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May 30, 2012

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

**Re: David Oliver v. PECO Energy Company
PUC Docket No. F-2012-2305431**

Dear Ms. Chiavetta:

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>	Answer & New Matter (1 original)
<u> -- </u>	Motion to Dismiss (original)
<u> </u>	Motion for Judgment on the Pleadings (1 original)
<u> X </u>	Preliminary Objection (1 original)
<u> </u>	Exceptions (1 original)
<u> </u>	Reply Exceptions (1 original)
<u> </u>	Main Brief (1 original)
<u> </u>	Reply Petition (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,



Shawane Lee
Counsel for PECO Energy Company

SL/adz

Enc.

Scheduling Recommendation: Call of the docket Non Call of the docket X

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

DAVID OLIVER	:	
Complainant	:	
	:	
v.	:	DOCKET NO. F-2012-2305431
	:	
PECO ENERGY COMPANY	:	
Respondent	:	

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 Preliminary Objection of PECO Energy Company within 10 days from service of this notice, a decision may be rendered against you. All pleadings, such as a Reply to Preliminary Objection, must be filed with the Secretary of the Pennsylvania Public Utility Commission, with a copy served to counsel for PECO Energy Company, Shawane L. Lee, and where applicable, the Administrative Law Judge presiding over the issue.

File with:

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

With a copy to:

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

Dated at Philadelphia, PA, May 30, 2012



Shawane L. Lee
Counsel for PECO Energy Company
2301 Market Street S-23
Philadelphia, PA 19101-8699
215-841-6863
Shawane.Lee@exeloncorp.com

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

DAVID OLIVER	:	
Complainant	:	
	:	
v.	:	DOCKET NO. F-2012-2305431
	:	
PECO ENERGY COMPANY	:	
Respondent	:	

PRELIMINARY OBJECTION OF RESPONDENT, PECO ENERGY COMPANY

Respondent, PECO Energy Company (“PECO Energy”), pursuant to 52 Pa. Code § 5.101, respectfully petitions this Honorable Commission to dismiss this Complaint inasmuch as it requests damages:

1. Complainant’s request for damages should be dismissed as impertinent¹ pursuant to 52 Pa. Code § 5.101(a)(2).

2. Complainant filed a Formal Complaint with the Pennsylvania Public Utility Commission on or about May 12, 2012, wherein Complainant requested reimbursement for the time he “spent trying to communicate with PECO and resolve this claim over the last 6 months.” The Complainant stated that he very conservatively estimates that he has committed 24 hours of time attempting resolution. 24 hours x \$500.00 = \$12,000.

¹ Impertinence is defined as “That which does not belong to a pleading, interrogatory, or other proceeding; out of place; superfluous; irrelevant. A term applied to matter not necessary to constitute the cause of action or ground of defense. Such matter may be ordered stricken from the pleading. Fed.R.Civil P. 12(f). See also Immaterial averment; Surplusage. Black’s Law Dictionary 679 and 1206 (rev. 5th ed. 1979)

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

4. To the extent that Complainant is seeking compensation for the alleged damages his Complaint for damages should be stricken.

5. 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).

WHEREFORE, PECO Energy Company respectfully requests that your Honorable Commission dismiss Complainant's request for damages, pursuant to 52 Pa. Code § 5.101(a)(1), because the Commission lacks power to award damages.

Respectfully submitted,



Shawane L. Lee
Counsel for PECO Energy Company
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(215) 841-6841
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Shawane.Lee@exeloncorp.com

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

DAVID OLIVER	:	
Complainant	:	
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VERIFICATION

I, Shawane L. Lee, 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: May 30, 2012



Shawane L. Lee

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PENNSYLVANIA PUBLIC UTILITY COMMISSION**

DAVID OLIVER	:	
Complainant	:	
	:	
v.	:	DOCKET NO. F-2012-2305431
	:	
PECO ENERGY COMPANY	:	
Respondent	:	

CERTIFICATE OF SERVICE

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

David Oliver
316 Winfield Road, Lot 8
Devon, PA 19333

Dated at Philadelphia, Pennsylvania, May 30, 2012



Shawane L. Lee
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