

**Legal Department**

Fax 215.568.3389  
www.exeloncorp.com

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

Direct Dial: 215.841.6841

December 10, 2012

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

**RE: Peter Coppola v. PECO Energy Company**  
**PUC Docket No.: C-2010-2186754**

Dear Ms. Chiavetta:

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

—	Answer
—	Answer & New Matter
—	Motion to Dismiss
<u>X</u>	Motion Objecting Continuance
—	Preliminary Objection
—	Exceptions
—	Reply Exceptions
—	Main Brief
—	Reply Petition

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/lo

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

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PETER COPPOLA

v.

PECO ENERGY COMPANY

:  
:  
:  
:  
:

DOCKET NO. C-2010-2186754

**MOTION OF PECO ENERGY COMPANY OBJECTING TO  
COMPLAINANT, PETER COPPOLA'S REQUEST FOR CONTINUANCE OF  
HEARING DATE**

PECO Energy Company ("PECO Energy"), pursuant to 52 Pa. Code § 1.15, hereby objects to the continuance of the hearing date scheduled in this matter and states the following:

1. An in person hearing in this matter is currently scheduled for Monday, December 10, 2012 at 10:00 am.
2. The Complainant's counsel, Joseph Capone, Esquire, requested a continuance late Friday afternoon, stating that he had criminal trial scheduled to take Monday, December 10, 2012.
3. First, the Complainant's request for a continuance is procedurally incorrect and should be denied on that basis alone.
4. Pursuant to 52 Pa.Code § 1.15(b), a request for a change of the scheduled hearing date must be submitted *by motion* in writing, *filed no later than five (5) days* prior to the hearing with the Commission. The motion must state the facts upon which the request rests.
5. The Complainant has not submitted a Motion for a Continuance as required by section 1.15(b).
6. Additionally, the letter requesting a continuance was made late afternoon preceding a Monday morning hearing, as opposed to five days as required by section 1.15(b).

7. Complainant's counsel, Joseph P. Capone, Esquire, states that he has a criminal trial beginning in federal court in the matter United States vs. Hakeem Paris.

8. Mr. Capone had advance notice that this trial had been scheduled on Monday and that the trial would conflict with the Peter Coppola hearing. Yet, he did not send notice to the Commission five days prior to the hearing as required by section 1.15(b) and did not send a motion as required by the rules.

9. Second, as stated in the Prehearing Order in this matter, requests for a continuance are only granted "in rare situations where good cause exists." (Prehearing Order, citing 52 Pa. Code § 1.15).

10. No good cause exists here. Complainant asserts that he has a trial beginning in federal court.

11. PECO Energy notes that Mr. Capone is a partner in a two person law firm, and therefore, he has the resource of an additional law partner who could cover the Peter Coppola hearing.

12. It is not fair for PECO Energy and the Commission to be held hostage by Mr. Coppola's trial schedule. In light of the fact that Mr. Capone has additional coverage resources, PECO Energy asserts that this does not constitute good cause.

13. Moreover, the Complainant has and/or his counsel has requested continuances of this matter four (4) separate times.

14. This matter was scheduled to take place on January 4, 2011. Mr. Coppola requested a continuance, stating that he had a death in the family. See Motion for Continuance, attached hereto as Exhibit "1".

15. This matter was scheduled to take place on August 21, 2012. Mr. Capone requested a continuance because he was on vacation during that time. See Correspondence, dated 7/16/12, attached hereto as Exhibit “2”.

16. The matter was rescheduled to take place on October 15, 2012. Two days before the hearing, Mr. Capone requested that the matter be continued because he was recovering from spinal surgery. See Motion for Continuance, attached hereto as Exhibit “3”.

17. Finally, the continuance at issue here was requested late Friday afternoon before a Monday morning hearing. See Correspondence, dated 12/7/2012, attached hereto as Exhibit “4”.

18. The record of continuances demonstrates that the Complainant and his counsel have delayed this matter by requesting continuances.

19. Additionally, at least two of the continuances were not requested in compliance with section 1.15(b), as they were not made within five (5) days before the hearing.

20. PECO Energy is required to continue to hold collection activity on Mr. Coppola’s account because of the formal complaint process.

21. Further, PECO Energy should not be prejudiced by having to expend an inordinate amount of its resources to prepare for hearings for which the Complainant requests last minute continuances.

22. PECO Energy had to prepare its witnesses for this case on four separate occasions. The witnesses had to be removed from their duties at the company in order to prepare to testify.

23. PECO Energy strives for a quick and fair resolution with all customer complaints and asserts that further delay in this proceeding will prejudice PECO Energy and its ratepayers.

Respectfully Submitted,



---

Shawane L. Lee  
Counsel for PECO Energy Company  
2301 Market Street, S23-1  
P.O. Box 8699  
Philadelphia, PA 19101-8699  
Direct Dial: 215.841.6841  
Fax: 215.568.3389  
Shawane.Lee@exeloncorp.com

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PETER COPPOLA

v.

PECO ENERGY COMPANY

:  
:  
:  
:  
:

DOCKET NO. C-2010-2186754

:

**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.



---

Shawane L. Lee

Date: December 10, 2012

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PETER COPPOLA

v.

PECO ENERGY COMPANY

:  
:  
:  
:  
:

DOCKET NO. C-2010-2186754

**CERTIFICATE OF SERVICE**

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

Joseph P. Capone, Esquire  
Capone & Gambone  
211 North 13<sup>th</sup> Street, Suite 801  
Philadelphia, PA 19107



---

Shawane L. Lee  
Counsel for PECO Energy Company  
2301 Market Street, S23-1  
P.O. Box 8699  
Philadelphia, PA 19101-8699  
Direct Dial: 215.841.6841  
Fax: 215.568.3389  
[Shawane.Lee@exeloncorp.com](mailto:Shawane.Lee@exeloncorp.com)

Dated at Philadelphia, Pennsylvania, December 10, 2012.

**EXHIBIT "1"**

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

TISHEKIA WILLIAMS  
JAN 04 2011

Peter Coppola

v.

PECO Energy Company

:  
:  
:  
:  
:

C-2010-2186754

**PREHEARING ORDER #2**  
**MOTION FOR CONTINUANCE**

By Hearing Notice dated November 4, 2010, an Initial In-Person Hearing was scheduled for this proceeding on Tuesday, January 4, 2011 at 10 a.m. By telephone call on December 30, 2010, Mr. Peter Coppola, President of A&S Deli, (Complainant) and author of the formal complaint at issue requested that this matter be rescheduled. More specifically Mr. Coppola stated that he had death in the family. Mr. Coppola represented that he contacted PECO Energy Company's (PECO) counsel, Tishekia Williams, Esquire, who did not oppose the request.

Pursuant to 52 Pa.Code § 1.15(b), a request for a change of the scheduled hearing date must be submitted by motion in writing, filed no later than five (5) days prior to the hearing with the Pennsylvania Public Utility Commission ("Commission" or "PUC"). The motion must state the facts upon which the request rests. This matter is ripe for ruling.

The rescheduling request by the Complainant is timely and although not in the proper form, will be considered under the circumstances. It is compelling that opposing counsel does not oppose the request. I am sympathetic to Mr. Coppola under the circumstances of death in the family.

I find it reasonable to grant the request. I caution both parties that a request in the future to continue this matter will be met with strict scrutiny.

However, I note that my previous Prehearing Order dated November 10, 2010, directed that evidence of an attorney to represent A&S Deli should be received by December 28, 2010. See *Coppola v. PECO Energy Company*, Prehearing Order, November 10, 2010, ¶ 11. I note that I do not, to date, have the required evidence. I am hopeful that I will receive the evidence shortly. Complainant should file a Notice of Appearance with the Commission by an eligible attorney no later than January 14, 2011. I caution Complainant that failure to comply with the directive may prove detrimental to Complainant's interests.

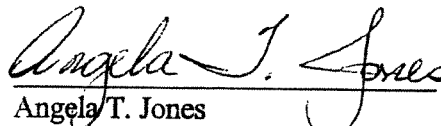
A Notice of Hearing canceling the current hearing date and rescheduling to a future date will be issued. All parties are encouraged to talk with each other to resolve this matter, or some portion thereof, if possible, as it is the Commission's policy to encourage settlement. 52 Pa.Code § 5.231.

THEREFORE,

IT IS ORDERED;

1. That the continuance requested by Peter Coppola in the formal Complaint of Peter Coppola v. PECO Energy Company at Docket No. C-2010-2186754 is granted.
2. That Peter Coppola is directed to cause a Notice of Appearance to be filed with the Pennsylvania Public Utility Commission no later than January 14, 2011 by an eligible attorney.
3. That this matter is to be rescheduled for hearing.

Date: December 30, 2010

  
Angela T. Jones  
Administrative Law Judge

Peter Coppola v. PECO Energy Company  
Docket No. C-2010-2186754

SERVICE LIST

Peter Coppola  
2848 S. 17<sup>th</sup> Street, 1<sup>st</sup> Floor  
Philadelphia, PA 19145

Tishekia Williams, Esquire  
Exelon Business Services Company  
2301 Market Street, S23-1  
P.O. Box 8699  
Philadelphia, PA 19101-8699

**EXHIBIT "2"**

# Capone & Gambone

ATTORNEYS AT LAW

MEMBERS OF PENNSYLVANIA AND NEW JERSEY BARS

JOSEPH P. CAPONE, Esq.  
JOSEPH@CAPONEGAMBONE.COM

ALFONSO GAMBONE, Esq.  
ALFONSO@CAPONEGAMBONE.COM

WISHER/WILLIAM

JUL 18 2012

July 16, 2012

Via First Class Mail

Administrative Law Judge Angela T. Jones  
Pennsylvania Public Utility Commission  
801 Market Street, 4<sup>th</sup> Floor, Ste. 4063  
Philadelphia, PA 19107

Re: **Peter Coppola vs. Pennsylvania Public Utility Commission**  
Docket No.: 2124 DC 2011

Dear Judge Jones:

Please be advised that I have now been retained to represent Peter Coppola with reference to the above captioned matter. Kindly accept this letter as a joint request from myself and Shawnie Lee, Esquire, counsel for Defendant PECO Energy Company to change the current scheduled hearing date of August 21, 2012 at 10:00 a.m. In addition, I will be on vacation through the latter part of August and would appreciate some courtesy in providing a date in October, if possible.

Ms. Lee joins in this request, which is being made because the parties need additional time to exchange documents and resolve evidentiary issues to allow both sides sufficient time to prepare for the hearing to be held before you.

Furthermore, it is anticipated that the exchange of documents and the resolution of these evidentiary issues may result in successful settlement negotiations, which have already begun.

We both thank you in advance for your kind consideration of this request.

Respectfully yours,

CAPONE & GAMBONE

By:

JOSEPH P. CAPONE

JPC/cm

Enc.

cc: Shawane Lee, Esquire

PECO ENERGY  
EXHIBIT 2

**EXHIBIT "3"**

# Capone & Gambone

## ATTORNEYS AT LAW

MEMBERS OF PENNSYLVANIA AND NEW JERSEY BARS

**JOSEPH P. CAPONE, Esq.**  
JOSEPH@CAPONEGAMBONE.COM

**ALFONSO GAMBONE, Esq.**  
ALFONSO@CAPONEGAMBONE.COM

October 12, 2012

Via First Class Mail and Facsimile (215-560-3133)

Administrative Law Judge Angela T. Jones  
Pennsylvania Public Utility Commission  
801 Market Street, 4<sup>th</sup> Floor, Ste. 4063  
Philadelphia, PA 19107

Re: **Peter Coppola vs. Pennsylvania Public Utility Commission**  
Docket No.: 2124 DC 2011

Dear Judge Jones:

I apologize for the last minute correspondence but I am recuperating from spinal surgery which was performed Monday October 8, 2012. I am essentially bed ridden for two weeks and respectfully request an additional continuance of the hearing schedule for this Monday October 15, 2012 in regards to the above matter. I have informed my adversary, Shawane Lee, Esquire, and there is no objection to a continuance with her under these circumstances.

Accordingly, whatever consideration you can show me will be greatly appreciated.

Very truly yours,

**CAPONE & GAMBONE**

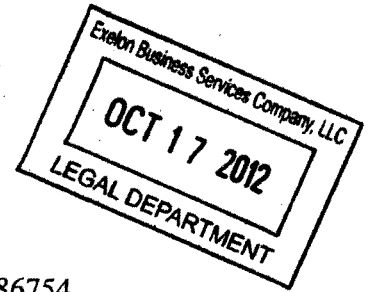
By: 1st Joseph P. Capone  
JOSEPH P. CAPONE, ESQ.

Cc: Shawane Lee, Esq.  
Peter Coppola

JPC/dc

Dictated not read.

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION



Peter Coppola

v.

PECO Energy Company (Remanded)

C-2010-2186754

**PREHEARING ORDER #3**  
**MOTION FOR CONTINUANCE**

By Hearing Notice dated July 24, 2012, a Further Hearing On Remand was scheduled for this proceeding for Monday, October 15, 2012 at 10:00 a.m. By letter dated October 12, 2012, Joseph P. Capone, Esquire, counsel for the Complainant, requested that this matter be rescheduled because he was recuperating from spinal surgery performed Monday, October 8, 2012. Counsel further shared that he is bed ridden for two weeks implying that he cannot adequately represent his client, Peter Coppola, under his current physical condition. Mr. Capone represented that opposing counsel for PECO Energy Company ("Respondent" or "PECO"), Shawane Lee, Esquire, did not object to the request. Subsequent to receiving the letter, Ms. Lee sent by electronic mail, acknowledgement of the requested continuance and confirmed that PECO did not object.

Pursuant to 52 Pa.Code § 1.15(b), a request for a change of the scheduled hearing date must be submitted by motion in writing, filed no later than five (5) days prior to the hearing with the Commission. The motion must state the facts upon which the request rests. This matter is ripe for ruling.

The rescheduling request by the Complainant is not timely and is not in the proper form. The form of the request will not prevent this Administrative Law Judge ("ALJ") to consider the substance of the request.

It is noted that Mr. Capone requested that this matter be rescheduled to a date in October when he requested his first continuance. See July 16, 2012, letter requesting a continuance, ¶ 1. This is the second continuance request made by counsel for the Complainant. The consequence of the continuance requests when granted is to delay the resolution of the formal complaint filed by the Complainant. Nevertheless, it is compelling that opposing counsel does not contest the request. It is also reasonable that health issues of counsel may have affected the timeliness of this request. Considering all of the circumstances, I find it reasonable to grant the request. However, the undersigned ALJ cautions both parties that a request in the future to continue this matter will be met with strict scrutiny.

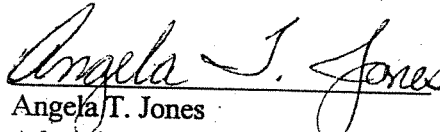
A Notice of Hearing canceling the current hearing date and rescheduling to a future date will be issued. All parties are encouraged to talk with each other to resolve this matter, or some portion thereof, if possible, as it is the Commission's policy to encourage settlement. 52 Pa.Code § 5.231.

THEREFORE,

IT IS ORDERED;

1. That the continuance sent letter dated October 12, 2012, requested by Joseph P. Capone, Esquire, counsel for the Complainant, Peter Coppola, in the formal Complaint of Peter Coppola v. PECO Energy Company (Remanded) at Docket No. C-2010-2186754 is granted.
2. That this matter is to be rescheduled for hearing.

Date: October 15, 2012

  
Angela T. Jones  
Administrative Law Judge

Peter Coppola v. PECO Energy Company (Remanded)  
Docket No. C-2010-2186754

SERVICE LIST

Joseph P. Capone, Esquire  
Capone & Gambone  
The Belmont Building  
211 N. 15<sup>th</sup> Street, Suite 801  
Philadelphia, PA 19107

Shawane L. Lee, Esquire  
Exelon Business Services Company  
2301 Market Street, S23-1  
P.O. Box 8699  
Philadelphia, PA 19101-8699

**EXHIBIT "4"**

# Capone & Gambone

**ATTORNEYS AT LAW**

MEMBERS OF PENNSYLVANIA AND NEW JERSEY BARS

December 7, 2012

**JOSEPH P. CAPONE, ESQ.**  
JOSEPH@CAPONEGAMBONE.COM

**ALFONSO GAMBONE, ESQ.**  
ALFONSO@CAPONEGAMBONE.COM

Via First Class Mail and Facsimile (215-560-3133)

Administrative Law Judge Angela T. Jones  
Pennsylvania Public Utility Commission  
801 Market Street, 4<sup>th</sup> Floor, Ste. 4063  
Philadelphia, PA 19107

**Re: Peter Coppola vs. Pennsylvania Public Utility Commission  
Docket No.: 2124 DC 2011**

Dear Judge Jones:

I apologize for the last minute correspondence, once again, but I am commencing trial Monday morning in Federal Court in front of the Honorable Mary A. McLaughlin in the matter of United States vs Hakeem Paris. Judge McLaughlin's chambers number is 267-299-7600.

Accordingly, I must respectfully request an additional continuance of the hearing schedule for this Monday December 10, 2012 in regards to the above matter. I have informed my adversary, Shawane Lee, Esquire, and she will contact the Court on Monday for further instructions.

Thank you for your consideration of this request.

Very truly yours,

**CAPONE & GAMBONE**

By: /s/ Joseph P. Capone  
JOSEPH P. CAPONE, ESQ.

Cc: Shawane Lee, Esq.  
Peter Coppola

JPC/dc