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April 4, 2013

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

**RE: Steve Atuahene v. PECO Energy Company  
PUC Docket No.: C-2012-2299868**

Dear Ms. Chiavetta:

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

—	Answer
—	Answer & New Matter
<u>X</u>	Motion
—	Motion for Judgment on the Pleadings
—	Motion for 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

cc: Steve Atuahene

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

STEVE ATUAHENE

v.

PECO ENERGY COMPANY

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DOCKET NO. C-2012-2299868

**RESPONSE OF PECO ENERGY COMPANY OBJECTING TO COMPLAINANT,  
STEVE ATUAHENE'S MOTION FOR ENLARGEMENT OF TIME TO FILE  
EXCEPTIONS**

PECO Energy Company ("PECO Energy"), pursuant to 52 Pa. Code § 5.533(e), hereby objects to the Complainant's request to enlarge the time to file exceptions by sixty (60) days and states the following:

1. Admitted.
2. Admitted.
3. Respondent, PECO Energy neither admits nor denies the allegations in section 3

of the Complainant's Motion. By way of further response, a Certified Mail Receipt requires a signature before the mail delivery is left at an individual's address. If the Initial Decision were sent via certified mail, then someone at the Complainant's residence had to sign for the mail and receive it on behalf of the Complainant. The Complainant has not presented any evidence to the contrary. Absent strict proof to the contrary, Complainant's request for an enlargement of time to file Exceptions to Administrative Law Judge Eranda Vero's ("ALJ Vero") Initial Decision should be denied.

4. PECO Energy neither admits nor denies the allegations in section 4 of the Complainant's Motion. By way of further response, the Complainant fails to state how he allegedly "just became aware of the instant mail on March 30, 2013." Complainant's statement leads one to reasonably believe that the certified mail was received by the Complainant at his

residence. Absent strict proof to the contrary, Complainant's request for an enlargement of time to file Exceptions to ALJ Vero's Initial Decision should be denied.

5. PECO Energy neither admits nor denies the allegations in section 5 of the Complainant's Motion. By way of further response, the Complainant attached a Preliminary Hospital Discharge Summary with no date to verify the date he was discharged. See Discharge Summary, attached hereto as Exhibit "1". The discharge summary only indicates that the Complainant was hospitalized on February 6, 2013 for a surgical procedure that was conducted the same day. "No complications occurred during" the procedure. As such, the Complainant could have been hospitalized for only one day for this procedure and been released the same day. The Complainant has not presented any evidence to the contrary, demonstrating his admission date and discharge date to disprove this fact. Consequently, as the Initial Decision was served on March 4, 2013 (an entire month after the Complainant's one-day hospitalization on February 6, 2013), the Complainant had ample time to file a response.

6. Denied. Absent strict proof to the contrary, the Complainant has only presented evidence that he was hospitalized one day on February 6, 2013, for a surgical procedure. The Initial Decision was sent by Certified Mail to the Complainant on or about March 4, 2013 – an entire month after the Complainant's hospitalization. Accordingly, the Complainant had ample time to file Exceptions.

7. Denied. The Complainant appeared at the In-Person hearing before Administrative Law Judge Vero on September 26, 2012. The Complainant represented himself *pro se* and put on a lengthy robust case, including cross-examination of two PECO Energy witnesses. The Complainant did not act or appear to be in bad health and there is no evidence in the transcript where the Complainant stated he was in serious ill health at the hearing.

8. PECO Energy neither admits nor denies the allegations in section 8 of the Complainant's Motion.

9. Denied. The Complainant has not presented any evidence to demonstrate the date he was discharged from the hospital. He simply states that he was released on February 2013. Interestingly, the Complainant omitted to include the date he was released and has not provided any proof of his release date. Furthermore, the Complainant has not provided any proof that he was released to Home Care under the University of Pennsylvania Health System. PECO Energy avers that absent strict proof to the contrary, the Complainant underwent an uncomplicated surgical procedure on February 6, 2013 and was released the same day. Accordingly, he had ample time to file Exceptions to the Initial Decision, which were served on March 4, 2013.

10. Denied. The Complainant had ample time to file Exceptions to ALJ Vero's Initial Decision. Pursuant to 52 Pa. Code § 5.533:

**§ 5.533. Procedure to except to initial, tentative and recommended decisions.**

(a) In a proceeding, exceptions may be filed by a party and served within 20 days after the initial, tentative or recommended decision is issued unless some other exception period is provided. Exceptions may not be filed with respect to an interlocutory decision.

(e) Unless otherwise ordered by the Commission, the provisions of §§ 1.11(a)(2) and (3) and 1.56(b) (relating to date of filing; and date of service) will not be available to extend the time periods for filing exceptions.

In addition, 52 Pa. Code § 5.536 states:

**§ 5.536 Effect of failure to file exceptions.**

(a) If no exceptions are filed in a proceeding included within § 5.533(a) (relating to procedure to except to initial, tentative and recommended decisions), the decision of the administrative law

judge will become final, without further Commission action, unless, within 15 days after the decision is issued, two or more Commissioners request that the Commission review the decision.

(b) A tentative decision, issued by the Commission, subject to exceptions, shall become final, without further Commission action, if no exceptions are filed under § 5.333(a).

The Complainant failed to file Exceptions within twenty (20) days pursuant to 52 Pa. Code § 5.533. The Complainant has not submitted proof that he was hospitalized for any significant period of time or was otherwise unable to file Exceptions. Accordingly, ALJ Vero's Initial Decision should become final pursuant to 52 Pa. Code § 5.536(b).

Since the inception of this litigation, the Complainant has attempted to delay the adjudication and finality of this matter. Collection activity has been suspended on the Complainant's account due to the formal complaint process. PECO Energy avers that the Complainant's Motion to Enlarge the response period for sixty (60) days is simply another delay tactic to avoid paying his balance. Indeed, ALJ Vero astutely noted in her Initial Decision the Complainant's two continuance requests in this matter; attempt to withdraw his complaint, and his request for additional time to file objections to PECO Energy's exhibits. ALJ Vero stated:

**My review of the history of proceedings before the Commission at Docket Nos. C-00913621, C-00922454, C-00935245 revealed that, similar to the present case, they were marked by repeated requests for continuance of the hearings, failure to appear at the hearings or refusal to put on evidence, and in the case of the complaint at Docket No. C-00913621, repeated requests to withdraw the complaint.**

See Steve Atuahene v. PECO Energy Company (Docket No. C-2012-2299868, p. 4, Order entered March 4, 2013)

The Complainant's request to extend the time for filing exceptions is the same pattern of behavior he has exhibited in his previous formal complaints, and in the case at bar, to delay the adjudication of this matter. In light of the Complainant's previous history, and the fact he has

not presented compelling proof to justify not filing timely Exceptions, his request should be denied.

WHEREFORE, PECO Energy respectfully requests that this Honorable Commission deny the Complainant's Motion for Enlargement of Time to File Exceptions.

Respectfully Submitted,



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**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

STEVE ATUAHENE

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DOCKET NO. C-2012-2299868

**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.



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Shawane L. Lee

Date: April 4, 2013

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

STEVE ATUAHENE

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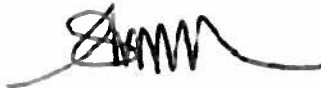
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DOCKET NO. C-2012-2299868

**CERTIFICATE OF SERVICE**

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

Steve Atuahene  
7000 Woodbine Avenue  
Philadelphia, PA 19151



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Shawane L. Lee  
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Fax: 215.568.3389  
[Shawane.Lee@exeloncorp.com](mailto:Shawane.Lee@exeloncorp.com)

Dated at Philadelphia, Pennsylvania, April 4, 2013.

**EXHIBIT “1”**

**\*PRELIMINARY HOSPITAL DISCHARGE SUMMARY\***

*Dr. Grant*

Please note that this Preliminary Discharge Summary has not been verified or co-signed by the Attending Physician. Please refer to the complete medical record for the final, signed document.

**Discharge Summary - To Be Given to Primary Care Provider**

**Patient Name: FREMPONG-ATUAHENE, STEPHEN**



**Penn Medicine**

**Birth Date: 12/24/1947**

**Admit Date: 2/6/2013 5:55:00 AM**

**MRN/Vr#:# 369107947**

**167088**

**Pennsylvania Hospital**

**Discharge Information**

The patient condition at discharge was good.

Attending At Discharge: Dr. Joshua Bleier.

The patient was discharged to home.

Principal Diagnosis: Other: and status post Colectomy for LGIB.

Additional Secondary Diagnosis: Diverticulitis, CAD status post BMS to RCA and LAD;

Procedures: 2/6/13 Ex lap, hartmann takedown, ileostomy closure.

Hospital Course Summary: The patient is a 66 yo M with a PMH as above who presented to the clinic for ileostomy reversal status post colostomy for LGIB. The patient was an acceptable candidate for ileostomy reversal. On 2/6/13 the patient underwent Ex lap, hartmann takedown, ileostomy closure. There were no complications with the procedure. The patient received perioperative ancef. Postoperatively, the patient received fondaparinux and SCDs for DVT prophylaxis. On POD#1, the patient was transitioned to oral pain medications. While in house, the patient did not require a blood transfusion. No complications occurred during the hospitalization.

*EXH*

*"B"*