **DOCKET NO. C-2010-2190354**  
 :  
**PECO ENERGY COMPANY** :

**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:

Robert Stover  
3100 Grant Avenue  
Philadelphia, PA 19114

Dated at Philadelphia, Pennsylvania, August 17, 2010.

**RECEIVED**

AUG 17 2010

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

---

Tishekia Williams  
Counsel for PECO Energy Company  
2301 Market Street, S23-1  
P.O. Box 8699  
Philadelphia, PA 19101-8699  
(215) 841-6841  
Fax: 215.568.3389  
tishekia.williams@exeloncorp.com

From: Origin ID: PSQA (215) 841-5353  
Anita Zaketa

2301 Market Street  
S23-1  
Philadelphia, PA 19101



J18201008898226

Ship Date: 17AUG10  
ActWgt: 1.0 LB  
CAD: 101422610/NET3060

Delivery Address Bar Code

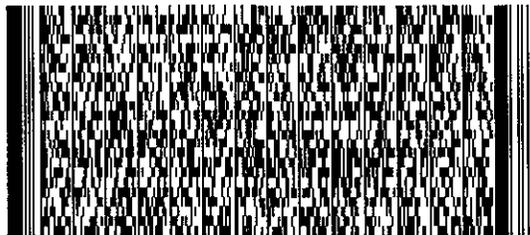


Ref #  
Invoice #  
PO #  
Dept #

SHIP TO: (717) 772-7777 BILL SENDER  
**Rosemary Chiavetta, Secretary**  
**Public Utilities Commission**  
400 NORTH ST FL 2  
COMMONWEALTH KEYSTONE BUILDING  
HARRISBURG, PA 17120

WED - 18 AUG A1  
STANDARD OVERNIGHT

TRK# 7938 3030 1451  
0201



17120

PA-US

MDT

**ZN MDTA**



509G43306/PA24

**After printing this label:**

1. Use the 'Print' button on this page to print your label to your laser or inkjet printer.
2. Fold the printed page along the horizontal line.
3. Place label in shipping pouch and affix it to your shipment so that the barcode portion of the label can be read and scanned.

**Warning:** Use only the printed original label for shipping. Using a photocopy of this label for shipping purposes is fraudulent and could result in additional billing charges, along with the cancellation of your FedEx account number.

Use of this system constitutes your agreement to the service conditions in the current FedEx Service Guide, available on fedex.com. FedEx will not be responsible for any claim in excess of \$100 per package, whether the result of loss, damage, delay, non-delivery, misdelivery, or misinformation, unless you declare a higher value, pay an additional charge, document your actual loss and file a timely claim. Limitations found in the current FedEx Service Guide apply. Your right to recover from FedEx for any loss, including intrinsic value of the package, loss of sales, income interest, profit, attorney's fees, costs, and other forms of damage whether direct, incidental, consequential, or special is limited to the greater of \$100 or the authorized declared value. Recovery cannot exceed actual documented loss. Maximum for items of extraordinary value is \$500, e.g. jewelry, precious metals, negotiable instruments and other items listed in our ServiceGuide. Written claims must be filed within strict time limits, see current FedEx Service Guide.