



Exelon Business Services Company
Legal Department
2301 Market Street/S23 1
Philadelphia, PA 19103
215 568 3389 Fax
www.exeioncorp.com

Direct Dial: 215 841.6841

May 3, 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
- 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 (via regular mail)

**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 SECOND 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 second request to enlarge the time to file exceptions in ten (10) days and states the following:

1. PECO Energy neither admits nor denies the allegations in section 1 of the Complainant's Motion. Preliminarily, PECO Energy was not served with the Complainant's Motion. PECO Energy was advised there was a motion pending by email correspondence from Jonathan Nase, dated May 2, 2013. By way of further response, the Complainant has never submitted evidence that he had a "major" surgery or that he was released to home health care. In his first Motion for an Enlargement of Time to File Exceptions, 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.

Now, the Complainant is requesting an additional ten (10) days on top of the twenty (20) days already granted by the Commission. Yet, the Complainant has never submitted any proof in the form of medical documentation to substantiate a requirement for additional time.

2. Denied. The Complainant has not presented any evidence to demonstrate the date he was discharged from the hospital or a physician's note, stating that the procedure he underwent has a six (6) week recovery period. The documentation he submitted states that he underwent an "uncomplicated" procedure. 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. 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. Accordingly, he had ample time to file Exceptions to the Initial Decision, which were served on March 4, 2013. Additionally, he had ample time to submit Exceptions after the additional twenty (20) days granted by the Commission.

3. Denied. PECO Energy avers that the Complainant is deliberately, delaying the adjudication of this matter. The Complainant's past behavior during the course of this litigation, with the number of continuances he has filed supports PECO Energy's position. 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.

4. PECO Energy neither admits nor denies the allegations in Section 4 of the Complainant's Motion. By way of further response, the Complainant's litigation in other matters is irrelevant to the current matter before the PUC and does not absolve the Complainant from filing timely Exceptions.

5. PECO Energy neither admits nor denies the allegations in Section 5 of the Complainant's Motion. By way of further response, the Complainant's litigation in other matters is irrelevant to the current matter before the PUC and does not absolve the Complainant from filing timely Exceptions.

6. PECO Energy neither admits nor denies the allegations in Section 6 of the Complainant's Motion. By way of further response, the Complainant's litigation in other matters is irrelevant to the current matter before the PUC and does not absolve the Complainant from filing timely Exceptions.

7. PECO Energy neither admits nor denies the allegations in Section 7 of the Complainant's Motion. By way of further response, the Complainant's litigation in other matters is irrelevant to the current matter before the PUC and does not absolve the Complainant from filing timely Exceptions.

8. PECO Energy neither admits nor denies the allegations in Section 8 of the Complainant's Motion. By way of further response, the Complainant's litigation in other matters is irrelevant to the current matter before the PUC and does not absolve the Complainant from filing timely Exceptions.

9. Denied. The Complainant had ample time to file Exceptions to ALJ Vero's Initial Decision, and he had ample time to file Exceptions given that he was granted an additional twenty (20) days beyond the deadline. 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. He has now stating he cannot file Exceptions within the extra twenty (20) days granted to him by the Commission. Yet, the Complainant has not submitted proof that he was hospitalized for any significant period of time or was otherwise unable to file Exceptions. Furthermore, the major reason he cites for not being able to comply is because he is busy with other litigation in other venues for other legal matters.

PECO Energy has been prejudiced by the Commission's first Order granting the additional twenty (20) day extension to the Complainant. PECO Energy will be further prejudiced if the Complainant is granted yet another extension. 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 an additional ten (10) days is simply another delay tactic to avoid paying his balance. PECO Energy and the company's ratepayers are prejudiced by the excessive delay to come to a final adjudication of this matter.

10. Denied. PECO Energy has been severely prejudiced by the numerous continuances granted during the litigation of this matter and the Commission's Order, granting a twenty (20) day extension. By way of further response, the Commission has previously banned the Complainant from filing formal complaints, for abusing the process. See Agnes Magnu vs.

AT& T Communications of PA Inc. 1194 Pa. PUC LEXIS 25, May 4, 1994). In its Discussion in Agnes Manu, the Commission then held that the complainants:

Agnes Manu, Stephen Atuahene a/k/a Stephen Frempong, Stephen Atuahene-Frempong, Benjamin Atuahene a/k/a Benjamin Atuahene-Fremong et al., d/b/a F.A. Investment Group, Inc. had been engaged in a series of legal maneuvers that in effect were an abuse of administrative process.

Further the Complainants' use of the corporate form to perpetrate their fraud in regard to utility services, and abuse of our administrative process to further that scheme, is evident in other respects. Complainants have used the corporate cover of FAI to obtain services for FAI at 7000 Woodbine, 1650 Roselyn Street and 242 South 49th. Street in the City of Philadelphia ...

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 for which he was banned by the Commission, 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,



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

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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: May 3, 2013

**BEFORE THE
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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



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

Dated at Philadelphia, Pennsylvania, May 3, 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/Visit#: 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"