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October 28, 2013

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

RE: Ruth Smiles v. PECO Energy Company
PUC Docket No.: C-2013-2362241

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 Standing to Prosecute
- 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: Ruth Smiles (Decedent) c/o Jaclyn Ruby (via First Class Mail)
Angela T. Jones, Adm. Law Judge (via First Class Mail)

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

RUTH SMILES	:	
v.	:	DOCKET NO. C-2013-2362241
	:	
PECO ENERGY COMPANY	:	

**MOTION OF PECO ENERGY COMPANY OBJECTING TO STANDING OF
JACLYN LUBY TO PROSECUTE THE DECEASED COMPLAINANT
RUTH SMILES' FORMAL COMPLAINT**

PECO Energy Company ("PECO Energy"), hereby objects to the standing of Complainant's daughter, Jaclyn Luby to prosecute the deceased Complainant, Ruth Smiles' formal complaint and states the following:

1. Complainant, Ruth Smiles filed a formal complaint against PECO Energy alleging there are incorrect charges on her bill; a LIURP installed heater at her property is not large enough for her home, and a request for a payment agreement.
2. This matter was scheduled for an in person hearing to take place on August 15, 2013, before Administrative Law Judge Angela T. Jones.
3. At the Complainant's request, the hearing was rescheduled to take place on September 30, 2013, as a telephonic hearing, due to the Complainant's health issues.
4. On September 30, 2013, the Complainant's health representative, Jill McDuffy advised ALJ Jones and PECO Energy's counsel that the Complainant had recent brain surgery and due to her health condition was unable to participate in the call. See Correspondence, dated 10/1/13, attached hereto Exhibit "1".
5. During the telephone conference, ALJ Jones advised that she would reschedule the hearing and the Complainant's daughter, Jaclyn Luby, ("Ms. Luby") could represent the Complainant at the rescheduled hearing if she had a legal Power of Attorney.

6. On October 1, 2013, the hearing was rescheduled to take place telephonically on Tuesday, December 10, 2013, at 1:30 p.m.

7. On October 10, 2013, PECO Energy received correspondence forwarded through ALJ Jones that the Complainant died on October 3, 2013 at Penn Hospice at Rittenhouse. See Correspondence, dated 10/10/13, attached hereto as Exhibit "2".

8. PECO Energy objects to Ms. Luby representing the Complainant at the December 10, 2013, hearing.

9. PECO Energy has not received a Power of Attorney from Ms. Luby representing that she has the "power to pursue claims and litigation" as enumerated in 20 Pa.C.S. § 5603(s).

10. PECO Energy avers that even if Ms. Luby has a Power of Attorney it is not sufficient to represent the decedent Complainant's interests at the hearing.

11. A power of attorney would not be valid to give Ms. Luby the power to act on behalf of the decedent as she is no longer living.

12. A power of attorney document is valid only during the principal's lifetime, not after the death. The authority for a power of attorney ends when the principal dies. After the principal dies, the named agent no longer has authority. 20 Pa.C.S. §5605(a) (a power of attorney is revoked by knowledge of principal's death.)

13. Further, if Ms. Luby were named the administrator of the decedent Complainant's estate and has authority to act on behalf of the decedent's estate, a new formal complaint would need to be filed with the Estate of Ruth Smiles as the Complainant.

14. Consequently, Ms. Luby has no standing to prosecute the case on behalf of the decedent Complainant.

15. Accordingly, PECO Energy would request that the formal complaint of the decedent Ruth Smiles be dismissed without prejudice, in lieu of a representative of the Estate of Ruth Smiles demonstrating standing to prosecute the formal complaint.

WHEREFORE, PECO Energy respectfully requests that this Honorable Commission dismiss this matter without prejudice in lieu of a representative of the Estate of Ruth Smiles, demonstrating standing to prosecute the formal complaint.

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

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

RUTH SMILES

v.

PECO ENERGY COMPANY

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DOCKET NO. C-2013-2362241

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 28, 2013

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

RUTH SMILES

v.

PECO ENERGY COMPANY

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DOCKET NO. C-2013-2362241

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:

Ruth Smiles (Decedent)
c/o Jaclyn Luby
5644 Overbrook Avenue
Philadelphia, PA 19131



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 28, 2013.

EXHIBIT “1”

Patient- Ruth (Luby) Smiles

DOB- 12/21/1952

Dx- lung cancer, mets to brain. Recent brain surgery and whole brain radiation.

DNR

PHR 6031

Family contact/ POA-

Dghtr- Jaclyn Luby

215-477-8603 house

267-918-4839 cell

Ruth Smiles-

5644 Overbrook Ave 19131

267-230-6569

Judge Angela T. Jones

Judge's secretary Maureen 215-560-2105

MSW Summary- 9/30- Patient currently at Penn Hospice at Rittenhouse for end of life care. I received a call today from the Judge overseeing Ruth's PECO hearing. Judge Jones had approved a telephonic hearing for today. Judge Jones, PECO lawyer and I spoke on conference call. Court hearing has been postponed due to Ruth's current medical status. Judge Jones will submit for new hearing date. Judge Jones confirmed that dghtr Jacki can represent patient if she is legal POA.

I spoke with Jacki today to confirm that she is legal POA and she does have documentation re this. Jacki will await notice of reschedule and f/u at that time.



EXHIBIT “2”



Penn Home Care & Hospice Services

From- Jill Duffy, MSWLCSW
Penn Wissahickon Hospice/ Penn Hospice at Rittenhouse
1800 Lombard Street
Philadelphia, PA 19147

Re- Ruth Luby (Smiles)
DOB- 12/21/1952
5644 Overbrook Ave
Philadelphia PA 10131

October 10, 2013

Your Honorable Angela T. Jones,

I am writing to let you know that Ms. Ruth Luby (Smiles) died peacefully on October 3, 2013 at Penn Hospice at Rittenhouse with her family at her bedside. Her daughter, Jaclyn Luby, will be managing all her affairs.

Jaclyn Luby
215-477-8603
267-918-4839

Thank you for your patience and your consideration throughout Ms. Luby's PECO hearing process.
Please feel free to contact me if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Jill Duffy".

Jill Duffy, MSWLCSW

Jill.duffy@uphs.upenn.edu
215-900-7946

PECO ENERGY
EXHIBIT - 2