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April 22, 2013

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
—	Motion for Judgment on the Pleadings
—	Motion for Continuance
—	Preliminary Objection
—	Exceptions
<u>X</u>	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: Joseph P. Capone, Esquire (via regular mail)

REPLY EXCEPTIONS OF PECO ENERGY COMPANY

PECO Energy Company (“PECO Energy”) hereby replies to the Exceptions filed by Peter Coppola (“Complainant”) in the above-referenced matter on April 11, 2013. Preliminarily, PECO Energy was never served with the Complainant’s Exceptions. Complainant’s counsel, Joseph P. Capone, Esquire, attached a Certificate of Service, certifying that the Exceptions were served on PECO Energy’s counsel Shawane L. Lee, Esquire. However, PECO Energy was never served with Exceptions. PECO Energy received notice of the Complainant’s Exceptions by reviewing the docket to determine the status of this matter.

On July 9, 2010, Complainant filed a formal complaint against PECO Energy. In his formal complaint, Complainant (who receives utility service for a delicatessen in South Philadelphia) alleged there were incorrect charges on his bill, arising from a meter tampering fee and back-billing charges imposed on his account. Respondent, PECO Energy filed an Answer on July 29, 2010, stating the Complainant was responsible for the meter tampering back bill charges for electricity consumed as there was evidence of meter tampering on the Complainant’s meter located in the basement of his delicatessen.

This matter was initially scheduled for a hearing before Administrative Law Judge Angela T. Jones (“ALJ Jones”) on January 4, 2011. After two continuance requests, ALJ Jones issued an Initial Decision on February 8, 2011, denying the Complainant’s request for a continuance. The Complainant filed Exceptions to ALJ Jones’ Initial Decision and an Order was issued by the Commission on October 14, 2011. The Complainant appealed the Commission’s Order to the Commonwealth Court of Pennsylvania. The matter was remanded for a hearing and the case re-assigned to ALJ Jones.

A hearing on remand was scheduled to take place on August 21, 2012. The Complainant's counsel, Joseph P. Capone, Esquire, requested a continuance because he was going to be on vacation on the date of the hearing and requested that the hearing be held in October 2012. PECO Energy's counsel did not object to Mr. Capone's request. The hearing was scheduled to take place on October 15, 2012. On Friday, October 12, 2012, counsel for PECO Energy contacted Mr. Capone's office to discuss the case prior to the Monday, October 15, 2012 hearing. Mr. Capone's legal assistant advised that Mr. Capone would not be available for the Monday hearing as he had recently undergone spinal surgery. Counsel for PECO Energy advised Mr. Capone's assistant that a continuance request was required and that PECO Energy would not object to Mr. Capone's request.

The hearing was rescheduled to take place on Monday, December 10, 2012. On Friday, December 7, 2012, Mr. Capone requested a continuance stating that he was scheduled to appear in a federal criminal trial in the matter *United States vs. Hakeem Paris*. PECO Energy pulled the attached docket and determined that Mr. Capone had been scheduled to appear in the *Hakeem Paris* matter since September 21, 2012. See *U.S. v. Hakeem Paris*, Docket, attached hereto as Exhibit "1". Yet, he waited until the Friday before the Monday hearing to send a continuance request.

On December 10, 2012, PECO Energy showed up to the scheduled hearing with one witness prepared to testify. Mr. Capone and the Complainant did not appear. On March 13, 2012, ALJ Jones issued an initial decision in the matter of *Peter Coppola v. PECO Energy. Co.*, C-2010-2186754 ("Initial Decision"). The Initial Decision ordered dismissal of the formal complaint with prejudice for failure to prosecute. The Initial Decision is well-reasoned with ample support from the record. As detailed in the Initial Decision, the PUC mailed the parties a

notice on October 15, 2012, that the hearing for this matter would take place on December 10, 2012. Mr. Capone was aware in October 2012 that he had a scheduling conflict because the docket in *United States vs. Hakeem Paris* indicates that the December 10, 2012, trial had been scheduled since September 21, 2012. See Exhibit “1”. PECO Energy appeared for the hearing, ready to put on its case. Complainant and his counsel did not appear. PECO Energy respectfully requests that the Exceptions be dismissed because the Initial Decision properly dismissed Complainant’s formal complaint for his failure to appear for an in-person hearing.

Complainant’s Failure to Appear for Hearings Despite Proper Notice

Administrative agencies of the Commonwealth of Pennsylvania, such as the Public Utility Commission (“PUC”), are required to provide due process to the parties appearing before them.¹ The due process requirement is satisfied when the parties are provided notice and the opportunity to appear and be heard.²

Once the PUC meets its due process requirement, the burden falls upon the parties to appear and participate in the hearing.³ As mandated by the Pennsylvania Public Utility Code:

Any party who shall fail to be represented at a scheduled conference or hearing after being duly notified thereof, shall be deemed to have waived the opportunity to participate in such conference or hearing, and shall not be permitted thereafter to reopen the disposition of any matter accomplished thereat, or to recall for further examination of witnesses who were excused, unless the presiding officer shall determine that failure to be represented was unavoidable and that the interests of the other parties and the public would not be prejudiced

¹ See *Brown v. PECO Energy Co.*, no. C-2008-2060121, Initial Decision at 7 (Pa. P.U.C. May 18, 2009) (Chestnut, J.) (citing *Schneider v. Pa. P.U.C.*, 479 A.2d 10 (Pa. Cmwlth. 1984)).

² See *id.*

³ See, e.g., *Mumma v. PPL Elec. Util. Corp.*, No. C-00014869 (Jan. 24, 2002) (“It is well-established law that once timely notice of a hearing and the opportunity to be heard have been provided, it is the responsibility of the parties to be present and participate in the hearing.”).

by permitting such reopening or further examination.⁴

The PUC satisfied its due process requirement by mailing Complainant the hearing notice on October 15, 2012. The hearing notice was not returned by the United States Postal Service as undeliverable. The notice is therefore presumed to have been received.⁵ By failing to appear at the December 10, 2012, hearing, Complainant waived his opportunity to participate in the hearing and cannot now reopen the record without proof that his failure to appear was unavoidable and that the interest of PECO Energy and the public interest will not be prejudiced.

Complainant's purported justification for failing to appear cannot satisfy this heightened standard. Complainant's counsel states that he did not appear for the hearing because he had a trial scheduled in the matter *United States vs. Hakeem Paris* on the same day. However, the Complainant did not attach the docket in the *Hakeem Paris* matter, which demonstrates that counsel had been aware of this trial since September 21, 2012. As such, since September 21, 2012, Complainant's counsel had knowledge of the hearing conflict. 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 not later than five (5) days prior to the hearing with the Commission. In this case, despite Mr. Capone's knowledge that he had a hearing conflict since September 21, 2012, he failed to timely request a hearing pursuant to 52 Pa. Code § 1.15(b). Instead, he waited until the Friday, December 7, 2012 before the Monday, December 10, 2012, hearing to request a continuance. The attached docket proves that Mr. Capone knew of the prescheduled trial in the *Hakeem Paris* matter well in advance of the hearing. Plainly, Complainant's participation in the

⁴ 66 Pa. C.S. 332(f) (emphasis added).

⁵ See *Brown v. PECO Energy*, at 7 ("Notice mailed to a party's last known address and not returned by the post office is presumed to have been received.") (citing *Meierdierck v. Miller*, 394 Pa. 484 (Pa. 1959), among others).

hearing was not “unavoidable.”⁶ The Complainant’s counsel had ample time to inform the Commission and PECO Energy that he would require a continuance. Complainant should have notified the Commission of his pending trial. No such notice was provided. Again, Complainant cannot establish that his failure to appear was “unavoidable.”

Further, Mr. Capone is a member of a two person law firm; and therefore, he has the resource of an additional law partners who could cover the Peter Coppola hearing. Mr. Capone states in the Complainant’s Exceptions that his law partner, Alfonso Gambone, Esquire had a “letterhead implying a partnership” and that “neither attorney was handling cases for the other” however, he presented no proof of such. The fact is that Mr. Capone was aware of the scheduling conflict well in advance of the hearing date and had ample opportunity to request a continuance or coverage of the hearing by his law partner or another attorney.

Complainant also cannot establish that a reopening of the proceeding would not prejudice the public’s or PECO Energy’s interests. PECO Energy should not be prejudiced by having to expend an inordinate amount of its resources to prepare for hearings in which the Complainant does not appear. Nor should the public be prejudiced by the Complainant’s wasteful use of the PUC’s and utility company’s resources. This case was originally filed on July 9, 2010, and is still in the litigation process because of numerous continuances; exceptions filed; and Commonwealth appeals. Indeed, the Complainant and/or his counsel have requested continuances of this matter at least four (4) separate times.⁷ The record in this matter

⁶ 66 Pa. C.S. 332(f).

⁷ 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 “2”. 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 “3”. 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 “4”. Finally, the

demonstrates that the Complainant and his counsel have deliberately delayed this matter by requesting continuances. The Commission, as well as PECO Energy, has been forced to expend resources to adjudicate this matter over the past two and a half years because of the delay tactics used by the Complainant and his counsel. Notably, PECO Energy is required to hold collection activity on the Complainant's account and the back-billing balance he owes because of the formal complaint process. Accordingly, the Initial Decision properly dismissed the formal complaint in this matter with prejudice.

WHEREFORE, For the reasons set forth above, PECO respectfully requests that the Commission deny the Exceptions and issue an Order upholding the Initial Decision in its entirety.

Respectfully submitted,



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continuance at issue here was requested late Friday afternoon before a Monday morning hearing. See Correspondence, dated 12/7/2012, attached hereto as Exhibit "5".

EXHIBIT "1"

PRIOR

**United States District Court
Eastern District of Pennsylvania (Philadelphia)
CRIMINAL DOCKET FOR CASE #: 2:11-cr-00211-MAM-1**

Case title: USA v. PARIS
Magistrate judge case number: 2:11-mj-00304

Date Filed: 04/07/2011

Assigned to: HONORABLE MARY A.
MCLAUGHLIN

Defendant (1)

HAKEEM PARIS

represented by **HAKEEM PARIS**
67024-066
PHILADELPHIA
FEDERAL DETENTION CENTER
Inmate Mail/Parcels
P.O. BOX 562
PHILADELPHIA, PA 19106
PRO SE

JOSEPH P. CAPONE
211 N. 13TH STREET
SUITE 801
PHILADELPHIA, PA 19107
215-755-9000
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LEAD ATTORNEY
ATTORNEY TO BE NOTICED
Designation: Retained

VERNON ZACHARY CHESTNUT
LAW OFFICE OF VERNON Z.
CHESTNUT
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1650 MARKET ST 36TH FL
PHILADELPHIA, PA 19103
267-386-4880
Email: chestnutlaw@hotmail.com
ATTORNEY TO BE NOTICED
Designation: CJA Appointment

Pending Counts

18:1951 (a) CONSPIRACY TO
COMMIT ROBBERY WHICH

Disposition

PECO ENERGY
EXHIBIT 1

**INTERFERED WITH INTERSTATE
COMMERCE**

(1)

**18:1951(a) ROBBERY WHICH
INTERFERED WITH INTERSTATE
COMMERCE; 18:2 AIDING AND
ABETTING**

(2)

**18:924(c)(1) CARRYING AND
USING A FIREARM DURING A
CRIME OF VIOLENCE; 18:2 AIDING
AND ABETTING**

(3)

**18:1951(a) ATTEMPTED ROBBERY
WHICH INTERFERED WITH
INTERSTATE COMMERCE; 18:2
AIDING AND ABETTING**

(4)

**18:924(c)(1) CARRYING AND
USING A FIREARM DURING A
CRIME OF VIOLENCE; 18:2 AIDING
AND ABETTING**

(5)

**18:922(g)(1) CONVICTED FELON IN
POSSESSION OF A FIREARM**

(6)

Highest Offense Level (Opening)

Felony

Terminated Counts

None

Disposition

Highest Offense Level (Terminated)

None

Complaints

**INTERFERENCE WITH
INTERSTATE COMMERCE BY
ROBBERY IN VIOLATION OF
TITLE 18:1951; USE OF A FIREARM
DURING THE COMMISSION OF A
VIOLENT CRIME IN VIOLATION
OF TITLE 18:924(c)(1)**

Disposition

Plaintiff

USA

represented by **THOMAS M. ZALESKI**
 U.S. ATTORNEY'S OFFICE
 615 CHESTNUT ST.
 SUITE 1250
 PHILA, PA 19106-4476
 TEL 215-861-8460
 Fax: FAX 215-861-8618
 Email: tom.zaleski@usdoj.gov
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
03/04/2011	<u>1</u>	COMPLAINT as to HAKEEM PARIS (1). (mac,) [2:11-mj-00304] (Entered: 03/04/2011)
03/07/2011	<u>2</u>	PETITION AND ORDER AS TO HAKEEM PARIS THAT THE WARDEN OF PICC AND A SPECIAL AGENT WITH THE FBI PRODUCE THE BODY OF DEFENDANT ON WEDNESDAY, MARCH 9, 2011 FOR AN INITIAL APPEARANCE, ETC. Signed by MAGISTRATE JUDGE L. FELIPE RESTREPO on 3/7/11.3/7/11 Entered and Copies E-Mailed. (mac,) [2:11-mj-00304] (Entered: 03/07/2011)
03/09/2011		Arrest of HAKEEM PARIS (mac,) [2:11-mj-00304] (Entered: 03/10/2011)
03/09/2011	<u>3</u>	Minute Entry for proceedings held before MAGISTRATE JUDGE L. FELIPE RESTREPO: Initial Appearance as to HAKEEM PARIS held on 3/9/11. The Government's Motion for Temporary Detention is Granted. A pretrial detention hearing and a preliminary hearing are scheduled for Friday, March 11, 2011 at 1:30 p.m. in Courtroom 5A. Signed by Judge L. Felipe Restrepo.Court Reporter ESR.(mac,) [2:11-mj-00304] (Entered: 03/10/2011)
03/11/2011	<u>4</u>	MOTION for PRETRIAL DETENTION , <i>PROPOSED ORDER, AND CERTIFICATE OF SERVICE</i> , by USA as to HAKEEM PARIS. (ZALESKI, THOMAS) [2:11-mj-00304] (Entered: 03/11/2011)
03/14/2011	<u>5</u>	NOTICE OF ATTORNEY APPEARANCE filed by VERNON ZACHARY CHESTNUT appearing for HAKEEM PARIS (mac,) [2:11-mj-00304] (Entered: 03/14/2011)
03/14/2011	<u>6</u>	Minute Entry for proceedings held before MAGISTRATE JUDGE L. FELIPE RESTREPO: Preliminary Examination/Pretrial Detention Hearing as to HAKEEM PARIS held on 3/11/11. The Defendant stipulated to probable cause and pretrial detention. Signed by Judge L. Felipe Restrepo.Court Reporter ESR.(mac,) [2:11-mj-00304] (Entered: 03/14/2011)
03/14/2011	<u>7</u>	CJA 23 Financial Affidavit by HAKEEM PARIS (mac,) [2:11-mj-00304] (Entered: 03/14/2011)
03/15/2011	<u>8</u>	CJA 20 AS TO HAKEEM PARIS: APPOINTMENT OF VERNON CHESTNUT, ESQUIRE for HAKEEM PARIS. Signed by MAGISTRATE

		JUDGE L. FELIPE RESTREPO on 3/9/11.3/15/11 Entered. (mac,) [2:11-mj-00304] (Entered: 03/15/2011)
03/24/2011	<u>9</u>	Arrest Warrant Returned Executed on 3/9/11 in case as to HAKEEM PARIS. (mac,) [2:11-mj-00304] (Entered: 03/24/2011)
04/07/2011	<u>10</u>	INDICTMENT as to HAKEEM PARIS (1) count(s) 1, 2, 3, 4, 5, 6. (Attachments: # <u>1</u> Designation Form) (mima,) (Entered: 04/08/2011)
04/12/2011	<u>11</u>	NOTICE OF HEARING as to HAKEEM PARIS Arraignment set for 4/21/2011 10:30 AM in COURTROOM 5-A before MAGISTRATE JUDGE CAROL SANDRA MOORE WELLS. (dh,) (Entered: 04/12/2011)
04/13/2011	<u>12</u>	NOTICE OF ATTORNEY APPEARANCE JOSEPH P. CAPONE appearing for HAKEEM PARIS (CAPONE, JOSEPH) (Entered: 04/13/2011)
04/22/2011	<u>13</u>	Minute Entry for proceedings held before MAGISTRATE JUDGE CAROL SANDRA MOORE WELLS: Arraignment as to HAKEEM PARIS (1) Count 1,2,3,4,5,6 held on 4/21/2011. Detention is continued. Plea entered by HAKEEM PARIS Not Guilty on all counts. Counsel have 14 days to file pretrial motions. Court Reporter ESR. (ap,) (Entered: 04/22/2011)
04/29/2011	<u>14</u>	NOTICE OF HEARING as to HAKEEM PARIS JURY TRIAL SET FOR 6/7/2011 09:30 AM IN COURTROOM 13-A BEFORE HONORABLE MARY A. MCLAUGHLIN. (dh,) (Entered: 04/29/2011)
05/03/2011	<u>15</u>	IMPORTANT NOTICE TO COUNSEL IN CRIMINAL CASES by Deputy Clerk to Judge McLaughlin as to HAKEEM PARIS (ap,) (Entered: 05/03/2011)
05/04/2011	<u>16</u>	First MOTION for Extension of Time to File <i>Pretrial Motions</i> by HAKEEM PARIS. (CAPONE, JOSEPH) (Entered: 05/04/2011)
05/25/2011	<u>17</u>	Second MOTION to Continue <i>Trial Date</i> by HAKEEM PARIS. (CAPONE, JOSEPH) (Entered: 05/25/2011)
05/26/2011	<u>18</u>	ORDER AS TO HAKEEM PARIS THAT THE <u>16</u> MOTION FOR EXTENSION OF TIME WITHIN WHICH TO FILE PRETRIAL MOTIONS IS GRANTED AND THE TIME WITHIN WHICH DEFENDANT HAS TO FILE PRETRIAL MOTIONS IS EXTENDED FOR AN ADDITIONAL 30 DAYS FOLLOWING THE COMPLETION OF INFORMAL DISCOVERY. Signed by HONORABLE MARY A. MCLAUGHLIN on 5/26/2011.5/26/2011 Entered and Copies E-Mailed. (ap,) (Entered: 05/26/2011)
05/26/2011	<u>19</u>	ORDER AS TO HAKEEM PARIS THAT THE <u>17</u> MOTION FOR CONTINUANCE OF TRIAL IS GRANTED. PURSUANT TO 18:3161(h)(7) (A) THE COURT FINDS THAT THE ENDS OF JUSTICE SERVED BY THE CONTINUANCE OUTWEIGH THE BEST INTEREST OF THE PUBLIC AND THE DEFENDANT IN A SPEEDY TRIAL. Signed by HONORABLE MARY A. MCLAUGHLIN on 5/26/2011.5/26/2011 Entered and Copies E-Mailed. (ap,) (Entered: 05/26/2011)
06/02/2011	<u>20</u>	NOTICE OF HEARING as to HAKEEM PARIS JURY TRIAL SET FOR 9/6/2011 09:30 AM IN COURTROOM 13-A BEFORE HONORABLE

		MARY A. MCLAUGHLIN. (dh,) (Entered: 06/02/2011)
08/24/2011	<u>21</u>	Second MOTION to Continue <i>Trial Listing</i> by HAKEEM PARIS. (CAPONE, JOSEPH) (Entered: 08/24/2011)
08/25/2011	<u>22</u>	ORDER AS TO HAKEEM PARIS THAT THE DEFENDANT'S UNOPPOSED <u>21</u> MOTION FOR A CONTINUANCE OF TRIAL IS GRANTED. PURSUANT TO 18:3161(h)(7)(A) THE COURT FINDS THAT THE ENDS OF JUSTICE SERVED BY GRANTING THE CONTINUANCE OUTWEIGH THE BEST INTERESTS OF THE PUBLIC AND THE DEFENDANT IN A SPEEDY TRIAL. Signed by HONORABLE MARY A. MCLAUGHLIN on 8/24/2011.8/25/2011 Entered and Copies E-Mailed. (ap,) (Entered: 08/25/2011)
08/25/2011	<u>23</u>	NOTICE OF HEARING as to HAKEEM PARIS JURY TRIAL RE-SCHEDULED FOR 1/9/2012 09:30 AM IN COURTROOM 13A BEFORE HONORABLE MARY A. MCLAUGHLIN. (mvh,) (Entered: 08/25/2011)
12/22/2011	<u>24</u>	Third MOTION to Continue <i>Trial Date</i> by HAKEEM PARIS. (CAPONE, JOSEPH) (FILED UNDER SEAL)Modified on 12/22/2011 (rs,). (Entered: 12/22/2011)
12/22/2011	<u>25</u>	ORDER AS TO HAKEEM PARIS THAT PURSUANT TO 18:3161(h)(7)(A) THE <u>24</u> UNOPPOSED MOTION FOR A CONTINUANCE OF TRIAL IS GRANTED AND THE TRIAL DATE IS CONTINUED FROM 1/9/2012 TO 5/12/2012.. Signed by HONORABLE MARY A. MCLAUGHLIN on 11/22/2011.11/22/2011 Entered and Copies E-Mailed. (ap,) (Entered: 12/22/2011)
12/22/2011	<u>26</u>	NOTICE OF HEARING as to HAKEEM PARIS JURY TRIAL SET FOR 5/7/2012 09:30 AM IN COURTROOM 13-A BEFORE HONORABLE MARY A. MCLAUGHLIN. (dh,) (Entered: 12/22/2011)
12/27/2011	<u>27</u>	SEALED ORDER AS TO HAKEEM PARIS. Signed by HONORABLE MARY A. MCLAUGHLIN on 12/27/2011.12/27/2011 Entered and Copies Mailed. (FILED UNDER SEAL) (ap,) (Entered: 12/27/2011)
12/27/2011	<u>28</u>	ORDER AS TO HAKEEM PARIS THAT THE COURT'S ORDER OF 12/22/2011 CONTINUING THE TRIAL IS AMENDED AND THE TRIAL DATE IS 5/7/2012. Signed by HONORABLE MARY A. MCLAUGHLIN on 12/27/2011.12/27/2011 Entered and Copies E-Mailed. (ap,) (Entered: 12/27/2011)
04/27/2012	<u>29</u>	Fourth MOTION to Continue <i>Trial Date</i> by HAKEEM PARIS. (CAPONE, JOSEPH) (Entered: 04/27/2012)
04/30/2012	<u>30</u>	ORDER AS TO HAKEEM PARIS THAT THE UNOPPOSED <u>29</u> MOTION TO CONTINUE TRIAL IS GRANTED AND THE TRIAL IS CONTINUED FROM 5/7/2012 TO 6/25/2012. PURSUANT TO 18:3161(h)(7)(A), THE COURT FINFD THAT THE ENDS OF JUSTICE SERVED BY THE CONTINUANCE OUTWEIGH THE BEST INTERESTS OF THE PUBLIC AND THE DEFENDANT IN A SPEEDY TRIAL.. Signed by HONORABLE MARY A. MCLAUGHLIN on 4/30/2012.4/30/2012 Entered and Copies E-

		Mailed. (ap,) Modified on 4/30/2012 (lbc,). (Entered: 04/30/2012)
05/01/2012	<u>31</u>	NOTICE OF HEARING as to HAKEEM PARIS JURY TRIAL SET FOR 6/25/2012 09:30 AM IN COURTROOM 13-A BEFORE HONORABLE MARY A. MCLAUGHLIN. (dh,) (Entered: 05/01/2012)
05/02/2012	<u>32</u>	Omnibus Pre-Trial Motion by HAKEEM PARIS. (CAPONE, JOSEPH) (Entered: 05/02/2012)
05/03/2012	<u>33</u>	NOTICE OF HEARING as to HAKEEM PARIS Hearing on Pretrial Motions set for 6/15/2012 09:30 AM in COURTROOM 13-A before HONORABLE MARY A. MCLAUGHLIN. (dh,) (Entered: 05/03/2012)
05/30/2012	<u>34</u>	NOTICE OF HEARING as to HAKEEM PARIS Hearing on Pretrial Motions set for 6/14/2012 10:30 AM in COURTROOM 13-A before HONORABLE MARY A. MCLAUGHLIN. (dh,) (Entered: 05/30/2012)
05/30/2012		***Terminate Deadlines and Hearings as to HAKEEM PARIS:, ***Set/Reset Deadlines re Motion in case as to HAKEEM PARIS <u>32</u> First MOTION to Suppress <i>Omnibus Pre-Trial Motion</i> .(MOTION HEARING SET FOR 6/14/2012 10:30 AM IN COURTROOM BEFORE HONORABLE MARY A. MCLAUGHLIN.) (ap,) (Entered: 05/31/2012)
06/13/2012	<u>35</u>	RESPONSE in Opposition re <u>32</u> First MOTION to Suppress <i>Omnibus Pre-Trial Motion CERTIFICATE OF SERVICE</i> filed by USA (Attachments: # <u>1</u> Exhibit A)(ZALESKI, THOMAS) (Entered: 06/13/2012)
06/13/2012	<u>36</u>	MOTION to Preclude <i>Defendant's Introduction of an Alibi Defense</i> by USA as to HAKEEM PARIS. (Attachments: # <u>1</u> Exhibit A)(ZALESKI, THOMAS) (Entered: 06/13/2012)
06/15/2012	<u>37</u>	Minute Entry for proceedings held before HONORABLE MARY A. MCLAUGHLIN: Hearing on Pretrial Motions as to HAKEEM PARIS held on 6/14/2012. Government witnesses. Government's motion to continue trial. Defendant sworn. Judge colloquy with defendant regarding speedy trial and defendant consents to continuance. Government's motion to continued granted. Trial will be rescheduled from June 25h. Argument of counsel. Court will hold remainder of hearing at a later date. Court Reporter ESR. (ap,) Modified on 6/15/2012 (ap,). (Entered: 06/15/2012)
06/15/2012	<u>38</u>	ORDER AS TO HAKEEM PARIS THAT THE DEFENDANT CONSENTED TO THE CONTINUANCE ON THE RECORD AT HEARING ON THIS DATE. WHEREFORE, IN ACCORDANCE WITH 18:3161(h)(7)(A), THE COURT FINDS THAT THE ENDS OF JUSTICE SERVED BY GRANTING THIS CONTINUANCE OUTWEIGH THE BEST INTERESTS OF THE PUBLIC AND THE DEFENDANT IN A SPEEDY TRIAL AND THEREFORE, ORDERS THIS CASE CONTINUED. Signed by HONORABLE MARY A. MCLAUGHLIN on 6/14/2012.6/15/2012 Entered and Copies E-Mailed. (ap,) (Entered: 06/15/2012)
06/18/2012	<u>39</u>	NOTICE OF HEARING as to HAKEEM PARIS JURY TRIAL SET FOR 9/17/2012 09:30 AM IN COURTROOM 13-A BEFORE HONORABLE MARY A. MCLAUGHLIN. (dh,) (Entered: 06/18/2012)

06/19/2012	<u>40</u>	Second MOTION to Continue <i>Trial Date</i> by USA as to HAKEEM PARIS. (ZALESKI, THOMAS) (Entered: 06/19/2012)
06/20/2012	<u>41</u>	ORDER AS TO HAKEEM PARIS THAT PURSUANT TO 18:3161(h)(7)(A) AND (h)(7)(B)(iv) THE <u>40</u> MOTION TO CONTINUE TRIAL IS GRANTED AND THAT TRIAL IS CONTINUED IN THIS MATTER FROM 9/17/2012 TO 9/24/2012 AT 9:30 AM IN COURTROOM 13A. Signed by HONORABLE MARY A. MCLAUGHLIN on 6/20/2012.6/20/2012 Entered and Copies E-Mailed. (ap,) (Entered: 06/20/2012)
06/20/2012		***Set/Reset Hearings as to HAKEEM PARIS: JURY TRIAL SET FOR 9/24/2012 09:30 AM IN COURTROOM BEFORE HONORABLE MARY A. MCLAUGHLIN. (ap,) (Entered: 06/20/2012)
06/20/2012	<u>42</u>	NOTICE OF HEARING as to HAKEEM PARIS JURY TRIAL SET FOR 9/24/2012 09:30 AM IN COURTROOM 13-A BEFORE HONORABLE MARY A. MCLAUGHLIN. (dh,) (Entered: 06/20/2012)
06/27/2012	<u>43</u>	MEMORANDUM AS TO HAKEEM PARIS. Signed by HONORABLE MARY A. MCLAUGHLIN on 6/27/2012.6/27/2012 Entered and Copies E-Mailed. (ap,) (Entered: 06/27/2012)
06/27/2012	<u>44</u>	ORDER AS TO HAKEEM PARIS THAT THE MOTION <u>32</u> TO SUPPRESS IS DENIED.. Signed by HONORABLE MARY A. MCLAUGHLIN on 6/27/2012.6/27/2012 Entered and Copies E-Mailed. (ap,) (Entered: 06/27/2012)
07/06/2012	<u>45</u>	TRANSCRIPT of Pretrial Motions Hearing as to HAKEEM PARIS held on 6/14/2012, before Judge Mary A. McLaughlin. (ap,) (Entered: 07/06/2012)
08/24/2012	<u>46</u>	NOTICE OF HEARING as to HAKEEM PARIS Hearing on Pretrial Motions set for 9/14/2012 11:00 AM in COURTROOM 13-A before HONORABLE MARY A. MCLAUGHLIN. (dh,) (Entered: 08/24/2012)
09/13/2012	<u>47</u>	RESPONSE in Opposition as to HAKEEM PARIS re <u>36</u> MOTION to Preclude <i>Defendant's Introduction of an Alibi Defense</i> (CAPONE, JOSEPH) Modified on 9/13/2012 (ap,). (Entered: 09/13/2012)
09/14/2012	<u>48</u>	Minute Entry for proceedings held before HONORABLE MARY A. MCLAUGHLIN: Hearing on Pretrial Motions HAKEEM PARIS held on 9/14/2012. Government's witness. Argument of counsel. Court's holding - CAV.Court Reporter ESR.(ap,) (Entered: 09/14/2012)
09/20/2012	<u>49</u>	ORDER AS TO HAKEEM PARIS THAT THE DEFENDANT'S OMNIBUS PRE-TRIAL MOTION WITH RESPECT TO AN ALLEGED IDENTIFICATION BY MELISSA SAXTON IS DENIED INSOFAR AS THAT MOTION IS BASED ON AN ALLEGATION OF A CONSTITUTIONAL VIOLATION WITH RESPECT TO THE IDENTIFICATION.. Signed by HONORABLE MARY A. MCLAUGHLIN on 9/19/2012.9/20/2012 Entered and Copies E-Mailed. (ap,) (Entered: 09/20/2012)
09/20/2012	<u>50</u>	Third MOTION to Continue <i>Trial and Exclusion of Time under the Speedy Trial Act</i> by USA as to HAKEEM PARIS. (ZALESKI, THOMAS) (Entered: 09/20/2012)

		09/20/2012)
09/20/2012	<u>51</u>	ORDER AS TO HAKEEM PARIS THAT PURSUANT TO 18:3161(h)(3)(A) AND (7)(B)(iv), THE TRIAL IN THIS MATTER IS CONTINUED AND THAT THE PERIOD FROM THE DATE OF THIS ORDER TO THE NEXT TRIAL DATE SHALL BE EXCLUDED FROM ALL COMPUTATIONS OF TIME UNDER THE SPEEDY TRIAL ACT.. Signed by HONORABLE MARY A. MCLAUGHLIN on 9/20/2012.9/21/2012 Entered and Copies E-Mailed. (ap,) (Entered: 09/21/2012)
[REDACTED]		
09/21/2012	<u>53</u>	PRO SE PETITION to Dismiss Indictment and Remand Pursuant to 28:1447 (C) Violation of Anti-Injunction Act by Affidavit of Merit by HAKEEM PARIS. CERTIFICATE OF SERVICE. (ap,) (Entered: 09/21/2012)
09/21/2012	<u>54</u>	ORDER AS TO HAKEEM PARIS THAT THE DEFENDANT'S PETITION TO DISMISS INDICTMENT AND REMAND IS DENIED. Signed by HONORABLE MARY A. MCLAUGHLIN on 9/21/2012.9/21/2012 Entered and Copies Mailed to pro se, E-Mailed. (ap,) (Entered: 09/21/2012)
10/02/2012	55	TRANSCRIPT of Pretrial Motions Hearing as to HAKEEM PARIS held on 9/14/2012, before Judge Mary A. McLaughlin. (ap,) (Entered: 10/02/2012)

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EXHIBIT “2”

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

TISHKIA WILLIAMS

JAN 04 2011

Peter Coppola

v.

PECO Energy Company

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:
:
:
:

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, Tishkia 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.

PECO ENERGY
EXHIBIT 2

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. 17th Street, 1st Floor
Philadelphia, PA 19145

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

EXHIBIT “3”

Capone & Gambone

ATTORNEYS AT LAW

MEMBERS OF PENNSYLVANIA AND NEW JERSEY BARS

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

ALFONSO GAMBONE, Esq.
ALFONSO@CAPONEGAMBONE.COM

JUL 18 2012

July 16, 2012

Via First Class Mail

Administrative Law Judge Angela T. Jones
Pennsylvania Public Utility Commission
801 Market Street, 4th 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: Shawnie Lee, Esquire

PECO ENERGY
EXHIBIT 3

EXHIBIT “4”

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 (215-569-3133)

Administrative Law Judge Angela T. Jones
Pennsylvania Public Utility Commission
801 Market Street, 4th 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, Shawans 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: *Joseph P. Capone*
JOSEPH P. CAPONE, ESQ.

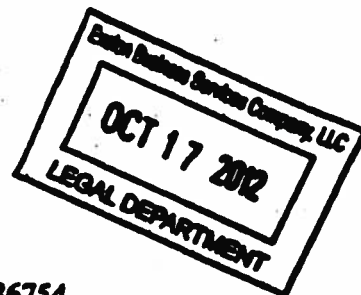
Cc: Shawans Lee, Esq.
Peter Coppola

JPC/dc

Dictated not read.

PECO ENERGY
EXHIBIT 4

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION



Peter Coppola

v.

C-2010-2186754

PECO Energy Company (Remanded)

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.

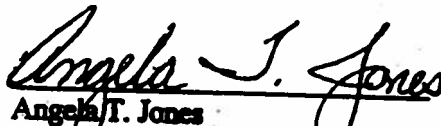
A Notice of Hearing canceling the current hearing date and rescheduling to a future date will be issued. All parties are encouraged to talk with each other to resolve this matter, or some portion thereof, if possible, as it is the Commission's policy to encourage settlement. 52 Pa.Code § 5.231.

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. 15th 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 "5"

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 (215-562-3131)

Administrative Law Judge Angela T. Jones
Pennsylvania Public Utility Commission
801 Market Street, 4th 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. McLoughlin in the matter of United States vs. Hassan Pasha. Judge McLoughlin's chambers number is 267-299-7600.

Accordingly, I must respectfully request an additional continuance of the hearing scheduled for this Monday December 10, 2012 in regards to the above matter. I have informed my adversary, Shawans 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: Joseph P. Capone
JOSEPH P. CAPONE, ESQ.

Cc: **Shawans Lee, Esq.**
Peter Coppola

JPC/dc

PECO ENERGY
EXHIBIT 5