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December 20, 2012

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

RE: William R. Widdemer v. PECO Energy Company
PUC Docket No.: C-2012-2326728

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
—	Motion for Judgment on the Pleadings
—	Preliminary Objection
—	Exceptions
—	Reply Exceptions
—	Main Brief
<u>X</u>	Petition for Reconsideration

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

cc: William R. Widdemer (*via regular mail*)

January 2013. The Complainant states that he has no objection to the Off Peak rate being phased out; however, he alleges that paying \$1.75 per month for the Off Peak meter is akin to paying a “penalty” for a “redundant meter.”

2. The Complainant requests that the PUC order PECO Energy to waive the \$1.75 monthly cost or, at the very least, share the \$1.75 monthly cost with him.

3. On October 2, 2012, PECO Energy simultaneously filed a Preliminary Objection and Answer to the Complainant’s formal complaint.

4. In PECO Energy’s Preliminary Objection, the company averred that the Complainant’s request to reimburse him for the \$1.75 per month Off Peak meter cost was actually a request for the Commission to award him damages; and therefore, his complaint should be dismissed as a matter of law.

II. ALJ BUCKLEY’S OCTOBER 26, 2012 ORDER

5. On October 26, 2012, Administrative Law Judge Dennis J. Buckley (“ALJ Buckley”) issued an Opinion and Order Denying PECO Energy’s Preliminary Objections in the matter William R. Widdemer vs. PECO Energy Company, C-2012-2326728 (Order entered October 26, 2012) and ordered the matter be set for hearing.

6. ALJ Buckley stated, in pertinent part:

What Complainant is alleging is that PECO has gone beyond its lawful tariff in continuing to collect the \$1.75 fixed distribution service charge for the Off Peak meter at Complainant’s residence now that Off Peak service is no longer available. Arguably, this allegation, if proved, would constitute a violation of the Code at Sections 1303 (Adherence to tariffs) and possibly, 1304 (Discrimination in rates). 66 Pa. C.S. §§ 1303, 1304.

Order at 4-5.

7. ALJ Buckley's Order further stated:

PECO, in its Preliminary Objection, contends that the elimination of PECO's Off Peak rate was approved by the Commission as part of PECO's Default Service Program and Rate Mitigation Plan on June 9, 2009, at Docket No. P-2008-2062739, and that is correct. However, I do not agree that Complainant's remedy in this case is to seek reconsideration of that Order. The Order does not address the continued application of the \$1.75 fixed distribution service charge for an Off Peak meter that, apparently, has no further use in providing Complainant electric service.....I find it difficult to believe that utility equipment no longer "used and useful," is sitting in Complainant's basement and that the "options" are that Complainant must pay for its removal or pay for its continued presence. Perhaps these matters can be explained at hearing, but they are not explained by the Preliminary Objection or the attachments thereto so far as I can determine.

Order at 4-5.

III. THE ISSUES FOR RECONSIDERATION

8. PECO Energy seeks reconsideration of ALJ Buckley's Opinion and Order which determines that the \$1.75 fixed distribution service charge for an Off Peak meter is not addressed or approved by the Commission. Additionally, PECO Energy seeks reconsideration of the Opinion and Order that reasons the Off Peak meter utility equipment is no longer used and useful.

IV. LEGAL STANDARD FOR RECONSIDERATION

9. The Pennsylvania Public Utility Code, 52 Pa. Code § 5.572, states that for a Petition for Reconsideration to be successful, new or novel arguments must be raised:

Where the petitioners failed to raise new or novel arguments not previously considered by the Pennsylvania Public Utility Commission in the petition for reconsideration, they did not meet the established standard to warrant that the Commission reopen the proceeding. *Pennsylvania Public Utility Commission v. PECO Energy Co.*, M-00960820, P.U.R. 4th, Slip Opinion, (February 12, 1999).

The Commission, in Duick v. Pennsylvania Gas & Water Company, 56 Pa. PUC 553, 559 (1982), enumerated the standard to be applied when reconsideration of a Commission's Order is sought, as follows:

A Petition for Reconsideration, under the provisions of 66 Pa. C. S. §703(g), may properly raise any matters designed to convince the Commission that it should exercise its discretion under this code section to rescind or amend a prior order in whole or in part....What we expect to see raised in such petitions are new and novel arguments, not previously heard, or considerations which appear to have been overlooked or not addressed by the Commission.

(emphasis added).

V. BASES FOR RECONSIDERATION

A. **The \$1.75 Fixed Distribution Service Charge was approved as a part of the 2010 Electric Rate Case Settlement at Docket No. R-2010-2161575.**

10. In the Complainant's formal complaint, he states that he should not be charged the \$1.75 monthly charge for the Off Peak meter, or that PECO Energy should share the monthly cost with him.

11. The \$1.75 customer charge is assessed for each Off Peak meter at a customer's property and is part of the monthly basic distribution charge to cover costs for billing, meter reading, equipment and maintenance.

12. ALJ Buckley's Order determines that the Commission's Order approving PECO's Default Service Program and Rate Mitigation Plan on June 9, 2009, at Docket No. P-2008-2062739, does not address the continued application of the \$1.75 fixed distribution service charge for an Off Peak meter.

13. However, the Commission approved the \$1.75 rate as a part of the 2010 Electric Rate Case Settlement at Docket No. R-2010-2161575.

14. As a part of the rate case settlement, PECO submitted a Proof of Revenue, demonstrating the necessity for the charge, how the company designed its rates; and how the company proposed to obtain its revenue. See Rate Case Settlement, Rate Design, attached hereto as Exhibit "1".

15. The Commission heard testimony about the charge and there were no objections.

16. Specifically, the Commission asked PECO Energy to "Explain why PECO proposes to eliminate the Rate OP pricing advantage for distribution service". With regard to the Off Peak customer charge, PECO Energy answered, in relevant part:

In order to equalize the variable distribution charges of rate OP and Rate R, any increase in Rate OP will be allocated first to the variable distribution charge. As a result of this change, the Rate OP customer charge is being reduced from \$4.65 to \$2.00 per month. A customer charge is still necessary for Rate OP because customers served under this rate schedule have a separate meter for this service.

See Rate Case Testimony, attached hereto as Exhibit "2".

17. The Commission ultimately approved PECO Energy's right to charge the \$1.75 under Docket Number R-2010-2161575.

18. Assuming that everything the Complainant alleges in his Complaint is true, PECO Energy is operating under the basis of a Commission approved Order and charged the \$1.75 with the specific approval of the Commission.

19. The \$1.75 charge is regulated by the Public Utility Commission ("PUC") and it is contained within PECO Energy's Electric Service Tariff ("Tariff") approved by and on file with the PUC.

20. The Tariff provisions approved by the PUC are prima facie reasonable. 66 Pa. C.S.A. § 316 (1999); See also, Kossman v. Pennsylvania Public Utility Commission, 694 A.2d 1147 (Pa. Cmwlth. 1997). Moreover, tariffs that have been approved by the PUC have the full

force and effect of law and are binding on both the utility and its customers. Brockway Glass Co. v. Pennsylvania Utility Commission, 437 A.2d 1067 (Pa. Cmwlth. 1981).

21. Thus, the Complainant's complaint, objecting to the \$1.75 Off Peak meter charge does not allege a violation of any order, law or tariff that can be the basis of any finding against PECO Energy.

22. Accordingly, the Complainant's formal complaint should be dismissed as a matter of law.

B. After the Off Peak rate phase out, the Off Peak meter will still have a specific use and will not be no longer "used and useful".

23. The Complainant alleges in his formal complaint that the Off Peak meter is redundant.

24. In his Opinion and Order, ALJ Buckley determined that the "Off Peak meter" "apparently, has no further use in providing Complainant electric" and that the "utility equipment [is] no longer used and useful."

25. Contrary to the Complainant's assertions in the formal complaint and ALJ Buckley's findings in the Initial Decision, the Off Peak meter is not redundant or no longer used and useful.

26. Even after the rate phase-out, the Off Peak meter is still needed to measure usage for the appliances connected to that meter.

27. For instance, if the Complainant's hot water heater appliance is connected to the Off Peak meter, the meter will separately calculate the usage for the hot water heater.

28. Accordingly, the meter will remain useful to the Complainant and a customer charge is required in order to cover the cost for billing, meter reading, and equipment maintenance.

29. By way of further response, the Complainant voluntarily made the decision to separate the wiring in his home to connect to the Off Peak meter in order to take advantage of the discounted Off Peak rate.

30. The Complainant made this investment to obtain a discounted rate and savings on his electric service.

31. After obtaining savings over several years, the Complainant now has a choice to re-invest to have his wiring redone so his appliances are separated from the Off Peak meter.

32. If the Complainant does not choose to make this investment and rewire, the status quo will be obtained and the Off Peak meter will remain at the property.

33. If the Off Peak meter remains at the property with appliances connected to it, PECO Energy still needs the ability to obtain usage information for the appliances connected to the meter.

34. Accordingly, the Off Peak meter is not redundant or no longer useful.

VI. CONCLUSION

WHEREFORE, PECO Energy respectfully requests that the Commission grant PECO Energy's Preliminary Objections and dismiss the Complainant's complaint for legal insufficiency.

Respectfully submitted,



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Dated: December 20, 2012

EXHIBIT “1”

Docket No. R-2010-2161575

Rate Case Settlement
Exhibit # 2

PECO (Electric) v1
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Exhibit

PECO Energy Company (Electric)
Rate Year Ended December 31, 2011
Rate Design - Rate Classes Residential (R) and Off-Peak (OP)

Line	Description	PRESENT RATES				PROPOSED RATES				Working Capital Transferred to CSA	EEPC	Variable Rates Recovered in Distribution
		Rate	Revenue	Rate	Revenue	Rate	Revenue	Rate	Revenue			
Customer Charges												
1	Rate R (includes OP)	\$5.31	71,120,352	\$7.25	97,104,059							
2	Rate RT	\$10.48	1,500	\$7.25	1,038							
3	R CAP A	\$5.31	5,954	\$7.25	8,130							
4	R CAP B	\$5.31	738,390	\$7.25	1,008,159							
5	R CAP C	\$5.31	1,223,667	\$7.25	1,670,731							
6	R CAP D	\$5.31	3,846,872	\$7.25	5,252,321							
7	R CAP E	\$5.31	2,324,212	\$7.25	3,173,360							
8	Rate OP	\$4.65	79,260,947	\$1.75	108,217,797							
9	Total Customer Charges	\$55,860	4,444,749	\$1.75	1,672,755							
10		\$5,824,453	83,705,696		109,890,552							
11												
kWh-Based rates												
12	500 kWh	\$0.0486	261,667,575	\$0.0556	299,356,321							
13	> 500 kWh-Winter	\$0.0486	96,383,266	\$0.0556	110,265,629							
14	> 500 kWh-Summer	\$0.0562	99,476,599	\$0.0556	98,414,571							
15	Off-peak	\$0.0207	1,992	\$0.0556	5,350							
16	Peak Summer	\$0.0790	1,292	\$0.0556	909							
17	Peak Winter	\$0.0726	1,697	\$0.0556	1,299							
18	1000 kWh	\$0.0000	-	\$0.0556	42,123							
19	Next 500 kWh	\$0.0481	8,314	\$0.0556	9,610							
20	650 kWh	\$0.0041	281,720	\$0.0556	3,820,400							
21	Next 100 kWh Jul-Sep	\$0.0296	72,278	\$0.0556	135,766							
22	Additional kWh	\$0.0430	975,994	\$0.0556	1,261,983							
23	650 kWh	\$0.0090	1,012,035	\$0.0556	6,252,126							
24	Next 100 kWh Jul-Sep	\$0.0299	123,757	\$0.0556	230,130							
25	Additional kWh	\$0.0438	1,672,286	\$0.0556	2,122,811							
26	650 kWh	\$0.0208	7,410,747	\$0.0556	19,809,497							
27	Additional kWh	\$0.0447	4,842,633	\$0.0556	6,023,498							
28	R CAP E	\$0.0335	7,074,405	\$0.0556	11,741,400							
29	Additional kWh	\$0.0455	3,076,201	\$0.0556	3,759,050							
30	Rate OP	\$0.0375	10,898,461	\$0.0556	16,158,785							
31	Total Distribution Charges	\$494,981,251	494,981,251	\$579,411,258	579,411,258							
32	CAP discount- Non-distribution											
33	CAP discount- Distribution											
34	New Cap Discount											
35												
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EXHIBIT “2”

1 20. Q. Explain why PECO proposes to eliminate the Rate OP pricing advantage for
2 distribution service.

3 A. The pricing structure of Rate OP is also a vestige of "bundled" rates that had included
4 the cost of generation. As such, that pricing structure is not justified for the recovery
5 of distribution charges after the transition to competitively procured generation for
6 default service. PECO's cost-of-service for kilowatt hours distributed under Rate OP
7 is the same as its cost-of-service for regular residential service. Therefore, PECO
8 proposes the same variable distribution charge for this service. In order to equalize
9 the variable distribution charges of rate OP and Rate R, any increase in Rate OP will
10 be allocated first to the variable distribution charge. As a result of this change, the
11 Rate OP customer charge is being reduced from \$4.65 to \$2.00 per month. A
12 customer charge is still necessary for Rate OP because customers served under this
13 rate schedule have a separate meter for this service.

14 21. Q. Will there be other options for Rate OP customers?

15 A. Yes. As part of its energy efficiency filing, the Company proposed a direct load
16 control rate that can be used by Rate OP customers. Additionally, the Company, as
17 required under Act 129, will, at a future date, be proposing time-of-use rates and/or
18 real time pricing rates. While some of these options might not be available at January
19 1, 2011, I would note that Rate OP customers will still be getting a significant benefit
20 in generation pricing until January 1, 2013.

21 22. Q. Explain why PECO proposes to eliminate Rate R-T.