

Legal Department

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October 21, 2010

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

**Re: Robert & Cecelia Merritt v. PECO Energy Company
PUC Docket No. C-2009-2142888**

Dear Ms. Chiavetta:

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

—	Answer (1 original)
<u>X</u>	Motion to Dismiss (1 original)
—	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. Thank you for your time and attention on this matter.

Very truly yours,



Tishkia Williams
Counsel for PECO Energy Company

TW/adz
Enc.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

ROBERT & CECELIA MERRITT

v.

PECO ENERGY COMPANY

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DOCKET NO. C-2009-2142888

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:

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

With a copy to:

Tishekia Williams
2301 Market Street, S23-1
P.O. Box 8699
Philadelphia, PA 19101-8699

Dated at Philadelphia, PA, October 21, 2010



Tishekia Williams
Counsel for PECO Energy Company
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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

ROBERT & CECELIA MERRITT

v.

PECO ENERGY COMPANY

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DOCKET NO. C-2009-2142888

**PECO ENERGY COMPANY’S MOTION TO DISMISS
FOR FAILURE TO COMPLY WITH A COMMISSION ORDER**

Respondent, PECO Energy Company (“PECO”), pursuant to 52 Pa. Code § 5.103, respectfully petitions this Honorable Commission to dismiss the instant Complaint with because the Complainant has failed to comply with the Court’s Second Order Directing the Filing of An Amended Complaint dated August 31, 2010.

1. Complainant filed the instant formal complaint on or around November 10, 2009.
2. Pursuant to 52 Pa. Code § 5.101(b), PECO filed an Answer and New Matter to the Complaint on December 14, 2009 denying all material allegations. On the same day, PECO Energy also filed Preliminary Objections based on insufficiency of the complaint.
3. Administrative Law Judge Susan D. Colwell issued an Order directing Complainants to file an Amended Complaint within ten days on January 25, 2010.
4. Complainant did not file an amended complaint.
5. On February 26, 2010, Administrative Law Judge Susan D. Colwell issued an order dismissing the complaint for failure to file an Amended Complaint.
6. On March 10, 2010 Complainants filed Exceptions to the Initial Decision of Administrative Law Judge Susan D. Colwell, stating that they may not have received the order directing them to file an Amended Complaint.

7. On May 6, 2010, the Commission issued an Opinion and Order, granting Complainants' Exceptions, reversing the Initial Decision dismissing Complainants' Complaint, and remanded the case to the Office of Administrative Law Judge for further proceedings. The Commission reasoned that with the information submitted in Complainant's exceptions, the record is now robust enough to permit PECO to respond to the allegations. The Commission further stated that remanding the case was the most efficient way to provide Complainant's an opportunity to be heard.

8. On August 2, 2010, PECO filed a Motion for Judgment on the Pleadings, arguing that Complainants claims were legally insufficient.

9. On August 31, 2010, Administrative Law Judge Susan Colwell issued a decision rendering the Motion moot, and again directing the Complainant to file an Amended Complaint setting out the factual allegations of her Complaint in sufficient detail to permit PECO to formulate a meaningful response within 30 days, or the Complaint would be dismissed.

10. Fifty days have passed, and Complainant has not filed an Amended Complaint., Complainant has not responded to PECO Energy, and PECO has not record that the wiring has been corrected.

11. This issue has been outstanding for more than 300 days since the initial complaint was filed. PECO's interests are prejudiced by what amounts to Complainant's refusal to prosecute its complaint in accordance with Commission rules.

WHEREFORE, PECO Energy Company respectfully requests that your Honorable Commission dismiss the instant Complaint for failure to comply with a Court Order and issue an Order closing the instant matter.

Respectfully Submitted,



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

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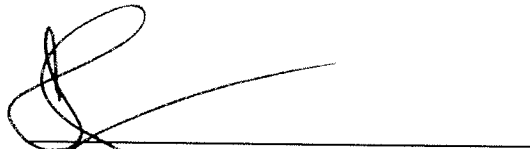
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DOCKET NO. C-2009-2142888

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.

Date: October 21, 2010



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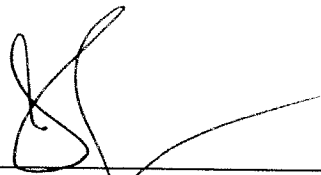
DOCKET NO. C-2009-2142888

CERTIFICATE OF SERVICE

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

Cecelia and Robert Merritt
2021 W. Stenton Street
Philadelphia, PA 19138

Dated at Philadelphia, Pennsylvania, October 21, 2010.



Tishekia Williams
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