

June 13, 2013

Via Electronic Filing

Rosemary Chiavetta, Esquire
Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
P.O. Box 3265
Harrisburg, PA 17105

Re: Docket No. F-2013-2352684
Moses Hoggard v. PECO Energy Company
Answer of PECO to Complainant's late filed letter and exhibits

Dear Secretary Chiavetta:

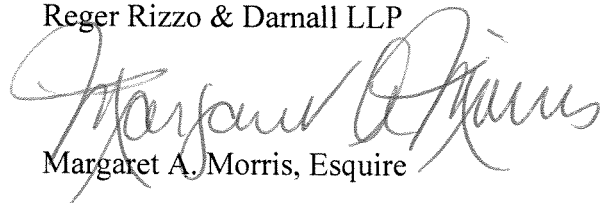
Enclosed for filing is PECO Energy Company's (PECO) Answer to the Motion for Admission of the late filed letter and exhibits of Moses Hoggard (complainant) in the above-captioned matter.

As indicated on the Certificate of Service, a copy of PECO's Answer has been provided to the complainant in the matter indicated.

If there are any questions, please do not hesitate to contact me.

Very truly yours,

Reger Rizzo & Darnall LLP



Margaret A. Morris, Esquire

Enclosures

cc: Honorable Kandace Melillo [w/enc.]
Moses Hoggard [w/enc.]

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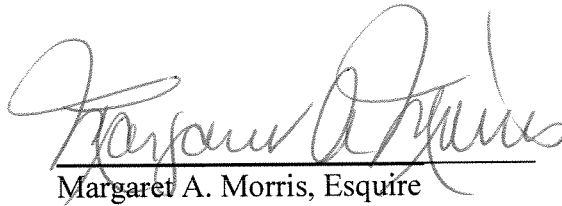
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been served upon the following person on the attached service list, in the manner indicated, in accordance with the requirements of §1.54 (relating to service by a participant).

Via First Class Mail

Moses Hoggard
583 Charles Street
Coatesville, PA 19320

Dated: June 13, 2013


Margaret A. Morris, Esquire

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

MOSES HOGGARD	:	
	:	
v.	:	Docket No. F-2013-2352684
	:	
	:	
PECO ENERGY	:	

**ANSWER OF PECO ENERGY COMPANY TO MOTION FOR ADMISSION OF THE
LATE FILED LETTER AND EXHIBITS OF COMPLAINANT, MOSES HOGGARD**

PECO Energy Company (PECO), by and through its attorneys, *Reger Rizzo & Darnall LLP*, pursuant to 52 Pa. Code § 5.103, hereby submits its Answer to the Motion for Admission of the late filed letter dated May 29, 2013 and exhibits¹ filed by Moses Hoggard (complainant). The late filed exhibits are duplicative of the testimony and exhibits already entered into the record. The letter introduces an issue never raised in the Complaint or during the hearing and repeats arguments previously testified to at the hearing.

In support of its Answer, PECO avers and represents as follows:

Procedural History

1. On May 24, 2013, a telephonic hearing was held before the Honorable Kandace F. Melillo who requested that PECO file three exhibits² no later than June 3, 2013. The complainant, his witness and a PECO witness testified at the hearing.

¹ There are 2 late filed exhibits: PECO May 2013 bill and receipt for payment of \$197.

² PECO filed the following exhibits: #8: 1st bill reflecting the PAR for \$1000 balance; #9: affidavit of B. Foisy regarding PUC actions on bill format; and #10: PECO CAP rate tariff.

2. During the May 24th hearing, the complainant sent to Judge Melillo a copy of the receipt of payment of \$197 made on May 23, 2013.

3. By letter dated May 29, 2013, the complainant requested that Judge Melillo consider additional argument regarding his position and admit his May 2013 PECO bill into the record.

4. On June 3, 2013, PECO filed the requested exhibits as directed.

5. By letter dated June 3, 2013, Judge Melillo addressed the complainant's filing and advised that the May 29th letter would be treated as a Motion for Admission. PECO was provided until June 13, 2013 to respond to the Motion.

Proposed Exhibits

6. PECO does not object to the admission of the receipt of the \$197 payment or the complainant's May 2013 bill. The documents speak for themselves and would have been admitted at the hearing.

7. PECO does share the concern of Judge Melillo that "this proceeding must be at an end" and that "[a]t some point the argument is duplicative and need not be repeated."

Letter dated May 29, 2013

8. PECO objects to the admission of the letter dated May 29, 2013 since the letter (1) raises an issue not stated in the Complaint or at the hearing and (2) contains duplicative argument previously provided at the hearing.

9. The usage issue raised in the May 29th letter was not stated in the Complaint nor raised by the complainant or his witness at the hearing. Rather, during settlement discussions prior to the hearing, the issue of how the calculation of the budget bill was discussed.

10. Introduction of this issue at this stage of the proceeding substantially affects PECO who has not had the opportunity to cross examine the complaint regarding this issue or to present testimony to refute the allegation.

11. While the Commission does have the ability to liberally construe its rules particularly when the proceeding involve a *pro se* litigant, 52 Pa Code §1.2, the Commission has recognized that its does not have the authority to do so when it would affect the substantive rights of a party. *Info Connections, Inc. v PA PUC*, 640 A2d. 498 (Pa. Cmwlth. 1993). To the extent that the letter raises a new issue, it should not be admitted to the record.

12. To the extent that the May 29th letter does not address a newly raised issue, but contains argument that has no probative value and is duplicative of testimony provided at the hearing, the letter should not be admitted to the record.

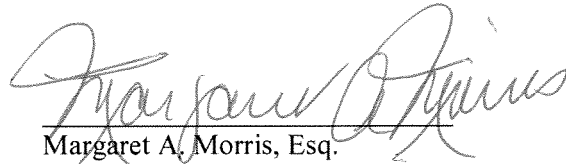
13. Commission Regulations, 52 Pa Code §5.483(a), authorize the presiding officer to exclude unduly repetitive evidence.

WHEREFORE, PECO Energy Company, requests that the late filed letter filed by Moses Hoggard at Docket No. F-2013-2352684 not be admitted into the record since the document contains (1) argument not previously raised in the Complaint or at the hearing and (2)

duplicative argument. PECO Energy Company has no objection to the two late filed exhibits.

Respectfully submitted,

Dated: June 13, 2013



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