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October 8, 2013

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

RE: Stephen Merrigan v. PECO Energy Company
PUC Docket No.: F-2013-2373941

Dear Ms. Chiavetta:

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

- Answer
- Answer & New Matter
- X **Motion Objecting to Continuance Request**
- Motion for Judgment on the Pleadings
- Motion to Admit Exhibits
- 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: Stephen Merrigan (via email & Federal Express)
Christopher Pell, Adm. Law Judge (via email)

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

STEPHEN MERRIGAN

v.

PECO ENERGY COMPANY

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DOCKET NO. F-2013-2373941

**MOTION OF PECO ENERGY COMPANY OBJECTING TO COMPLAINANT'S
WITHDRAWAL OF FORMAL COMPLAINT**

PECO Energy Company ("PECO Energy") hereby objects to the Complainant's request to withdraw his formal complaint, pursuant to 52 Pa. Code § 5.94(a) and states the following:

1. An In-Person "Call of the Docket" hearing is scheduled to take place Thursday, October 10, 2013, before Administrative Law Judge Christopher Pell.

2. On Tuesday, October 7, 2013, PECO Energy received correspondence from the Complainant, stating that he wishes to cancel the hearing because he cannot take time off of work and that he is going to try to work with PECO Energy. See Complainant's Correspondence, attached hereto as Exhibit "1".

3. Complainant's correspondence purports to be a Notice of Withdrawal of Complaint and request to cancel the hearing.

4. PECO Energy objects to the Complainant's Petition to withdraw the formal complaint or to cancel the hearing.

5. 52 Pa. Code § 5.94(a) states:

Except as provided in subsection (b), a party desiring to withdraw a pleading in a contested proceeding may file a petition for leave to withdraw the appropriate document with the Commission and serve it upon the other parties. The petition must set forth the reasons for the withdrawal. A party may object to the petition within 20 days of service. After considering the petition, an objection thereto and the public interest, the presiding officer or

the Commission will determine whether the withdrawal will be permitted.

6. The Complainant's reasons for withdrawing his formal complaint that he (1) "cannot take that time off work" and (2) an effort to "try and work with PECO" are not sufficient reasons to withdraw the complaint.

7. First, the Complainant's formal complaint is a request for a new payment agreement, arising from a defaulted PUC issued payment agreement. PECO Energy is unable to offer the Complainant another payment agreement. Accordingly, any efforts to work with PECO in this regard cannot be fulfilled.¹

8. Second, the Complainant is withdrawing his formal complaint three days before the scheduled October 10th hearing. Complainant had notice of this hearing since July 29, 2013, and had over three months to schedule time off work to attend the hearing.

9. If the Complainant is given an opportunity to withdraw his formal complaint without prejudice, he will have the ability to re-file the complaint and begin this process all over again.

10. This will prolong litigation and resolution of this matter. Withdrawal of the formal complaint will result in severe prejudice to PECO Energy and its ratepayers as well as the Commission because of the resources that have already been committed to litigating and adjudicating this matter. Consequently, permitting the Complainant to withdraw his formal complaint is not in the public interest. See Acot v. PPL Elec. Utilities Corp., Docket No. F-01017024 (Aug. 29, 2002) (where the Commission concluded that the Complainant's Petition to Withdraw her formal complaint would not be in the public interest.)

¹ The only option available to the Complainant is to pay the catch-up amount of \$1,648.83 on the defaulted PUC payment agreement to reinstate that Level 4 agreement.

11. Accordingly, PECO Energy respectfully requests that this Honorable Commission deny the Complainant's Petition to Withdraw his formal complaint and the October 10, 2013 proceeding commence as scheduled.

WHEREFORE, PECO Energy respectfully requests that this Honorable Commission deny the Complainant's Petition to Withdraw Formal Complaint.

Respectfully Submitted,



Shawane L. Lee
Counsel for PECO Energy Company
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P.O. Box 8699
Philadelphia, PA 19101-8699
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Fax: 215.568.3389
Shawane.Lee@exeloncorp.com

**BEFORE THE
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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: October 8, 2013

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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 Motion in the above matter upon all interested parties by mailing and emailing a copy, properly addressed and postage prepaid to:

Stephen Merrigan
908 Noble Drive
Downington, PA 19335



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, October 8, 2013.

EXHIBIT “1”



REAGENT Express Center

Located at 256 Eagleview Blvd. Exton PA 19341

Phone # (610)280-7891

Fax # (610)280-7959

Thanks you for your Business !

RECEIVED

OCT 07 2013

PUBLIC UTILITY COMMISSION
PHILADELPHIA OFFICE
ADMINISTRATIVE LAW JUDGE

To: _____ From: Stephen MERRIGAN

Company: Public Utilities Commission Date: 10/5/13

Fax Number: 215-560-3133 Total Pages Incl. Cover: 2

Phone Number: 717-787-1399 Re: Court Date

TO Whom it may concern I HAVE
 decided TO ~~CANCEL~~ Court Date
 for 10/10/13. Can NOT TAKE that
 TIME OFF WORK. WE ARE going TO
 TRY and work with PECO.

Thank you
 Stephen MERRIGAN
 908 NOBLE Drive
 Downingtown PA 19335

484-467-2080