

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

C-2010-2192759

RESPONSE TO PECO ENERGY COMPANY
MOTION TO STRIKE

JOHN R. ~~STARMANN~~

TO Starzmann

ADMINISTRATIVE LAW JUDGE
JOEL H. CHESKIS

Rosemary Chiavetta, Secretary.
Pennsylvania Public Utility Commission
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[original & three copies]

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John R. Starzmann (“writer”, “petitioner”, “complainant”) objects to PECO Energy’s
RESPONSE TO PECO MOTION TO STRIKE

BACKGROUND

1. Having not been able to resolve a low voltage issue directly with PECO, the writer (“writer”, “petitioner”, “complainant”) on 8/5/10 filed a Formal Complaint against PECO.
2. A 9/8/10 INTERIM ORDER SETTING RESOLUTION CONFERENCE by Administrative Law Judge Kandace F. Melillo assigned Mediator Cynthia Lehman. A resolution was not reached by mediation.
3. On or about 9/1/10 the writer received a copy of PECO “Answer and New Matter” to which the writer answered on 1/9/10 in comments submitted to Rosemary Chiavetta, Secretary, Pennsylvania Public Utility Commission. Not having been provided instructions to the contrary, it was the writer’s intent that his 1/9/10 response, a copy of which was provided to Ms. Tishekia Williams (PECO Energy), would be incorporated into the record.
4. PREHEARING ORDER dated 10/27/11 from Administrative Law Judge Joel H. Cheskis scheduled an “Initial Telephonic Hearing” for 12/6/11 at 10 AM. The writer’s intent was to meet all of the requirements set forth in the notice of Initial Telephonic Hearing and to his knowledge, he did so.

5. At the end of the “Initial Telephonic Hearing”, Ms. Tishekia Williams stated that a Brief would be filed.
6. Administrative Law Judge Joel H. Cheskis on 12/7/11 issued a BRIEFING ORDER. The writer is an Engineer, not an Attorney. Never-the-less the writer filed a BRIEF using the guidelines of the BRIEFING ORDER.

RESPONSE TO PECO MOTION TO STRIKE

[Reference PECO Energy 1/10/11 MOTION TO STRIKE]

1. No comment.
2. No comment.
3. No comment.
4. No comment.
5. No comment.
6. No comment.
7. No comment.
8. Ms. Tishekia Williams’ 1/10/12 MOTION TO STRIKE in paragraph 8 on page 3 states “The Complainant’s Brief has no grounding in the record”. The writer is familiar with grounding electrical systems but is not familiar on methods to ground a record.
9. No comment.
10. As allowed by Ms. Tishekia Williams’ statement, the writer requests that the presiding officer or the Commission direct that the record is not closed. See item 11 below regarding “good cause”. The writer’s understanding was that the 12/6/11

hearing was in fact an “initial” telephonic hearing as stated under “type” in a notice of the hearing.

11. As allowed by Ms. Tishekia Williams’ statement, the record is not closed unless directed by the presiding officer or the Commission. The writer offers that since he is not familiar with the legal process except as clarified by the presiding officer, his Brief with accompanying attachments may be irregular to normal legal proceedings, but the information presented is not improper. The writer further offers that the documentation provided in his Brief offers good cause for the case to remain open.

12.

Under 52 Pa. Code §5.1 Pleadings Allowed:

(a) The pleadings in an action before the Commission include the following:

(1) Application and protest.

(2) Formal complaint, answer, new matter and reply to new matter.

(3) Order to show cause and answer.

(4) Petition and answer.

(5) Preliminary objections.

(6) Motions.

Pleadings are allowed under 52 Pa. Code §5.1. The writer objects to PECO Energy’s motion to strike his Exhibits from his Brief except as clarified below.

The record is not closed.

The writer requests that his Brief and all Exhibits to his Brief, be entered into the record. The Exhibits in his Brief are factual.

- (a) See above for 52 Pa. Code §5.1 Pleadings Allowed. Exhibit A has been offered under separate cover, Motion to Reopen the Record. Exhibit A is a copy of the writer's original low voltage complaint to the Commission.
- (b) Exhibit B, PECO's 8/24/10 has been offered under separate cover, Motion to Reopen the Record. Documentation received by the writer from PECO Energy is assumed to be true, factual, and authenticated.
- (c) Exhibit C. See above for 52 Pa. Code §5.1 Pleadings Allowed. Exhibit C has been offered under separate cover, Motion to Reopen the Record.
- (d) Exhibit D. See above for 52 Pa. Code §5.1 Pleadings Allowed. Exhibit D has been offered under separate cover, Motion to Reopen the Record.
- (e) Exhibit E. Exhibit E has been offered under separate cover, Motion to Reopen the Record. Ms. Williams was present, witnessed, and participated in the 9/23/10 conference telephone call between the writer and PECO Energy.
- (f) Exhibit F. Exhibit F has been offered under separate cover, Motion to Reopen the Record. Documentation received by the writer from PECO Energy is assumed to be true, factual, and authenticated.
- (g) Exhibit G. Exhibit G has been offered under separate cover, Motion to Reopen the Record. Documentation received by the writer from PECO Energy is assumed to be true, factual, and authenticated.

(h) Exhibit H. Exhibit H has been offered under separate cover, Motion to Reopen the Record. Documentation received by the writer from the internet as a Commission Performance Report is assumed to be true, factual, and authenticated. PECO Energy has not provided evidence that the information is not true or authentic. PECO Energy has not provided evidence that the information is not true or authentic. Furthermore, 52 Pa. Code §5.406 allow:

- (a) A report, decision, opinion, or other document or part thereof, need not be produced or marked for identification, but may be offered in evidence as a public document by specifying the document or part thereof and where it may be found, if the document is one of the following:*
- (1) A report or other document on file with the Commission.*
 - (2) An official report, decision, opinion, published scientific or economic statistical data or similar public document which is issued by a governmental department, agency, committee, commission or similar entity which is shown by the offeror to be reasonably available to the public.*

(i) Exhibit I. Exhibit I has been offered under separate cover, Motion to Reopen the Record.

(j) Exhibit J. Exhibit J has been offered under separate cover, Motion to Reopen the Record.

(k) Exhibit K. Exhibit K has been offered under separate cover, Motion to Reopen the Record. Documentation received by the writer from the internet as a Commission Performance Report is assumed to be true, factual, and authenticated. PECO Energy has not provided evidence that the information is not true or authentic. Furthermore, 52 Pa. Code §5.406 allows:

(b) A report, decision, opinion, or other document or part thereof, need not be produced or marked for identification, but may be offered in evidence as a public document by specifying the document or part thereof and where it may be found, if the document is one of the following:

(3) A report or other document on file with the Commission.

(4) An official report, decision, opinion, published scientific or economic statistical data or similar public document which is issued by a governmental department, agency, committee, commission or similar entity which is shown by the offeror to be reasonably available to the public.

- (l) Exhibit N. Exhibit N has been offered under separate cover, Motion to Reopen the Record. PECO Energy has not provided evidence that the information is not true or authentic.
- (m) Exhibit O. Exhibit O has been offered under separate cover, Motion to Reopen the Record. PECO Energy has not provided evidence that the information is not true or authentic.
- (n) Exhibit P. Exhibit P has been offered under separate cover, Motion to Reopen the Record. PECO Energy has not provided evidence that the information is not true or authentic.
- (o) Exhibit Q. Exhibit Q has been offered under separate cover, Motion to Reopen the Record. PECO Energy has not provided evidence that the information is not true or authentic. The complainant selected portions of the Industrial Power Systems Handbook as an exhibit because contents of the publication were the basis of a GE course that he took while with GE Energy System Operation in Schenectady NY and the basis of a GE course that he presented with author

Warren Crites to General Motors Corporation. The complainant was recruited for a GE Industrial Power Systems program by author Walt Bloomquist. In his Schenectady assignment, the complainant worked alongside authors Lou Levoy, Walt Bloomquist, Don Brereton, and Harold Kaufmann.

(p) Exhibit R. Exhibit R has been offered under separate cover, Motion to Reopen the Record. PECO Energy has not provided evidence that the information is not true or authentic. The complainant selected portions of the Industrial Power Systems Handbook as an exhibit because contents of the publication were the basis of a GE course that he took while with GE Energy System Operation in Schenectady NY and the basis of a GE course that he presented with author Warren Crites to General Motors Corporation. The complainant was recruited for a GE Industrial Power Systems program by author Walt Bloomquist. In his Schenectady assignment, the complainant worked alongside authors Lou Levoy, Walt Bloomquist, Don Brereton, and Harold Kaufmann.

(q) Exhibit R. Exhibit R has been offered under separate cover, Motion to Reopen the Record. PECO Energy has not provided evidence that the information is not true or authentic. The complainant selected portions of the Industrial Power Systems Handbook as an exhibit because contents of the publication were the basis of a GE course that he took while with GE Energy System Operation in Schenectady NY and the basis of a GE course that he presented with author Warren Crites to General Motors Corporation. The complainant was recruited for a GE Industrial Power Systems program by author Walt Bloomquist. In his Schenectady assignment, the complainant worked alongside authors Lou Levoy,

Walt Bloomquist, Don Brereton, and Harold Kaufmann. The purpose of submitting a symmetrical components exhibit is provide the Commission with an introduction to the type of system analysis that is required to determine the types and settings of required protective relays.

- (r) Exhibit S. Exhibit S has been offered under separate cover, Motion to Reopen the Record. PECO Energy has not provided evidence that the information is not true or authentic. The complainant selected portions of the Industrial Power Systems Handbook as an exhibit because contents of the publication were the basis of a GE course that he took while with GE Energy System Operation in Schenectady NY and the basis of a GE course that he presented with author Warren Crites to General Motors Corporation. The complainant was recruited for a GE Industrial Power Systems program by author Walt Bloomquist. In his Schenectady assignment, the complainant worked alongside authors Lou Levoy, Walt Bloomquist, Don Brereton, and Harold Kaufmann.
- (s) Exhibit T. Exhibit T has been offered under separate cover, Motion to Reopen the Record. PECO Energy has not provided evidence that the information is not true or authentic.
- (t) Exhibit U. Exhibit U has been offered under separate cover, Motion to Reopen the Record. PECO Energy has not provided evidence that the information is not true or authentic.
- (u) Exhibit V. Exhibit V has been offered under separate cover, Motion to Reopen the Record. PECO Energy has not provided evidence that the information is not true or authentic.

- (v) Exhibit W. Exhibit W has been offered under separate cover, Motion to Reopen the Record. PECO Energy has not provided evidence that the information is not true or authentic.
- (w) Exhibit X. Photograph was taken by the writer.
- (x) Exhibit Y. Photograph was taken by the writer.
- (y) Exhibit Z. With regard to PECO Energy's statement that "Exhibit Z, a photograph switchgear, an excerpt from a textbook": the photograph was not obtained from a textbook but was taken by the writer and the photograph is not of switchgear but MPAC equipment. Exhibits X and Y show examples of multifunctional relays in switchgear, but in Exhibit Z the writer showed the use of multifunctional relays in other equipment as well as in switchgear.
- (b) "Regarding assertions on page 6-7 of the Complainant's Brief ... [that] none of this material appears in the record": under separate cover, the writer requests that the material be entered under a Motion to Reopen the Record.
- (c) "Regarding assertions of pages 7-8" regarding work history: under separate cover, the writer requests that the material be entered under a Motion to Reopen the Record.
- (d) Under separate cover, the writer requests that the material be entered under a Motion to Reopen the Record.
- (e) Under separate cover, the writer requests that the material be entered under a Motion to Reopen the Record.

(f) Under separate cover, the writer requests that the material be entered under a Motion to Reopen the Record.

(g) Under separate cover, the writer requests that the material be entered under a Motion to Reopen the Record.

(h) Under separate cover, the writer requests that the material be entered under a Motion to Reopen the Record.

(i) Under separate cover, the writer requests that the material be entered under a Motion to Reopen the Record.

(j) Under separate cover, the writer requests that the material be entered under a Motion to Reopen the Record.

(k) Under separate cover, the writer requests that the material be entered under a Motion to Reopen the Record.

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(n) Under separate cover, the writer requests that the material be entered under a Motion to Reopen the Record.

(o) Under separate cover, the writer requests that the material be entered under a Motion to Reopen the Record.

(p) Under separate cover, the writer requests that the material be entered under a Motion to Reopen the Record.

(q) Under separate cover, the writer requests that the material be entered under a Motion to Reopen the Record.

(r) Under separate cover, the writer requests that the material be entered under a Motion to Reopen the Record.

(s) *The writer has stated a portion of the contents in his home and provided affidavit of the fact by stamping his Brief with his Professional Engineering Stamp.*

(t) Under separate cover, the writer requests that the material be entered under a Motion to Reopen the Record.

(u) Under separate cover, the writer requests that the material be entered under a Motion to Reopen the Record.

(v) Under separate cover, the writer requests that the material be entered under a Motion to Reopen the Record.

(x) Under separate cover, the writer requests that the material be entered under a Motion to Reopen the Record.

(y) With regard to business ethics that references pages 28-29, assuming that there is not a typo and PECO is confirming that “there is record evidence to support the discussion and opinions contained in this section of the Brief” then the writer agrees.

(z) Under separate cover, the writer requests that the material be entered under a Motion to Reopen the Record.

13. Under separate cover, the writer requests that the material be entered under a Motion to Reopen the Record.

14. No comment.

15. No comment.

16. The Commission's Telephonic Hearing Notice established a time and date for an Initial telephonic hearing. *From the Encarta Dictionary: Initial (adjective). Coming at start, coming first, or present at the beginning of an event or process.* The complainant is not familiar with the Commission's complaint process, but he had assumed that the initial hearing was for His Honor to determine if there was sufficient evidence for the complainant to move forward in the complaint process. Never-the-less, as directives are issued by the Commission and the complainant peruses the Pa code, there appears to be a process (52 Pa. Code §5.571) that allows for reopening, reconsideration and rehearing when "the public interest requires the reopening of the proceeding". Accordingly under separate cover, the complainant has filed a Motion To Reopen the Record.

17. 52 Pa. Code §5.571 allows for reopening, reconsideration and rehearing when "the public interests requires the reopening of the proceeding".

18. 52 Pa. Code §5.571 allows for reopening, reconsideration and rehearing when "the public interests requires the reopening of the proceeding". It is reasonable that the complainant, who is an engineer and not an attorney, having never been through this process, would not know all of

the ins and outs of the legal process. As for the evidence submitted in his 1/2/12 Brief, the Brief was submitted prior to the 1/10/12 deadline which the writer considers “shortly thereafter” the initial hearing.

As for the suggestion that evidence provided “would be fundamentally unfair and would violate PECO’s due process rights”, to the contrary, it is in the public interest to have a full airing of the evidence. PECO has been provided the opportunity to research the low voltage issue. PECO has been provided the opportunity to perform a system analysis. PECO has been provided the opportunity to improve their system reliability and power quality. PECO has been offered information on how the low voltage may be mitigated. PECO has been provided the benefit of the writer reaching out to solve the low voltage issue and in sharing his experience. PECO has been provided the opportunity to produce evidence that shows that PECO knows the precise voltage at all times that is applied on the distribution line and at the writer’s service entrance. PECO has been provided the opportunity to show that modern multifunctional relays that include under voltage protection are installed on the distribution lines that feed the writer’s residence. PECO has been provided the opportunity to resolve the issue without the involvement of the Commission. PECO Energy is clearly not interested in resolving a technical issue *that the public interest requires* (52 Pa. Code §5.571).

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JAN 26 2012

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Respectfully submitted,



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