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PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

ENCORE GENERAL  
MERCHANDISE

v.

PECO ENERGY COMPANY

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DOCKET NO. C-2010-2192964

PRELIMINARY OBJECTION OF RESPONDENT, PECO ENERGY COMPANY

Respondent, PECO Energy Company ("PECO Energy"), pursuant to 52 Pa. Code § 5.101(a)(1) and (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 August 09, 2010, wherein Complainant disputed PECO's refusal to reimburse it for food loss.

3. Complainant is requesting that PECO reimbursement it \$400.00 for its alleged food loss.

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

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

6. 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) and (4) because the Commission lacks power to award damages and the Complaint is legally insufficient.

Respectfully Submitted,



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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

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**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.



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Tishekia Williams

Date: September 1, 2010

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**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:

Encore General Merchandise  
3121 W. Master Street  
Philadelphia, PA 19121

Dated at Philadelphia, Pennsylvania, September 1, 2010.

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