

Legal Department

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

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Fax 215.568.3389
www.exeloncorp.com

Direct Dial: 215.841.6841

January 27, 2011

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

Re: Paul V. Mosley v. PECO Energy Company
PUC Docket No. C-2010-2163629

Dear Ms. Chiavetta:

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

—	Answer (1 original)
—	Answer & New Matter (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. 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

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PAUL V. MOSLEY

v.

PECO ENERGY COMPANY

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DOCKET NO. C-2010-2163629

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 Motion for Judgment on the Pleadings within 20 days from service of this notice, the facts set forth by PECO Energy Company may be deemed to be true, thereby requiring no other proof. 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 Williams, and where applicable, the Administrative Law Judge presiding over the issue.

Failure to respond to this Motion could result in the dismissal of your case.

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

Dated at Philadelphia, PA, January 27, 2011.



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

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PAUL V. MOSLEY	:	
	:	
v.	:	DOCKET NO. C-2010-2163629
	:	
PECO ENERGY COMPANY	:	

MOTION FOR JUDGMENT ON THE PLEADINGS

PECO Energy Company ("PECO"), pursuant to 52 Pa. Code §5.102, respectfully requests that your Honorable Commission dismiss the instant complaint inasmuch as Complainant requests a payment arrangement. Pursuant to 66 Pa.C.S. §1405(c), Complainant is ineligible for a Commission-ordered payment agreement, and thus Complainant fails to state a claim upon which relief can be granted. Therefore, PECO is entitled to judgment as a matter of law.

1. On March 1, 2010, Complainant filed a Formal Complaint against Respondent, PECO, requesting to receive a Commission-ordered payment agreement. A copy of Complainant's Formal Complaint is attached hereto as Exhibit 1.

2. PECO was served with the Formal Complaint on March 12, 2010.

3. On April 1, 2010, PECO filed an Answer, New Matter and Notice to Plead. A copy of PECO's Answer and New Matter is attached hereto as Exhibit 2.

4. In its Answer, PECO averred that Complainant has a history of many missed payments and is already enrolled in the Customer Assistance Program ("CAP"); PECO averred that as a result, he is not entitled to a Commission-ordered payment agreement or one-time pre-program arrears forgiveness.

5. To date, 300 days have passed since PECO filed its New Matter.

6. PECO has not been served with a response to its New Matter, and therefore it requests that the facts stated therein be deemed admitted.

7. A hearing date has not been scheduled.

8. The Commission's regulations at 52 Pa. Code §5.102(a) permits any party to move for summary judgment or judgment on the pleadings after the pleadings are closed, but within such time as to not delay a hearing. The presiding officer will grant the motion if the pleadings, depositions, answers to interrogatories, admissions and affidavits show that there is no genuine issue as to a material fact and that the moving party is entitled to judgment as a matter of law. 52 Pa. Code §5.102(d)(1).

9. Under 66 Pa.C.S. §1405(c), the Commission is precluded from establishing a payment agreement for customers participating in CAP. Section 1405(c) states as follows: "Customer assistance program rates shall be timely paid and shall not be the subject of payment agreements negotiated or approved by the commission."

10. The moving party bears the burden of showing that no genuine issue of material fact exists and that it is entitled to judgment as a matter of law. The Commission must view the record in the light most favorable to the non-moving party, giving that party the benefit of all reasonable inferences. First Mortgage Co. of Pennsylvania v. McCall, 459 A.2d 406(Pa. Super. 1983).

11. The provision at 52 Pa. Code §5.102(c) serves judicial economy by avoiding a hearing where no factual dispute exists. If no factual issue pertinent to the resolution of the case exists, a hearing is unnecessary. Lehigh Valley Power Committee v. Pennsylvania Public Utility Commission, 563 A.2d. 557 (Pa. Cmwlth. 1989).

12. The pleadings in this case reveal that PECO is entitled to judgment as a matter of law because no factual dispute exists and the Complaint fails to state a claim for which relief can be granted. Complainant seeks a payment arrangement, but PECO's New Matter makes it clear that Complainant admittedly participates in CAP and is therefore ineligible for a Commission-ordered payment agreement under 66 Pa.C.S. §1405(c).

WHEREFORE, PECO Energy Company respectfully requests that your Honorable Commission dismiss the instant complaint with prejudice, as it relates to a request for a prohibited payment agreement on CAP arrears, and the Complaint therefore fails to state a claim upon which relief can be granted.

Respectfully submitted,



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

Dated: January 27, 2011

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PAUL V. MOSLEY

v.

PECO ENERGY COMPANY

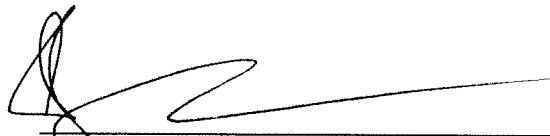
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DOCKET NO. C-2010-2163629

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 above set forth in the foregoing Motion 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: January 27, 2011



Tishekia Williams

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PAUL V. MOSLEY

v.

PECO ENERGY COMPANY

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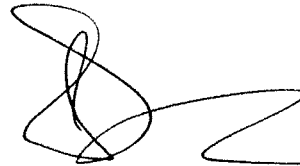
DOCKET NO. C-2010-2163629

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing Motion for Judgment on the Pleadings upon the party listed below, in accordance with the requirements of 52 Pa. Code §1.54 (relating to service by a party).

VIA First Class U.S. Mail

Paul V. Mosley
35 East 23rd Street
Chester, PA 19013



Tishekia Williams

DATED: January 27, 2011

Exhibit 1 – Mosley

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Formal Complaint Form

Please print in ink or type.

1. CUSTOMER (COMPLAINANT) INFORMATION

Your name, mailing address, county, telephone number, utility account number and service address:

Name Paul V. Mosley (Tampa Mosley)

Street/P.O. Box: 35 East 23rd St Apt #

City Chester State Pa Zip 19313

County Delaware

Daytime Telephone Number Where We Can Contact You: (610) 872-4930

E-mail Address (optional):

Utility Account Number 71064-08807 (from your bill)

If your complaint involves utility service provided to a different address than your mailing address, please list this information below.

Name

Street/P.O. Box

City State Zip

2. FULL NAME OF UTILITY COMPANY (RESPONDENT):

Philadelphia Electric

3. TYPE OF UTILITY (check one)

- ELECTRIC, GAS, WATER, TELEPHONE, STEAM HEAT, WASTE WATER, MOTOR CARRIER

RECEIVED 2010 MAR 14 AM 9:11 PA P.U.C. SECRETARY'S BUREAU

4. COMPLAINT (check one)

A. In general, what is your complaint?

- I want to oppose the company's proposed rate increase.
- There are incorrect charges on my bill.
- There is a reliability, safety or quality problem with my utility service.
- I received a notice that my utility service is being terminated.
- I would like a payment agreement.
- Other (explain).

B. State the facts of your complaint.

Include any specific dates, times or places that may be important. If the complaint is about a bill, tell us about any charges that you believe are not correct. Use additional paper if you need more space. Provide copies of all relevant documents you believe will support your complaint.

5. RELIEF

*wife died Oct 10, 2009
loss of \$500, plus income*

How do you want your complaint to be resolved? Use additional paper if you need more space.

*I would like to have an affordable
payment arrangement.*

*also put in the 6 month plan
to dismiss balance.*

6. PROTECTION FROM ABUSE

Answer the following question if your complaint is against a natural gas distribution utility, an electric distribution utility or a water distribution utility **AND** your complaint is about a billing problem, a request to receive service, a security deposit request, termination of service or a request for a payment agreement.

Has a court granted a "Protection from Abuse" order for your personal safety or welfare?

YES

NO

7. PRIOR UTILITY CONTACT

Answer the following question only if you are a residential customer and your complaint is against an electric distribution utility, natural gas distribution utility or a water distribution utility.

Have you spoken to a utility company representative about this complaint?

YES (includes appeals of BCS determinations)

NO

If you tried to, but could not speak to a utility company representative about your complaint, please explain why.

Because I called PUC I was told anything concerning my bill I have to take it up with public utility commission

8. LEGAL REPRESENTATION (IF ANY)

If you are represented by a lawyer in this matter you must provide your lawyer's name, address, telephone number, and e-mail address, if known.

Lawyer's Name _____

Street _____

City _____ State _____ Zip _____

Area Code/Phone Number _____

E-mail Address (If Known) _____

9. VERIFICATION AND SIGNATURE

You must print or type your name below on the line provided for the verification paragraph, and you must sign and date (in ink) this form on the lines provided.

Verification: Paul Van Mosley hereby state that the facts above set forth are true and correct (or are true and correct to the best of my knowledge, information and belief) and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Paul Van Mosley
(Signature)

03/01/10
(Date)

Title of authorized employee or officer

10. FILING

Please return the completed form to one of the addresses listed below:

If using U.S. Postal Service:

If using overnight delivery service:

Secretary Pennsylvania Public Utility Commission P.O. Box 3265 Harrisburg, PA 17105-3265	Secretary Pennsylvania Public Utility Commission 400 North Street Commonwealth Keystone Building, 2 nd Floor Harrisburg, Pennsylvania 17120
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Facsimiles and/or electronic filings of the complaint will not be accepted.

If you have any questions about filling out this form, please contact the Secretary's Bureau at 717-772-7777.

Keep a copy of your complaint for your records.

Paul Mosley
35 E 23rd St
Chester, PA 19013



Pennsylvania Public Utility Commission
PO Box 3265
Harrisburg, PA 17105-3265

Attn: Secretary

17105-3265

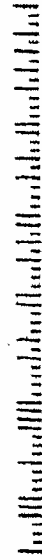


Exhibit 2 – Mosley



Business Services
Company

Legal Department

Exelon Business Services Company
2301 Market Street/523-1
P.O. Box 8699
Philadelphia, PA 19101-8699

Telephone 215.841.4000
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Direct Dial: 215.841.6841

April 1, 2010

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

Re: **Paul Mosley v. PECO Energy Company**
PUC Docket No. F-2010-2163629

Dear Mr. McNulty:

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

<u> X </u>	Answer (1 Original)
<u> </u>	Motion to Consolidate (original)
<u> </u>	Motion for Judgment on the Pleadings (original)
<u> </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,

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

Scheduling recommendation: X CALL OF THE DOCKET NON-CALL OF THE DOCKET



Business Services
Company

Legal Department

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2301 Market Street/S23-1
PO Box 8699
Philadelphia, PA 19101-8699

Telephone 215.841.4000
Fax 215.568.3389
www.exeloncorp.com

Direct Dial: 215 841-6841
April 1, 2010

Paul Mosely
35 E. 23rd Street
Chester, PA 19013

**Re: Paul V. Mosely v. PECO Energy Company
PUC Docket No. C-2010-2163629**

Dear Mr. Mosley:

Enclosed is a copy of PECO Energy Company's Answer to the 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 Answer 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 (a paragraph at the end of the Answer) and/or Motion to Dismiss (a separate document after the Answer) that may have been included with the Answer. If there is not a New Matter or a Motion to Dismiss, you do not need to reply.

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**

PAUL V. MOSLEY :
 :
v. : **DOCKET NO. C-2010-2163629**
 :
PECO ENERGY COMPANY :

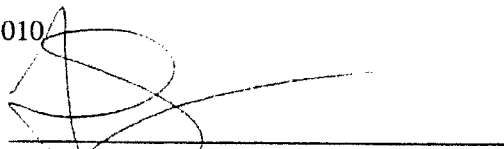
NOTICE TO PLEAD

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 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, April 1, 2010.



Tishekia Williams
Counsel for PECO Energy Company
2301 Market Street S-23
Philadelphia, PA 19101-8699
215-841-6863
tishekia.williams@exeloncorp.com

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PAUL V. MOSLEY

v.

PECO ENERGY COMPANY

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DOCKET NO. C-2010-2163629

ANSWER OF RESPONDENT, PECO ENERGY COMPANY

PECO Energy Company ("PECO Energy"), pursuant to 52 Pa. Code § 5.61, responds to the Complaint and states:

1. Admitted.
2. Admitted.
3. Admitted.

4. Denied. PECO Energy denies that Complainant is unable to pay its electric and natural gas service bill. Complainant has a significant history of account delinquency, including many missed and late payments. Complainant's account balance is \$13,650.00. The account activity statement is attached as Exhibit 1. Additionally, Complainant is enrolled in PECO's Customer Assistance Program ("CAP") and receives 25% discount on the first 650 kWh's of electric used. Complainant also receives a discount on his natural gas bill. Pursuant to 66 Pa.C.S. §1405(c), Complainant is not entitled to a Commission ordered payment agreement. Due to the significant balance on the account, PECO requests expedited scheduling on this matter.

By way of further response, Complainant is already enrolled in PECO's CAP program; therefore he is not eligible for a pre-program arrears forgiveness.

5. This paragraph is a request for relief and no answer is required.
6. PECO Energy is without sufficient information to confirm or deny this statement.
7. Admitted.

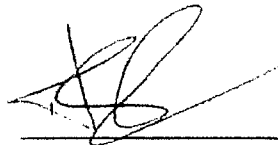
NEW MATTER OF RESPONDENT, PECO ENERGY COMPANY

PECO Energy, pursuant to 52 Pa. Code § 5.62(b), further responds to the Complaint and states:

1. Complainant is currently enrolled in PECO's Customer Assistance Program and receives a 25% discount on the first 650 kWh's of electric used each month.
2. Pursuant to 66 Pa. C.S. §1405(c), Complainant is not eligible for a Commission ordered payment agreement.

WHEREFORE, PECO Energy Company respectfully requests that your Honorable Commission dismiss the instant complaint.

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
Fax: 215.568.3389
tishkia.williams@exeloncorp.com

PECO Account Activity Statement

Date: 03/29/10
Page: 2 of 2

LINE	CHARGE TYPE	BILLING PERIOD	READ	METER #	CHARGE AMOUNT	CREDIT AMOUNT	TOTAL BILL	BALANCE FORWARD	DUE DATE	KWH	CCF	KV
1/23/09	GAS SERVICE		7545	016437323	\$28.99							
1/23/09	ELECTRIC SERVICE		4940	030632657	\$79.41							
1/23/09	Regular Bill						\$12125.84	\$12017.44	07/15			
1/06/09	Payment					\$350.00						
1/23/09	GAS SERVICE		7559	016437323	\$25.81							
1/23/09	ELECTRIC SERVICE		5730	030632657	\$87.47							
1/23/09	Regular Bill						\$11889.12	\$11775.84	08/14			
1/21/09	GAS SERVICE		7567	016437323	\$25.00							
1/21/09	ELECTRIC SERVICE		6507	030632657	\$85.74							
1/21/09	Regular Bill						\$11999.86	\$11889.12	09/14			
1/22/09	GAS SERVICE		7560	016437323	\$25.00							
1/22/09	ELECTRIC SERVICE		7190	030632657	\$73.34							
1/22/09	Regular Bill						\$12098.20	\$11999.86	10/14			
1/21/09	GAS SERVICE		7515	016437323	\$48.36							
1/21/09	ELECTRIC SERVICE		7704	030632657	\$55.65							
1/21/09	Regular Bill						\$12202.21	\$12098.20	11/12			
1/19/09	GAS SERVICE		7670	016437323	\$69.86							
1/19/09	ELECTRIC SERVICE		8212	030632657	\$55.06							
1/19/09	Regular Bill						\$12327.13	\$12202.21	12/11			
1/22/09	GAS SERVICE		7629	016437323	\$184.66							
1/22/09	ELECTRIC SERVICE		8804	030632657	\$63.30							
1/22/09	Regular Bill						\$12575.09	\$12327.13	01/13			
1/25/10	GAS SERVICE		8087	016437323	\$295.95							
1/25/10	ELECTRIC SERVICE		9479	030632657	\$72.29							
1/25/10	Regular Bill						\$12943.33	\$12575.09	02/16			
1/23/10	GAS SERVICE		8326	016437323	\$274.99							
1/23/10	ELECTRIC SERVICE		10028	030632657	\$60.56							
1/23/10	Late Payment Charge				\$166.98							
1/23/10	Regular Bill						\$13445.86	\$13110.31	03/17			
1/19/10	LINEAP Payment					\$100.00						
1/23/10	Late Payment Charge											
1/24/10	GAS SERVICE		8476	016437323	\$170.51							
1/24/10	ELECTRIC SERVICE		10548	030632657	\$176.94							
1/24/10	Regular Bill						\$13750.93	\$13516.37	04/15			
1/26/10	LINEAP Payment					\$100.00						

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PAUL V. MOSLEY

v.

PECO ENERGY COMPANY

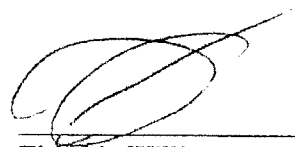
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DOCKET NO. C-2010-2163629

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: April 1, 2010



Tishekia Williams

