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August 20, 2012

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

RECEIVED

AUG 20 2012

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Re: **Mari Jo Jensen v. PECO Energy Company**
PUC Docket No. F-2011-2270675

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 to Dismiss (original)
—	Motion for Judgment on the Pleadings (1 original)
—	Preliminary Objection (1 original)
—	Exceptions (1 original)
<u>X</u>	Reply Exceptions (1 original)
—	Main Brief (1 original)
—	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,

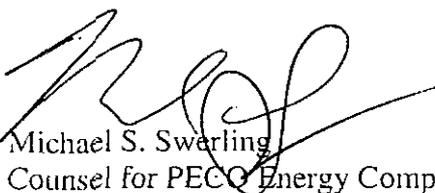

Michael S. Swerling
Counsel for PECO Energy Company
MSS/adz
Enc.

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INTRODUCTION

The Complaint in this proceeding, filed by Mari Jo Jensen, alleged that PECO incorrectly calculated her end-of-year compensation for accumulated excess generation produced by her renewable energy generating “solar” system. Ms. Jensen’s case was dismissed by the Initial Decision of Administrative Law Judge, Christopher P. Pell (“ALJ Pell”) because ALJ Pell found that PECO complied with existing Commission regulations in calculating Ms. Jensen’s year-end compensation. Ms. Jensen filed Exceptions to the Initial Decision that contained statements and comments, which did not relate to the sole issue of her Complaint.

The Commission should deny Ms. Jensen’s Exceptions because they fail to identify and dispute any findings, facts, or conclusions of law contained in the Initial Decision, in violation of 52 Pa.Code § 5.533(b). Furthermore, ALJ Pell’s Initial Decision correctly held that PECO calculated the Complainant’s end-of-year excess energy compensation in accordance with existing regulations of the Pennsylvania Public Utility Commission (the “Commission”). As such, the Commission should adopt ALJ Pell’s Initial Decision because PECO is entitled to judgment on the pleadings as a matter of law and the Complainant is not entitled to relief.

BACKGROUND

The Formal Complaint in this proceeding was filed by Mari Jo Jensen on October 21, 2011 and alleged that PECO did not use the correct method, per the Pennsylvania Code to calculate her accumulated end-of-year compensation for being a renewable energy customer with excess generation (Ms. Jensen has a solar voltaic energy generating

system). According to Ms. Jensen, the Commission's Final Omitted Rulemaking Order at Docket No. L-00050174¹ (hereinafter "Final Omitted Order") requires PECO to calculate her end-of-year-compensation with a weighted average price to compare ("PTC") where the weighting occurs only over the months in which she generates excess energy during the PJM year (June 1 to May 31). Ms. Jensen claims that PECO did not base her credit only over the months in which she generated excess. Instead, it based her credit on the PTC from the entire PJM year.

On November 23, 2011, PECO filed an Answer and New Matter in which it denied the allegations raised in the Formal Complaint. PECO's Answer explained that PECO properly calculated Ms. Jensen's year-end credit pursuant to 52 Pa.Code § 75.13(d), which states:

At the end of each year, the EDC shall compensate the customer-generator for any excess kilowatt-hours generated by the customer-generator over the amount of kilowatt hours delivered by the EDC during the same year at the EDC's price to compare.

According to the regulation, electric distribution companies ("EDC") only are required to compensate for excess generated kilowatt-hours ("kWh") created during the PJM year at the EDC's PTC. The regulation does not state that the compensation shall be calculated using a weighted average of the PTC rates in effect during the months when excess kWhs are generated, as Ms. Jensen claims.

In response to Ms. Jensen's reliance on the Commission's Final Omitted Order, PECO's New Matter indicated that page 20 of the Final Omitted Order was the only place that mentioned calculating the customer's compensation by using a weighted

¹ See the Final Omitted Rulemaking Order to the Implementation of Act 35 of 2007; Net Metering and Interconnection rulemaking at Docket No. L-00050174 (entered on July 2, 2008).

average of Transmission and Generation rates.² While page 20 discussed a weighted average, the regulations contained in the Annex A to the Final Omitted Order did not include any language/requirement that EDCs use a weighted average in calculating end-of-year credits. While PECO acknowledged the possibility of a contradiction between the Final Omitted Order and its Annex A, PECO asserted that it complied with 52 Pa.Code § 75.13(d) in calculating Ms. Jensen's end-of-year compensation and requested that ALJ Pell find that PECO acted properly in accordance with Commission regulations.

On February 28, 2012, PECO filed a Motion for Judgment on the Pleadings requesting the Formal Complaint be dismissed for Complainant's failure to respond to the newly raised material facts and defenses contained in PECO's New Matter. In the alternative, PECO recommended dismissing the Formal Complaint and converting it into a Petition for Declaratory Order, sua sponte, or allowing Ms. Jensen to file such a Petition on her own if the Commission believed that contradictions or uncertainties existed as to the law governing end-of-year renewable energy reimbursements.

On May 31, 2012, ALJ Pell's Initial Decision was served upon the parties. According to ALJ Pell, "[t]he sole issue raised in the Complaint is how PECO calculated the end-of-year compensation for complainant's excess generation." (I.D. at 6). In conclusion, ALJ Pell held that:

Although the Commission Order discussed using a weighted average generation and transmission rate to calculate a customer-generator's year-end compensation for excess generation, the regulation as approved by the Commission makes no mention of using a weighted average. It simply provides that the EDC will

² The relevant language from page 20 of the Commission's Final Omitted Rulemaking Order states:

Since the EDC's retail generation and transmission rates may fluctuate during a year, such compensation shall be calculated by using the weighted average generation and transmission rates, with the weighting based on the rates in effect when the monthly excess generation actually was delivered by the customer-generator to the EDC.

compensate the customer-generator utilizing the EDC's price-to-compare. That is precisely what PECO did. While I understand the complainant's argument, no relief can be granted to the complainant in this case as it is clear that PECO followed the Commission's regulations and therefore is entitled to judgment as a matter of law. (I.D. at 7-8).

Because PECO complied with the existing regulations and no relief could be granted to Ms. Jensen, ALJ Pell dismissed the Formal Complaint as a matter of law.

On June 15, 2012, Ms. Jensen filed Exceptions to the Initial Decision. She did not take Exception to the Initial Decision of ALJ Pell. Instead, Ms. Jensen generally claimed that the monthly excess generation credits do not clearly appear on her bills and PECO did not provide her with requested documentation so that she could understand how those monthly credits were calculated.

On August 8, 2012, the Commission served PECO with a letter indicating that although Ms. Jensen filed her Exceptions on June 15, 2012, they did not include a certificate of service demonstrating that PECO was served with the Exceptions. As such, the Commission provided PECO with 10 days from the date of the letter to file Reply Exceptions. Accordingly, PECO is filing its Reply Exceptions in accordance with the schedule adopted by the Commission in its August 8, letter.

REPLY EXCEPTIONS

I. The Commission Should Adopt ALJ Pell's Initial Decision because PECO Complied with Commission Regulations and the Complainant's Exceptions do not Comply with 52 Pa. Code § 5.533(b).

ALJ Pell's decision to dismiss the Formal Complaint should be adopted by the Commission because the Complainant's Exceptions fail to identify and dispute any specific matters addressed by ALJ Pell's decision in violation of 52 Pa.Code § 5.533(b).

This section states, in pertinent part, that each Exception shall identify the findings of fact or conclusions of law to which each Exception is taken, and also state the supporting reasons for each Exception. Ms. Jensen's Exceptions do not identify any findings, facts, or conclusions of law (with supporting data) to which the Complainant takes exception. Therefore, because the Exceptions do not comply with the requirements set forth in 52 Pa.Code § 5.533(b), they should be denied.

Furthermore, Administrative Law Judge, Christopher P. Pell's Initial Decision correctly held that PECO calculated the Complainant's end-of-year excess energy compensation in accordance with existing regulations of the Commission. As such, there is no genuine issue as to a material fact left to decide and PECO is entitled to judgment as a matter of law.

II. The Newly Raised Statements and Comments in the Exceptions Should not be Considered by the Commission Because They do not Relate to the Sole Issue of the Complaint.

It is worth noting that Ms. Jensen's Exceptions contain newly raised statements and comments unrelated to the sole issue in her Formal Complaint. In her Exceptions, Ms. Jensen generally claims that the way her monthly excess credits appear on her bills is confusing. She also claims that although she has requested detailed documentation to better understand her monthly excess generation credits, PECO did not send her the requested documentation.

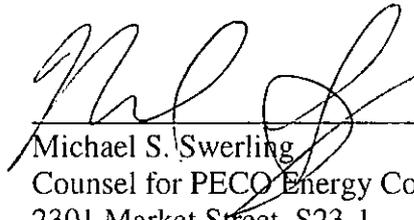
Because Ms. Jensen did not raise these claims in her Formal Complaint, they are not supported by record evidence, and they do not address the sole issue raised in her

Complaint - how PECO calculated the end-of-year compensation for complainant's
excess generation - these new allegations should not be considered by the Commission.

CONCLUSION

For the reasons set forth above, PECO requests that this Honorable Commission
adopt ALJ Pell's Initial Decision and deny the Complainant's Exceptions.

Respectfully submitted,



Michael S. Swerling
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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

MARI JO JENSEN,

v.

PECO ENERGY COMPANY

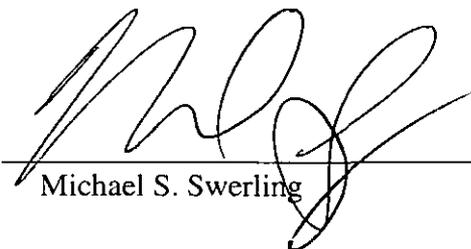
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DOCKET NO. F-2011-2270675

VERIFICATION

I, Michael S. Swerling, 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: August 20, 2012



Michael S. Swerling

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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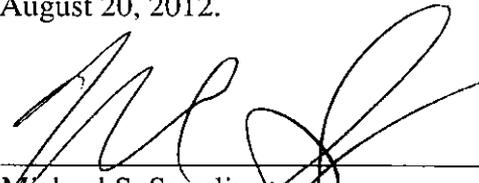
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CERTIFICATE OF SERVICE

I, Michael S. Swerling, 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:

MARI JO JENSEN
8 Sleighride Road
Glen Mills, PA 19342

Dated at Philadelphia, Pennsylvania, August 20, 2012.



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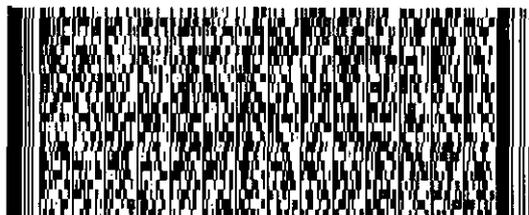
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