

Robert W. Ellis
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Birchrunville, PA 19421-0187

Phone: 610-469-9176
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February 16, 2012

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

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FEB 16 2012

**Re: Robert Ellis v. PECO Energy Company
Docket No. C-2011-2256958**

**PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU**

Dear Secretary Chiavetta:

Enclosed for filing is an original of my Answer to a Motion for Judgment on the Pleadings in response to PECO Energy Company's Motion for Judgment on the Pleadings filed in this matter. A copy has been served on the Respondent in accordance with the attached Certificate of Service.

If you have any questions, please feel free to contact me.

Best regards,



Robert W. Ellis

Encl.

cc: Certificate of Service

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

ROBERT ELLIS :
Complainant :
 :
v. :
 :
PECO ENERGY COMPANY :
Respondent :

Docket No. C-2011-2256958

ANSWER TO PECO'S MOTION FOR JUDGEMENT ON THE PLEADNGS

On January 31, 2012, Robert Ellis was served with a Motion for Judgment on the Pleadings by PECO Energy Company in the above captioned Document Number.

Pursuant to Pa Code § 5.61, Robert Ellis hereby responds to the Motion as follows:

1. Denied in part. The Complaint did not request that PECO be ordered to modify the RH and OP distribution rates for residential customers and return the rates to those that existed in 2010. The Complaint did request that PECO be required to adjust their distribution rates for rate RH/OP customers ... to reflect a discount from their rate R tariffs that is commensurate to the discounts that applied in 2010 ...
2. Admitted.
3. Denied.
4. Admitted.
5. Admitted.
6. This is a statement of law that requires no response.

7. This is a statement of law that requires no response.
8. Denied. The Complaint does state a claim for which relief can be granted. PECO's communications to their RH and OP customers in 2010 and 2011 stated that "PECO's discount on our charges to deliver electricity to you will remain". Those discounts did not continue in 2011 and thus far in 2012, but rather have been reduced or eliminated entirely.
9. Admitted.
10. Admitted.
11. Admitted to the extent that it applies only to generation and/or transmission rates.
12. Admitted to the extent that it applies only to generation and/or transmission rates.
13. Admitted.
14. This is a statement of law that requires no response.
15. This is a statement of law that requires no response.
16. This is a statement of law that requires no response.
17. Denied. The Complaint relates to the change in distribution rates.
18. This is a statement of law that requires no response.
19. This is a statement of law that requires no response.
20. This is a statement of law that requires no response.
21. And the Section continues, "unless set aside, annulled or modified on judicial review."
22. Denied.

23. Admitted to the extent that it applies only to generation and/or transmission rate discounts.
24. Denied. Section 316 also states that “.... any rule, regulation, finding, determination or order” may be “.... set aside, annulled or modified on judicial review.”
25. Denied.
26. Admitted.
27. Admitted.
28. Admitted.
29. This was already answered in paragraph 20 of Complainant’s Answer To New Matter.
30. Denied. Section 316 also states that “.... any rule, regulation, finding, determination or order” may be “.... set aside, annulled or modified on judicial review.”
31. Denied.
32. This is a statement of law that requires no response.
33. This is a statement of law that requires no response.
34. This is a statement of law that requires no response.
35. Denied.
36. And the Section continues, “unless set aside, annulled or modified on judicial review.”
37. This was already answered in paragraph 19 of Complainant’s Answer To New Matter.

38. Admitted to the extent that it applies only to generation and/or transmission rate discounts.
39. Admitted to the extent that it applies only to generation and/or transmission rate discounts.
40. Denied.
41. Denied.
42. Denied in part. Complainant is not challenging the wording of the statements on PECO's website regarding the RH and OP rates. In fact, it is part of the basis of the Complaint. To the extent that the Commission approved those notices, it then had the obligation to insure that the discounts on the distribution rates (compared to rate R) were retained, rather than approving the much larger increases that were a part of the 2011 (and later) tariffs.
43. This was already answered in more detail in paragraph 19 of Complainant's Answer To New Matter. Specifically, with respect to PECO's statement in this paragraph 43, in PECO's "Energy@Home" monthly letter included with the monthly bills, PECO kept lowering the increase customers could expect in their bills in 2011 from about 15%, to about 10%, and finally to about 5%. I could accept an increase of about 5%, so I did not express any concerns. When I discovered after receiving my February bill (the January bill was a blended December/January rate) that my total rate RH charges had increased by about 10% (as much as 67+% in variable rate distribution) and my rate OP by about 19% (over

47% in variable rate distribution) I contacted PECO to find out what happened.

44. Admitted.

45. This was already answered in paragraph 45 of Complainant's Answer To New Matter.

46. Denied. The referenced Complaint was an objection to the elimination of the discount of the rate RH generation and transmission rates (partially in 2012 and completely in 2013), whereas my Complaint centers on the (partial or complete) reduction in the discount on distribution rates for rates RH and OP. With respect to "*Diehl v. PPL Electric Utilities Corporation*, Docket No. C-2009-2149261", "... the Commonwealth Court interpreted the Competition Act as requiring that rates for transmission, distribution and generation each be based separately, based on the cost of serving each separate class of customers." This should not preclude the continuation of the rate RH and OP distribution rate discounts that existed in 2010, compared to rate R, for 2011 and later tariffs for the following reasons:

- a. PECO's distribution network must be designed to support peak demand.
- b. Peak demand occurs in the summer cooling season.
- c. The network has excess capacity during the winter heating season.
- d. Adding demand during the heating season causes a minimal increase in cost to maintain, and requires no expansion of, the network.

- e. Consequently, providing a variable distribution rate discount to customers who install electric heating appliances (as opposed to wood, coal, oil, propane, etc.) as their primary heating source, with a greater discount for customer usage over 600 kWh in any given month, benefits PECO (as long as the total charge to the customer exceeds, on average, the charge that would have existed if the customer was billed under rate R without the addition of the electric heating appliances), and the customer (who would benefit from a lower heating cost). This is essentially the basis for rate RH discounts.
- f. PECO would benefit if the additional cost of expanding and maintaining the distribution network, primarily for peak demand, could be reduced.
- g. Consequently, providing a variable distribution rate discount greater than that for rate RH to customers who agree to have power suspended for up to 6-1/2 hours per day during the peak hours of the cooling season, and up to 2-1/2 hours during the peak hours of the heating season (to prevent cannibalizing the RH rate) benefits both PECO, and customers who can adhere to the restrictions. This is essentially the basis for the rate OP discounts.

47. With respect to Docket No. C-2010-2153688, I cannot find specifics of the decision on the PUC website. With respect to Docket No. C-2009-2105583, the Complainant did not provide any legal justification for the rate decrease. With respect to Docket No. C-20010-2156300, the

Complainant did not provide any evidence why the reduced rate was justified. With respect to Docket # C-2009-2144804, I cannot find specifics of the decision on the PUC website.

48. Denied.

REQUEST FOR RELIEF

WHEREFORE, for all the reasons stated herein, and in the original complaint and Answer to New Matter, Robert Ellis respectfully requests that your Honorable Commission reject PECO's request to dismiss the instant case with prejudice and to enter a judgment in favor of the Complainant.

VERIFICATION

I, Robert W. Ellis, 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 made herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Respectfully submitted,



Robert W. Ellis
PO BOX 187
Birchrunville, PA 19421-0187
Tel. (610) 469-9176
bosishere@verizon.net

Dated: February 16, 2012

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

ROBERT ELLIS	:	
Complainant	:	
	:	
v.	:	Docket No. C-2011-2256958
	:	
PECO ENERGY COMPANY	:	
Respondent	:	

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing Answer to a Motion for Judgment on the Pleadings in this matter 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

Michael A. Gruin
Stevens and Lee
17 N 2nd ST, 16th Floor
Harrisburg, PA 17101


Robert W. Ellis

Dated this 16th day of February, 2012

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

POST OFFICE
P.O. Box 187
2823 Flowing Springs Rd.
Birchrunville, PA 19421



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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

ROSEMARY CHIAVETTA, SECRETARY
PENNSYLVANIA PUBLIC UTILITY COMMISSION
COMMONWEALTH KEYSTONE BUILDING
400 NORTH ST, 2ND FLOOR
HARRISBURG, PA 17120