

November 20, 2013

Via UPS Next Day

Rosemary Chiavetta, Esquire
Secretary
PA Public Utility Commission
Commonwealth Keystone Building, 2 North
P.O. Box 3265
Harrisburg, PA 17105-3265

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Re: Docket No. C-2012-2318472
Mark Mazza v. PECO Energy Company
Main Brief of PECO

Dear Secretary Chiavetta:

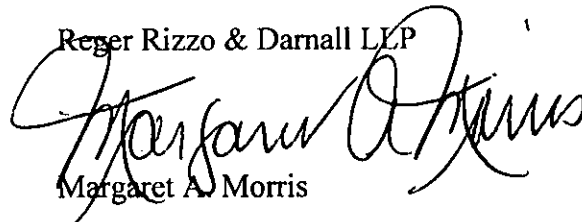
Attached for filing is the Main Brief of PECO Energy Company in the above referenced proceeding.

A copy of the attached Main Brief has been forwarded to the Complainant in the manner indicated on the attached Certificate of Service.

If there are any questions, please feel free to contact me.

Very truly yours,

Reger Rizzo & Darnall LLP



Margaret A. Morris

MAM

Enclosures

cc: The Hon. Elizabeth Barnes, OALJ, PA PUC [w/enc.]
Mark Mazza [w/enc.]
Ward Smith, Exelon Business Services [w/enc.]

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

MARK MAZZA

v.

PECO ENERGY COMPANY

:
:
:
:
:
:

Docket No. C-2012-2318472

**MAIN BRIEF OF
PECO ENERGY COMPANY**

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Date: November 20, 2013

Counsel for PECO Energy Company

Introduction

This matter comes before the Commission as the sixth Formal Complaint filed by Mark Mazza (Complainant or Mr. Mazza) against PECO Energy Company (PECO, Company or Respondent)¹. Mr. Mazza requests that PECO be enjoined from any action to shut off and/or suspend service at Complainant's property until all appeals of his prior complaints, including appeals to the United States Supreme Court, are fully exhausted. In the alternative, Mr. Mazza seeks a payment arrangement (PAR) and/or substantial reduction of all bills due to financial circumstances and unemployment².

For its part, PECO, in its New Matter, contends that Mr. Mazza, by continuously filing, re-filing, and appealing Complaints all dealing with the same subject matter and past due balances, is abusing the Commission's complaint process to avoid the lawful termination of his service due to non-payment. PECO seeks the right to terminate service and seeks to bar further complaints related to the \$9,600.12 past-due amount set forth on the 10-day Notice, dated July 26, 2012 (10-day Notice).

¹ PECO notes that, *in the last two-and-a-half-months*, while Complaint #6 has been in the litigation process, *Mr. Mazza has filed three additional formal complaints with the Commission, all related to non-payment of his current bills* during the instant litigation. Mr. Mazza filed his Complaint #7 on September 6, 2013, alleging the 10-day notice, issued August 29, 2013 (related to Mr. Mazza's failure to pay **current bills** during the instant litigation), was invalid, *inter alia*, due to "pending appeals and future appeals" of PUC cases. PECO Exhibit R-6. On November 14, 2013, PECO was served with Mr. Mazza's Complaint #8 in which he again alleges that he should not have to pay his current bills until such time as Complaint #6 and all appeals related thereto are complete. Complaint #9 was served on PECO yesterday, November 19, 2013 alleging that PECO's billing practices are irregular and misleading – and that the \$9,600.12 at issue in Complaint #6 should be removed from Mr. Mazza's bills until all appeals of his complaints on those matters are exhausted.

² The Commission directed that, in addition to Mr. Mazza's allegations, four other issues related to Mr. Mazza's claim also be investigated in this remand. Those issues, and PECO's analysis of them, are set forth in detail in the History and Discussion sections of this Brief.

History of the Proceeding

On August 1, 2012, Mr. Mazza filed the instant Complaint (Complaint #6) alleging that PECO's 10-day Notice is invalid since "two PUC cases were pending."

On August 14, 2012, PECO filed Preliminary Objections against Complaint #6 citing Mr. Mazza's long history of filing frivolous formal complaints in attempt prevent the lawfully terminating his service for non-payment and sought to dismiss Complaint #6 since the subject matter addressed in the complaint was previously litigated in prior formal complaint proceedings.

On August 22, 2012, Complainant filed an Answer denying all allegations in PECO's Preliminary Objections.

On September 25, 2012, the instant case was assigned to Administrative Law Judge Elizabeth H. Barnes as Motion Judge for the disposition of the Company's Preliminary Objections and Complainant's Response.

On December 31, 2012, the Initial Decision was issued granting PECO's Preliminary Objections finding that Complaint #6 was substantially similar to three previously filed formal complaints; that the Company's Preliminary Objections met the three pronged test for *lis pendens*; and dismissed Complaint #6.

On January 19, 2013, Complainant filed Exceptions to the Initial Decision alleging violations of due process, equal protection rights, errors of law, errors of fact, violations of federal and state laws, lack of proper notice and service, improper application/finding regarding the doctrine of *lis pendens*, improperly sustaining PECO's Preliminary Objections, judicial bias, prejudice, abuse of discretion, and conflict of interest.

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On April 18, 2013, the Commission issued an Opinion and Order granting in part the Complainant's Exceptions; vacating the Initial Decision and remanding the matter for further hearings (*Remand Order*). The ALJ was directed, on remand, to consider four points: (1) how 52 Pa. Code § 56.141(2) applies to Complaint #6, considering that an appeal does not automatically stay a Commission Order; (2) the Commission indicated that it shares the ALJ's concern about the potential misuse of the Commission's litigation process and directed an investigation of the Complainant's payment history; (3) how much of the outstanding balance is disputed in the ongoing appellate litigation as of the date Complaint #6 was filed; and (4) how much of the balance is undisputed and when any such amount became undisputed. *Remand Order* at 12.

On April 22, 2013, pursuant to the Remand, ALJ Barnes issued an Initial Telephonic Hearing Notice scheduling the matter for hearing on July 18, 2013. On April 24, 2013, the Pre-Hearing Order was issued.

On May 8, 2013, the Company was granted an uncontested extension of time to file its Answer to the Complaint to May 28, 2013.

PECO filed an Answer and New Matter on May 28, 2013, denying the Complainant's allegations of any pending disputes, reasserting the validity of the 10-day Notice and requested that Complaint #6 be dismissed. PECO's New Matter reiterated the assertions in the Preliminary Objections and requested that the Complainant be barred from filing any further complaints regarding the amount set forth on the 10-day Notice, \$9,600.12, until that arrearage was paid in full.

On June 7, 2013, PECO properly forwarded its Discovery Requests to Complainant requesting clarification of his assertion of pending matters, dollar amounts in dispute, current occupation and financial documents.

On June 13, 2013, Complainant filed his Answer to PECO's New Matter denying all allegations in the Company's New Matter, restating his requested relief and that the

New Matter be dismissed in his favor. The Complainant did not serve the pleading on PECO.

On June 17, 2013, Complainant filed Objections to PECO's discovery requests alleging that the information properly sought by the Company was harassing, overbroad, unduly burdensome and redundant. The Complainant did not serve the pleading on PECO. On July 2, 2013, PECO filed its Motion to Compel Responses to Discovery requests.

On July 15, 2013, three days before the scheduled Initial Telephonic Hearing, the Complainant filed a Motion to Stay indicating that he had sought protection under a Chapter 7 Bankruptcy Petition filed in federal court under Docket No. 13-15760-MDC (Petition). As a result, the Initial Telephonic Hearing was converted to a Pre-Hearing Conference and held on July 18, 2013.

ALJ Barnes issued a Stay Order on July 30, 2013, pursuant to the automatic stay of Section 362(a)(6) of the U.S. Bankruptcy Code and directing the parties to file a status report with the Commission within sixty (60) days.

On August 15, 2013, PECO filed the entries from the U.S. Bankruptcy Court, Docket No. 13-15760-MDC, with a copy to ALJ Barnes, that the Complainant's Petition was dismissed for failure to file required schedules by July 12, 2013 in spite of the Complainant's request for the extension of time being granted.

On August 28, 2013, ALJ Barnes issued a Procedural Order lifting the previously issued Stay Order; granted PECO's Motion to Compel, directed the Complainant to provide the discovery responses and scheduled a Further Telephonic Hearing for October 24, 2013.

On October 2, 2013, PECO filed a Motion for Sanctions for the Complainant's failure to comply with the Procedural Order. On October 16, 2013, PECO received

Complainant's Response to its Discovery Requests. ALJ Barnes issued her Decision denying PECO's Motion for Sanctions on October 18, 2013.

A Telephonic Hearing was held on October 24, 2013 at which time the schedule for the filing of briefs and reply briefs was established.

As previously stated, the Complainant has filed nine Formal Complaints since 2008. A summary of the various Complaints is set forth below.

Complaint #	Docket No.	Issue	Date Filed	PUC Final Order	Appeal	Court Decision
1	C-2008-2047803	Seeks PAR	06/2008	12/19/08	No	
2	C-2009-2118230	No Notice of Term;	07/06/09	12/6/10	Yes	Denied ³
3	C-2009-2120401	Termination	07/22/09	12/6/10	Yes	Cmwlth. Ct. dismissed; PA Sup. Ct. denied writ U.S. Sup Ct denied writ
4	C-2010-2171324	Termination	04/19/10	7/15/11	No	
5	C-2011-2235775	Notice incl charges not due; seeks PAR	04/13/11	6/1/12	Yes ⁴	Cmwlth. Ct. dismissed PA Sup. Ct. denied writ
6	C-2012-2318472	10-day Notice invalid;	08/01/12			

³ Complaints #2 and #3 were consolidated; the Pennsylvania Supreme Court. ordered the Complainant to serve his Petition for Allowance on the Commission and PECO since neither party was served with Petition seeking permission to appeal the Commonwealth Court's Order.

⁴ The Commission and PECO were not served with Complainant's Appeal of Complaint #5 to Commonwealth Court filed on June 29, 2012.

		seeks PAR				
7	C-2013-2383618	10-day Notice 8/29/13 invalid	09/06/13			
8	C-2013-2393225	Complainant should not have to pay current bills during pendency of all PUC complaints and appeals	10/29/13			
9	C-2013-2392536	PECO's billing practices are irregular and misleading; Seeks stay of all termination until appeal process for all complaints is exhausted.	11/14/2013			

See, PECO Exhibit R-3. Tr. 75-80.

Complaints #8 and #9 were not included in Exhibit R-3; they were recently served on PECO. PECO requests that the Commission take administrative notice of the existence of Complaints #8 and #9; a copy of each complaint is attached to this Main Brief.

Positions of the Parties

Complainant's Position

The Complainant asserts that the 10-day Notice was issued prematurely in July 2012 because "two PUC cases were still pending." Tr. 42-43, 50 and PECO Exhibit R-5.

The two cases that Complainant believes were pending at that time were Complaints #2/3 and #5. Tr. 42, 50.

The Complainant asserts that as long as an appeal is pending or if his appeals are not completely exhausted, up to and including an appeal to the United States Supreme Court, then PECO is prohibited from terminating his service for any reason Tr. 50, 58 and 59. Until the appeal period expires, the Complainant believes that a PUC case is not considered a final order or disposition. Tr. 47, 50 and 58. The Complainant contends that since the right to appeal period to the U.S. Supreme Court had not expired when the 10-day Notice was issued, PECO could not attempt to terminate his service. Tr. 47, 50.

The Complainant requests another PUC PAR for the outstanding balance or a substantial reduction of all bills due to financial circumstances and unemployment; he has been unemployed since 2007; the sole household income is from his wife. Tr. 45, 53.

Respondent's Position

The Complainant, a residential customer, is billed monthly for electric and gas services; the outstanding balance subject to termination set forth on the 10-day Notice is \$9,600.12. Tr. 74 and PECO Exhibit R-5. PECO recognizes that it is prohibited from terminating Complainant's service while a complaint is pending before the Commission. Tr. 74. However, once a Commission proceeding is complete, then the dispute before the Commission is concluded. In that case, a complainant that wishes to appeal that final decision of the Commission to an appellate court may do so -- but that dispute is now a dispute under the jurisdiction of that court, not the Commission, and the Commission's stay provision thus no longer applies.⁵ Instead, each court has its own rules and procedures for obtaining a stay or injunction during the appeal process. If a complainant

⁵ In fact, an appeal of a Commission Final Order to the Commonwealth Court is actually a dispute between the Complainant and the Commission, not a dispute between the Complainant and PECO. This is why Mr. Mazza's appeals are styled and captioned as "Mazza v. PUC."

on appeal wishes to obtain a stay of termination during the appeal process, they must seek and obtain such a stay *from the court with relevant jurisdiction.*

When PECO issued the 10-day Notice, there were no complaints pending before the Commission. Tr. 79. The Commission issued a Final Order on Complaints #2/3 on December 6, 2010 and a Final Order on Complaint #5 on June 1, 2012. Tr. 76, 78, 79 and Exhibits R-3, R-9 and R-10.

On August 8, 2012, PECO entered into the last Company PAR for the then outstanding balance of \$9,742.85 based on the financial information provided at the time by the Complainant; the PAR terms⁶ were consistent with the amortization period authorized by Chapter 1405(d)(2). The Company will not enter into another PAR with the Complainant; the Commission cannot direct another PUC PAR since he defaulted on the previous PUC PAR and there has been no change in income as required by Chapter 14, 66 Pa. C.S. § 1401, *et seq.*

Record Evidence

Complainant's Evidence

Complainant testified but did not introduce any exhibits into evidence. . The Complainant disputes the charges on the 10-day Notice. Tr. 48. In his opinion, he “understands” that while his complaint about those charge is on appeal, including any appeal to the United States Supreme Court, are exhausted. Tr. 50, 58, and 64. The Complainant testified that he has a 60 or 90 day “right to appeal to the U.S. Supreme Court.” Tr. 51 and Complaint ¶ 4. In his opinion, Complaints #2/3 and Complaint #5 are still not final and are still on appeal. Tr. 60. He alleges both cases were pending at the time he filed Complaint #6 because the U. S. Supreme Court has not denied his request for review. Tr. 50.

⁶ Current bills + \$405.95 on a balance of \$9,742.85.

The Complainant offered conflicting testimony regarding the PARs that have directed by the Commission or negotiated with PECO. Tr. 105-106. He was unaware that Complaint #1 was resolved through settlement or that the PUC directed a PAR in the Final Order for Complaints #2/3 and claims to have no memory of entering into any Company PAR. Tr. 105-6. The Complainant contends that PECO unilaterally “self-imposes” a PAR on a customer and simply placed the terms on the monthly bill. Tr. 104

Respondent’s Evidence

PECO introduced twelve exhibits, all of which were admitted into evidence. Teresa Ferrier, a regulatory assessor, testified on behalf of PECO.

<u>Exhibit Number</u>	<u>Description of Exhibit</u>
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R-1	Account Summary
R-2	Collection History
R-3	Chart of Complaints # 1 through # 7
R-4	Chart of PAR Amounts
R-5	10 Day Notice dated June 26, 2012
R-6	Mazza Complaint #7 filed September 6, 2013
R-7	Mazza Financial Information dated 8/8/12 provided to PECO
R-8	Mazza Discovery Response to PECO dated October 9, 2013
R-9	Complaints #2/3 – Final Order entered 12/6/2010 and Appellate Orders
R-10	Complaint #5 – Final Order entered 6/1/2012 and Appellate Orders
R-11	Complaint #1 – Certificate of Satisfaction; docket closed 12/19/2008
R-12	Complaint #4 – Initial Decision and Final Order adopting ID

Ms. Ferrier testified that the 10-day Notice was valid because there were no disputes pending before the Commission, Tr. 86-87, and that there was no dispute as to the amount subject to termination, i.e., \$9,600.12. Tr. 87. In fact, as a result of the Company entering into a PAR on August 13, 2012, the undisputed amount on the account was \$9,742.85 which included the amount subject to termination of \$9,600.12. Tr. 87 and PECO Exhibits R-2 and R-4.

The Complainant’s payment history is very poor; he does not pay his bill in full and on time each month. He has avoided termination by continuously filing complaints

with the Commission since 2008, appealing those complaints when he loses, and then “pancaking” additional formal complaints at the Commission to re-address the same subject matter. As a result of his actions, the account balance is over \$10,000. Tr. 86. The Complainant’s pattern is to pay a month, miss a month, and then roll any missed payments into a new PAR, which increases his account balance. Tr. 87. He has defaulted on all four PARs, three of which were established by PECO and the PUC PAR. Tr. 80 and PECO Exhibits R-2 and R-4. Ms. Ferrier testified that Mr. Mazza simply does not want to pay his balance and avoids termination by continuing to file complaints—even during the litigation phase of this proceeding. Tr. 87. In the last sixty days, the Complainant has filed three additional complaints.

Complaint #7, Docket No. C-2013-2383618, filed September 6, 2013, requests a stay of another 10-day notice for failure to pay current bills arguing that due to “pending PUC cases and appeals in the court system and future appeal filings,” PECO was prohibited from sending the termination notice. Tr. 87 and PECO Exhibit R-6.

Complaint #8, Docket No. C-2013-2393225, filed October 29, 2013, alleging that PECO be prohibited from terminating service until “all PUC complaints are adjudicated and until all appeals are exhausted.” A copy of Complaint #8 is provided as Attachment 1.

Complaint #9, Docket No. C-2013-2392536, filed November 14, 2013, asserts that the amount subject to termination (\$679.37) includes charges set forth in the 10-day Notice (\$9,600.12) challenged in Complaint #6 and arguing that that amount is still “in the appeal process and being litigated.” A copy of Complaint #9 is provided as Attachment 2.

The Complainant has a pattern of filing frivolous complaints and appeals. In fact the Commonwealth Court in its Opinion dismissing the appeal of the Final Order for Complaint #5 found that the Complainant presented “no basis in law or fact to support his position” and the appeal was “frivolous.” PECO Exhibit R-10.

Legal Burden

The party filing the complaint bears the burden of proving that he or she is entitled to relief from the Commission. 66 Pa. C.S. § 332(a). “Burden of proof” means a duty to establish one’s case by a preponderance of the evidence, which requires that the evidence be more convincing by even the smallest degree, than the evidence presented by the other side. Se-Ling Hosiery, Inc. v. Margulies, 364 Pa. 45, 70 A.2d 854 (1950). To satisfy the burden of proof against a utility, a complainant must show that the utility is responsible or accountable for the problem described in the complaint, Feinstein v. Philadelphia Suburban Water Company, 50 Pa. PUC 300 (1976), or that the utility has violated either its duty under the Public Utility Code or the orders or regulations of the Commission. 66 Pa. C.S. § 701.

To establish a sufficient case and satisfy the burden of proof, a complainant must show that the respondent public utility is responsible or accountable for the problem described in the complaint. Patterson v. Bell Telephone Company of Pennsylvania, 72 Pa. PUC 196 (1990); Feinstein v. Philadelphia Suburban Water Company, 50 Pa. PUC 300 (1976). Such a showing must be by a preponderance of the evidence. Samuel J. Lansberry, Inc. v. PA Public Utility Comm’n, 134 Pa. Cmwlth. 218, 221-222, 578 A.2d 600, 602 (1990); alloc. den., 602 A.2d 863 (1992). That is, by presenting evidence more convincing, by even the smallest amount, than that presented by the other party. Se-Ling Hosiery v. Margulies, 364 Pa. 45, 70 A.2d 854 (1950). Additionally, any finding of fact necessary to support the Commission’s adjudication must be based upon substantial evidence. Mill v. Commonwealth, PA Public Utility Comm’n, 67 Pa. Cmwlth. 597, 447 A.2d 1100 (1982); Edan Transportation Corp. v. PA Public Utility Comm’n, 154 Pa. Cmwlth. 21, 623 A.2d 6 (1993); 2 Pa. C.S. § 704. More is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established. Norfolk and Western Ry. v. PA Public Utility Comm’n, 489 Pa. 109, 413 A.2d 1037 (1980); Erie Resistor Corp. v. Unemployment Compensation Bd. of Review, 194 Pa. Super. 278, 166 A.2d 96 (1960); Murphy v. Commonwealth, Dept. of Public Welfare, White Haven Center, 85 Pa. Cmwlth. 23, 480 A.2d 382 (1984).

Under these principles the Complainant, as the party seeking relief, has the burden of proof. In this case, the Complainant has the burden of proving, by a preponderance of the evidence, that the Respondent is responsible or accountable for the problem described in his complaint, i.e., the 10-day Notice is invalid and he is entitled to another PUC PAR for the outstanding balance. See, Feinstein, supra.

Discussion

Complaint #6

The Complainant has not met his burden of proof that the 10-day Notice was invalid at the time it was issued; there were no complaints pending at the Commission⁷.

The record evidence supports a finding that when the 10-day Notice, dated July 26, 2012, was issued, there was no pending case at the Commission; a Final Order had been issued in both dockets for Complaints #2/3 and #5. PECO Exhibits R-9 and R-10. As more fully discussed below, the Commission did not have jurisdiction over Complaints #2/3 or #5 on July 26, 2012. The Commission ceased to have jurisdiction thirty days after the issuance of its Final Order in each of the respective dockets: for Complaints #2/3 the Final Order entered December 6, 2010 and for Complaint #5 the Final Order was entered on June 1, 2012. See, Pa. R.A.P. § 341(c)(3). A Final Order is defined as one that ends litigation, puts litigants out of court or precludes a party from presenting the merits of his claim. Pittsburgh Bd. of Pub. Educ. v. Pa. Human Rels. Comm'n, 820 A. 2d 838 (Pa. Commw. Ct. 2003). The Commonwealth Court has exclusive jurisdiction of appeals from the final orders of the Commission. 42 Pa. C.S. §

⁷ PECO notes that the Complainant has a legal background; he was admitted and practice law in Pennsylvania from 1983 to 2000, and made a living doing so. Tr. 56. Thus, notwithstanding that Mr. Mazza is appearing *pro se* and was disbarred from engaging in legal practice, PECO respectfully submits that he should be held to a higher standard than the normal *pro se* complainant when making legal arguments or allegations – or when stating his “understanding” on legal matters. As his nine formal complaints and numerous appeals make clear, notwithstanding his *pro se* stature and disbarment, he still retains some legal knowledge.

763(a)(1). The appeal to the Commonwealth Court is one that may be taken as of right from the Commission and the order on appeal must be a final order. See, Pa. R.A.P. § 341.

The Complainant did have a right to appeal the Commission's Final Order to the Commonwealth Court which he did regarding Complaints #2/3 and #5. At that time, he also had the right to seek a stay of the Commission's underlying order. See generally, Pa. R.A.P §§ 1701-1704 and §§ 1731-1751. Mr. Mazza did not utilize those rules to seek a stay of the Commission order – by, for example, posting a bond of the disputed amount – and as a result of not seeking a stay, the Commission's Final Order remains valid while the appeals are pursued.

Moreover, Mr. Mazza's "right" to appeal was exhausted after the Commonwealth Court entertained his appeals. From that point forward, appeals are available only by permission from the senior court. Thus, Mr. Mazza did not have a right to appeal the Commonwealth Court's Order dismissing his appeals of Complaints #2/3 and #5 to a higher court without being granted permission by the higher court -- as illustrated by the Complainant's own pleadings which sought "permission to appeal." See Pa. R.A.P. § 341(d).

PECO understands that Mr. Mazza strongly expressed his "opinion" that an appeal constitutes an ongoing dispute for purposes of staying termination. It is somewhat difficult to determine whether Mr. Mazza intends for this to be an expert opinion based upon his legal training and experience – although disbarred, Mr. Mazza made a living as a lawyer for decades – or whether he intends it to merely be his personal opinion.⁸ If it is an expert legal opinion, then his failure to articulate any basis for it means that it is entitled to no weight. If it is his personal opinion, as he claimed in testimony, then PECO notes that a personal opinion, no matter how strongly held, does not constitute evidence. Pennsylvania Bureau of Corrections v. City of Pittsburgh, 532 A.2d 12 (Pa. 1987). The

⁸ Mr. Mazza testified that his "understanding" on the appellate process "was not based on his legal training," Tr. 56, but it is not plausible to believe that he formed an opinion on this legal matter that was not informed by his decades of legal practice.

Complainant's position that he had "2 pending cases" when PECO issued the 10-day Notice and that he had a right to further appeal is without merit and should be summarily denied. There is no record support for his position.

As to Mr. Mazza's alternative request for a PAR or to reduce the undisputed outstanding account balance due to his financial situation/unemployment, PECO respectfully suggests that this request is not warranted and should also be summarily denied. However he manages his household budget, the Complainant has to pay PECO for the utility service he consumes. By law, a public utility is entitled to receive payment for the service it provides. Scaccia v. West Penn Power Co., 55 Pa. PUC 637 (1982). Kea v. Peoples Natural Gas Co., 60 Pa. PUC 215 (1985); Mill v. Pa. Public Utility Comm'n, 447 A.2d 1100 (Pa. Cmwlth. 1982). PECO has the right to bill and receive payment for the utility service actually supplied. 66 Pa. C.S. §1303. Neal v. Philadelphia Gas Works, Docket No. Z-00971874, (Order entered January 4, 2002); Angie's Bar v. Duquesne Light Co., 72 Pa. PUC 213 (1990). All customers are obligated to pay for utility service. Otherwise, unpaid bills are included in the utility's uncollectible expenses, which all of its remaining customers must pay. Bolt v. Duquesne Light Co., Docket No. Z- 8712758 (Order entered April 8, 1988).

The Complainant is an Income Level 2 customer; his financial situation (gross annual income) has improved since the last Company PAR was negotiated in August 2013. PECO Exhibits R-7 and R-8. The Complainant has offered no support in law or fact for his position that his outstanding balance should be reduced; his request should be summarily rejected.

The Complainant's request for another PAR should also be denied. He sought and was given several PARs consistent with Chapter 1405(d). The PUC PAR was issued in the Final Order for Complaints #2/3; the last Company PAR was entered into on August 8, 2012.

The Complainant is not entitled to another PAR under the provisions of Chapter 14, 66 Pa. C.S.A. § 1405(d). The Complainant defaulted on the PUC PAR issued in the Final Order of Complaints #2/3; he defaulted on the last Company PAR entered into on August 8, 2012. There has been no change in household income since August 2012 to warrant a second PUC PAR consistent with Chapter 1405(d). In fact, the gross household income has increased annually, albeit slightly, since 2011. PECO Exhibits R-7 and R-8. A PAR, which prevents service termination as long as the complainant complies with it, is a privilege, not a right. Mandell v. Duquesne Light Co., Docket No. C-20030234, (Order entered March 17, 2004).

The Complainant's request for a second PUC PAR is prohibited by law as he has not met the change in income criterion required for issuance of another PUC PAR. His request for a second PUC PAR should be denied. 66 Pa. C.S. § 1405(d).

Remand Order

The Commission found that the Respondent was not entitled to a judgment as a matter of law with regard to the entire Complaint. *Remand Order* at 11. The ALJ was directed on remand to consider four points: (1) how 52 Pa. Code § 56.141(2) applies to Complaint #6, considering that an appeal does not automatically stay a Commission Order; (2) the Commission stated that it shares the ALJ's concern about the potential misuse of the Commission's litigation process and directed an investigation of the Complainant's payment history; (3) how much of the outstanding balance is disputed in the ongoing appellate litigation as of the date Complaint #6 was filed; and (4) how much of the balance is undisputed and when any such amount became undisputed. *Remand Order* at 12.

Effect of 52 Pa. Code § 56.141(2) on Complaint # 6

The Commission directed the record be developed to address how 52 Pa. Code § 56.141(2) applies to Complaint #6, considering that an appeal does not automatically stay

a Commission Order. Section 56.141 addresses the procedures for a notice of dispute, generally, and more specifically termination disputes and must proceed according to this section. Specifically, Section 56.141 (2) states:

“Termination stayed. Except as otherwise provided in this chapter, when a termination dispute or complaint has been properly filed in accordance with this subchapter, termination shall be prohibited **until resolution of the dispute or complaint**. However, the disputing party shall pay undisputed portions of the bill. (Emphasis added).

52 Pa. Code § 56.141(2).

It should be noted that the Complainant has never sought nor has been granted a stay of any of the Commission’s Final Orders which were appealed. He also never sought nor was he granted a stay of the Commonwealth Court Orders dismissing his appeal of the Commission’s Final Orders.

The issue is, notwithstanding the fact that Mr. Mazza never sought a stay from the Commonwealth Court or any other court during his appeals of Complaints #2/3 and #5, whether those Complaints were still a disputed matter at the Commission on July 26, 2012. The Complainant merely opines that the Commission’s actions in Complaints #2/3 and #5 were not final actions. He has not offered, in spite of years of legal training and actively practicing law in Pennsylvania, any support for his position that the Final Orders in Complaints #2/3 and #5 did not dispose of all issues raised in the respective dockets. PECO responds that the Commission had issued its Final Order in each respective docket; there was no longer any claim pending; the adjudication was final; and the Commission’s Final Order in each docket was appealable, as of right, to the Commonwealth Court.

An “adjudication” is defined in 2 P.S. § 101 as any final order, decree, decision, determination or ruling by the Commission affecting personal or property rights, privileges, immunities, duties, liabilities or obligations of any or all of the parties to the proceeding in which the adjudication is made.

A Final Order is defined as one that ends litigation, puts litigants out of court or precludes a party from presenting the merits of his claim. Pittsburgh Bd. of Pub. Educ. v. Pa. Human Rels. Comm'n, 820 A. 2d 838 (Pa. Commw. Ct. 2003). The Commonwealth Court has exclusive jurisdiction of appeals from the final orders of the Commission. 42 Pa. C.S. § 763(a)(1). The appeal to the Commonwealth Court is one that may be taken as of right from the Commission and the order on appeal must be a final order. See, Pa. R.A.P. § 341.

The Complainant did have a right to appeal the Commission's Final Order to the Commonwealth Court. He did not have a right to appeal the Commonwealth Court's Order to a higher court without being granted permission as illustrated by the Complainant's own pleadings. See, Pa. R.A.P. § 341(d). When the Complainant filed his appeal of right of the Commission's Final Orders in Complaints #2/3 and #5, respectively, with the Commonwealth Court, he did so because *the Commission had issued a Final Order in each docket and there was no longer any pending issue before the Commission*. The Complainant's attempt to argue that the issues raised in Complaints #2/3, filed in 2009, adjudicated by the Commission and a Final Order issued on December 6, 2010, was still pending on July 26, 2012 is absurd; the Commonwealth Court only has jurisdiction to entertain appeals of final orders of the Commission. Consumer Educ. & Protective Ass'n v. PUC, 847 A.2d 789, (Commw. Ct. 2004). The fact that his appeal of the Final Orders for Complaints #2/3 and #5 were entertained by the Commonwealth Court is evidence that those decisions by the Commission were final and the Commission had disposed of all claims properly raised by the Complainant.

Once the Commission issues its final order disposing of the underlying issues/claims raised in the complaint, the matter is no longer pending at the Commission and the termination stay pursuant to 52 Pa. Code § 56.141(2) is automatically lifted. To hold otherwise, would create an absurd result and reward customers, such as the Complainant, by staying lawful termination as a result of filing multiple frivolous complaints.

Payment history

Mr. Mazza uses the formal complaint process and appeals of the Commission's final orders to avoid termination while not making regular payments in full and on time; as a result of his non-payment, his account was subject to termination for an outstanding balance of \$9,600.12. As reflected in the Collection History for the account, PECO Exhibit R-2, the balance subject to termination when Complaint #1 was filed in April 2008 was \$1,663.43. The account balance as of October 28, 2013 was \$10,422.22. PECO Exhibit R-1.

The Complainant simply does not pay his bill in full and on time. As witness Ferrier noted, the Complainant has a pattern of not paying his bills increasing the outstanding balance and then entering into a PAR for the ever growing balance. Tr. 70, 87. The last PAR was established in August 2012 on an outstanding balance of \$9,742.85.

Contrary to the Complainant's testimony that he was paying current bills, as a result of non-payment of current bills while Complaint #6 was pending, the Company issued a 10-day notice for a past due amount of \$240.02 (this amount does not include any charges related to the 10-day Notice for \$9,600.12). The Complainant's response was to file Complaint #7 alleging that the 10-day notice for \$240.02 be stayed "due to pending PUC cases and appeal in the court system, and future appeal filings." PECO Exhibit R-6. According to the Complainant's logic, and as evidenced by the filing of Complaints #8 and #9, the Company will never be permitted to terminate his service because he will always have a complaint pending or on appeal.

PECO has the right to collect for services it provides; other ratepayers should not have to subsidize the large arrearage accumulated on the Complainant's account. The fact that the balance has grown from approximately \$1,600.00 in 2008 to over \$10,000.00 in 2013 is undisputed evidence that the Complainant does not pay his bill each month in full.

Disputed Amount When Complaint #6 Filed

The Complainant received a 10-day Notice requiring the payment of \$9,600.12 to avoid termination. Tr. 42, 44 and PECO Exhibits R-2 and R-5. The Complainant's last PAR prior to the 10-day Notice was directed by the Commission in the Final Order on Complaints #2/3 on the undisputed balance of \$8,375.61, processed on October 20, 2010. PECO Exhibits R-1, R-2, R-3 and R-9

By definition, a PAR is “[a]n agreement in which a customer [sic] who admits liability for billed service is permitted to amortize or pay the unpaid balance of the account in one or more payments.” 52 Pa. Code § 56.2.

When the 10-day Notice was issued, the undisputed amount was \$8,375.61, the PUC PAR amount. The undisputed amount as of the filing of Complaint #6 was \$8,375.61.

Disputed Amount as of Hearing

On August 13, 2012, the Complainant contacted PECO and entered into a Company PAR for the undisputed amount of \$9,742.85. Tr. 69-70 and PECO Exhibits R-1 and R-4.

By definition, a PAR is “[a]n agreement in which a customer [sic] who admits liability for billed service is permitted to amortize or pay the unpaid balance of the account in one or more payments.” 52 Pa. Code § 56.2.

The present undisputed amount is \$9,742.85, the balance for the last Company PAR entered into on August 13, 2012. PECO Exhibits R-1 and R-4.

PECO's New Matter: Abuse of PUC Process

In its Final Order on Complaint #5, the Commission cautioned Complainant about “. . . the potential misuse of the Commission’s litigation process,” Final Order at 12, and again raised the issue in the *Remand Order*. The Complainant denies that he is an abuser of the Commission’s system, has engaged in deceptive actions or has acted in bad faith by filing the numerous complaints. He specifically requests that he “not be barred from filing [future] informal and formal complaints regarding the outstanding balance in dispute of \$9,600.12.” Reply to New Matter at 3. The Complainant never provided any explanation why the amount subject to termination in the 10-day Notice is disputed.

PECO requests that, as a direct result of his deceptive actions (including not serving the Company and the Commission with his appellate pleadings) and bad faith, the Complainant be barred from filing any other complaints regarding the undisputed amount of \$9,7742.85, the amount of the last Company PAR. The Complainant did not provide any testimony to refute the Company’s allegation of bad faith and misuse of the Commission’s complaint process.

Since 2008, the Complainant has filed nine formal Complaints challenging the termination of his gas and electric services due to non-payment – and three of those complaints were filed while this litigation has been proceeding. These complaints all relate, in some way or another, to the \$9,600.12 that is the subject matter of Complaint #6 (and, not incidentally, of Complaints #2/3 and #5.) The Complainant admitted liability for those billed services when he entered into the various PARs, and the Commission has previously determined that he owes that amount.

Each Complaint, including Complaints #7, #8, and #9, has contained either a request for PAR or has challenged termination notices on a technical basis (such as lack of notice or invalid notice). The Complainant has **never** presented any basis in law or fact to support his position in any pleading in every complaint docket and appeal.

Complaints #2/3 alleged lack of proper notice and requested a PAR. The presiding ALJ determined that the termination had been proper and established a PUC PAR beginning January 2011, on a balance of \$8,623.98, for a period of 24 months; the ALJ's decision became final by operation of law. The Complainant appealed the Commission's Final Order to the Commonwealth Court of Pennsylvania, but never requested that it be stayed pending the appeal. The Commonwealth Court of Pennsylvania denied the appeal and affirmed the Commission's Final Order on Complaints #2/3 on January 4, 2012, Mazza v. Pennsylvania Pub. Util. Comm'n, 2606 C.D. 2010. The Supreme Court of Pennsylvania denied the Complainant's Petition for Allowance of Appeal on June 19, 2012; Mazza v. Pennsylvania Pub. Util. Comm'n, 47 A3d 849 (2012). The United States Supreme Court denied his Petition for Writ of Certiorari on November 26, 2012, Mazza. v Pennsylvania Pub. Util. Comm'n, 133 S. Ct. 658 (2012). See, PECO Exhibits R-3 and R-9

Complaint #5 alleged that the 10-day notice included charges not yet due and sought a PAR. The presiding ALJ found that the termination notice had been proper, that there was no requirement that termination notices be sent by certified mail and that the Complainant was not entitled to another PUC PAR. No exceptions were filed, and the ALJ's decision became final by operation of law. The Complainant appealed the Commission's Final Order to the Commonwealth Court of Pennsylvania, Mazza v. Pennsylvania Pub. Util. Comm'n, No. 1418 C.D. 2012, but never requested that the Final Order be stayed pending the appeal. The Complainant did not appeal the merits of the Initial Decision or the Final Order; rather, he alleged that the Initial Decision had been improperly served. The Commonwealth Court on May 3, 2013 denied the appeal, affirmed the Commission's June 1, 2012 Final Order and awarded the Commission reasonable costs and attorney fees, finding that the appeal had been "frivolous," with "no basis in law or fact." The Supreme Court of Pennsylvania denied his Petition for Allowance of Appeal on October 17, 2013; Mazza v. Pennsylvania Pub. Util. Comm'n, No. 406 MAL 2013. See PECO Exhibits, R-3 and R-10.

The Complainant is misusing the Commission's procedures to delay payment of the undisputed balance and to delay the termination of his service due to non-payment. The Complainant has shown a pattern of disrespect for the process and has consistently made frivolous, unsubstantiated allegations to thwart PECO's right to terminate service for non-payment. None of his allegations concerning the validity of the various termination notices have been accepted by the Commission or the Commonwealth Court.

In Complaint #7 the Complainant is alleging his right to file "future appeals" rendering, according to the Complainant, the Company's termination process invalid for an undetermined timeframe. In response to the PECO's New Matter, the Complainant contends that he should not be barred from filing future complaints regarding the 10-day Notice which is the subject of this proceeding. The Complainant's pattern of bad faith behavior and obstructionist tactics should not be condoned by the Commission.

In Complaint #8 Mr. Mazza seeks to prevent PECO from sending any termination notices "during pendency and disposition of all PUC complaints and court appeals."

In Complaint #9 Mr. Mazza continues the "pancaking" of his appeals by alleging the 10-day notice for \$679.37 included charges associated with the 10-day Notice (\$9,600.12) being litigated in the present proceeding. The Complainant alleges that he is disputing "\$9,500 or \$10,000" from the 10-day Notice which "is still in the appeal process and being litigated pursuant to complaints filed and/or pending with the PUC."

The Complainant fails to make complete and timely payment for the utility services he receives. When termination is undertaken, he files meritless formal complaints with the Commission to delay termination, thus resulting in ever higher arrearages. When Complaint #1 was filed in 2008, the outstanding balance was \$3,026.65. As of October 11, 2012, the outstanding balance is \$10,422.22.

As a result, the Company -- even though it has been actively pursuing collection and/or termination from this customer for many years -- has been unable to obtain

payment of such services due to applicable laws requiring it to provide a stay of termination while a dispute/complaint is pending before the Commission. As a result, the Complainant's account balance for the Service Location has amassed a balance in excess of \$10,000.00.

At all times, PECO has acted in good faith and provided reasonable and adequate service in compliance with its Tariff, the Pennsylvania Public Utility Code, Commission Regulations and Commission Orders. The Complainant, while seeking the protections of Chapter 56 to prevent lawful termination for non-payment, has violated the basic obligation of Chapter 56 on both the residential customer and the utility: "every privilege conferred or duty required under [Chapter 56] imposes an obligation of good faith, honesty and fair dealing in its performance and enforcement." 52 Pa. Code § 56.1. Furthermore, there is an absolute obligation on PECO to utilize the tools of Chapter 56 to incorporate the requirements set forth in Chapter of the Public Utility Code, 66 Pa. C.S. §§ 1401, *et seq.*, to ensure that people who can pay their bill do in fact pay their bill.

The Complainant's filing of meritless complaints has not been in good faith; his inconsistent and contradictory testimony regarding the PARs that he entered into is not consistent with honesty; and the Complainant's failure to honor the PARs, not serving pleadings on the Commission or PECO reflects lack of fair dealing. All customers, regardless of financial means, have an obligation to pay for utility service. Otherwise, customer's unpaid bills are included in the utility's uncollectibles expense and ultimately paid by the remaining customers. Cf., Bolt v. Duquesne Light Co., 66 Pa. PUC 463 (1988), Thomas P. O'Toole v. The Bell Telephone Co. of Pennsylvania, Docket No. C-923964, Final Order entered August 20, 1992. By artfully using the tactic of obtaining PARs, along with other devices, the Complainant has managed to retain service while accumulating an undisputed outstanding balance owed for service, as of August 2012, in the amount of \$9,742.85.

There is ample Commission precedent to support the preclusion of a party from filing further informal or formal complaints when the party has been an abuser of the

system. See, Seidenstricker v. Metropolitan Edison Co., Docket No. F-2008-2019388, Commission Final Order entered July 28, 2009. In that case, the Commission precluded the filing of further complaints pertaining to the same account until the arrearage was paid in full after finding that the complainant had abused the system by using the Commission's provisions to prevent termination of service while receiving utility service and accruing a large outstanding amount. See also, Thomas v. The Peoples Natural Gas Co., Docket No. C-2009-2102194, Commission Opinion and Order entered June 17, 2010; Argento's Pizza v. Philadelphia Gas Works, Docket Nos. C-2009-2138055 and C-2010-2167822, Commission Final Order entered October 1, 2010. The factors supporting the Commission's action in those complaint cases are equally applicable to the Complainant's account.

The Respondent requests that, based on the record evidence, the Complainant be barred from filing any complaint, informal or formal, related to the undisputed amount of the last Company PAR on August 13, 2012 in the amount of \$9,742.85.

Proposed Findings of Fact

1. The Complainant resides at 1271 Farm Road, Berwyn, Pennsylvania 19312. Tr. 42.
2. The Complainant is an Income Level 2 customer who receives electric and gas service from PECO; he is not enrolled in budget billing. Tr. 65-66.
3. The Complainant's household consists of four people – himself, his wife, and his twelve and eight year old daughters. Tr. 45.
4. The Complainant was admitted to the Pennsylvania bar in 1983 and practiced law until March of 2000. Tr. 56.
5. The Complainant has been unemployed since October 2007 and currently receives no income. Tr. 45 and PECO Exhibits R-7 and R-8.
6. The Complainant's wife is employed full time at Marshall Dennehey, a law firm in King of Prussia, Pennsylvania. Tr. 45, PECO Exhibits R-7 and R-8.

7. The Complainant's wife received a gross income of \$45,153.00 in 2011. Tr. 54 and PECO Exhibit R-8.

8. The Complainant's wife's pay stub reflects that her year to date gross income as of June 15, 2012 was \$24,175.00. Tr. 54 and PECO Exhibit R-7. That pay information should be annualized. Tr. 61.

9. Complainant's wife's pay stub reflects that her year to date gross income as of October 4, 2013 is \$41,000, which includes bi-annual bonuses in the amount of \$1,000.00. That pay information should be annualized. Tr. 55 and PECO Exhibit R-8.

10. The Complainant has not yet filed, nor received an extension to file, his joint 2012 federal and state tax returns. Tr. 52.

11. The Complainant's balance on March 12, 2008 was \$2,263.43, of which \$1,627.85 was past due. Tr. 71 and PECO Exhibits R-1 and R-2.

12. PECO issued a 10-day notice on April 10, 2008 for a past due amount of \$1,663.43. Tr. 74 and PECO Exhibit R-2.

13. Complainant's current account balance as of October 11, 2013 is \$10,422.22. Tr. 71 and PECO Exhibit R-1.

14. Complainant has entered into a total of four PARs and has defaulted on all four PARs. Tr. 80 and PECO Exhibits R-2 and R-4.

15. A PUC PAR, directed in the Final Order for Complaints #2/3, was processed by PECO on October 20, 2010. The balance on the account at that time was \$8,375.61. Tr. 67, PECO Exhibits R-2 and R-4.

16. The Complainant contacted PECO on August 13, 2012 and negotiated a Company PAR on the balance of \$9,742.85. Tr. 69-70. PECO Exhibits R-1, R-2 and R-3.

17. PECO is required to offer payment arrangements based on monthly gross income and number of people at the property; however, the utility has the discretion to offer a longer amortization period. Tr. 106-107.

18. Company records indicate that the Complainant contacted PECO to establish a PAR; PECO does not self-impose a PAR on any account. Tr. 103-104.

19. Every time the Complainant entered in a PAR, the dollar amounts associated with the PAR were undisputed since a PAR requires that the Complainant admit liability for the billed services. Tr. 83.

20. The Complainant negotiated his first Company PAR on May 23, 2008 admitting liability for the balance of \$2,503.89 and was permitted to amortize the balance. Tr. 81 and PECO Exhibits R-2 and R-4.

21. The Complainant defaulted on the first Company PAR. PECO Exhibit R-3.

22. The Complainant negotiated his second Company PAR on January 13, 2009 admitting liability for the balance of \$5,232.62 and was permitted to amortize the balance. Tr. 82 and PECO Exhibits R-2 and R-4.

23. The Complainant defaulted on his second Company PAR. PECO Exhibit R-3.

24. The PUC provided the Complainant with a PAR on October 20, 2010 on a balance of \$8,375.61; PECO required an up-front payment of \$697.29 and the remaining balance was amortized with installments of \$333.84. Tr. 68, 80 and PECO Exhibits R-1, R-2, R-4 and R-9.

25. The Complainant defaulted on the PUC PAR. Tr. 70 and PECO Exhibit R-4.

26. The Complainant contacted PECO and negotiated another Company PAR on August 13, 2012 admitting liability on a balance of \$9,742.85; the terms were current bills plus an installment of \$405.95. Tr. 69-70, 82 and PECO Exhibits R-1 and R-4.

27. The Complainant defaulted on the August 13, 2012 PAR. Tr. 70 and PECO Exhibit R-4.

28. The Complainant does not pay his bill in full and on time each month. His pattern is to pay a month, miss a month, and then roll any missed payments into a new PAR, which increases his account balance. Tr. 70, 87.

29. The Complaint admitted liability for the balance of \$9,742.85 when he negotiated the Company PAR on August 13, 2012. Tr. 87 and PECO Exhibit R-4.

30. Teresa Ferrier is a regulatory assessor at PECO who investigates and reviews informal and formal Complaints filed against the Company with the PUC. Tr. 62-63.

31. Ms. Ferrier has been employed by PECO for 36 years. She has been a regulatory assessor for approximately 18 years. Tr. 62-63.

32. The Complainant has filed nine Formal Complaints against PECO. Tr. 58 and PECO Exhibit R-3 and Attachments 1 and 2..

33. The Complainant filed his Complaint #1 in June of 2008, which was closed on December 19, 2008 after a Certificate of Satisfaction was filed. Tr. 76 and PECO Exhibits R-2, R-3 and R-11.

34. The Complainant's Complaint #1 resulted in a Company PAR on a balance of \$2,503.89. Tr. 76 and PECO Exhibits R-2, R-4 and R-11.

35. Complainant filed Complaint #2 on July 6, 2009 alleging no notice for termination and Complaint # 3 on July 22, 2009 requesting a PAR; Complaints #2/3 were consolidated. Tr. 76 and PECO Exhibits R-2, R-3 and R-9.

36. A Final Order on Complaints #2/3 was issued on December 6, 2010. Tr. 76 and PECO Exhibits R-2, R-3 and R-9.

37. The Complainant appealed the Commission Final Order for Complaints #2/3 to the Commonwealth Court; that appeal was denied on January 4, 2012. Tr. 77 and PECO Exhibits R- 3 and R-9.

38. The Complainant appealed the Commonwealth Court's dismissal of his appeal of Complaints #2/3 to the Pennsylvania Supreme Court; that request for leave to appeal was denied on June 19, 2012. Tr. 77 and PECO Exhibits R-3 and R-9.

39. The Complainant appealed the Pennsylvania Supreme Court's refusal to hear his appeal of Complaints #2/3 to the U.S. Supreme Court; that request was denied on November 26, 2012. Tr. 77 and PECO Exhibits R-3 and R-9.

40. The Complainant filed Complaint #4 on April 19, 2010 alleging no notice of termination. Tr. 77 and PECO Exhibits R-2, R-3 and R-12.

41. A Final Order was issued on July 15, 2011 on Complaint #4 and no appeal was taken. Tr. 77 and PECO Exhibits R-2, R-3 and R-12.

42. The Complainant filed Complaint #5 on April 13, 2011 alleging the notice included charges not yet due and requested a PAR. Tr. 78 and PECO Exhibits R-2, R-3 and R-10

43. A Final Order was entered on Complaint #5 on June 1, 2012. Tr. 78 and PECO Exhibits R-3 and R-10.

44. The Complainant appealed the Commission's Final Order on Complaint #5 to the Commonwealth Court; that appeal was denied on May 3, 2013. Tr. 78 and PECO Exhibits R-3 and R-10.

45. The Complainant appealed the Commonwealth Court's dismissal of his appeal of Complaint #5 to the Pennsylvania Supreme Court; that request for leave to appeal was denied on October 17, 2013. Tr. 78 and PECO Exhibits R-3 and R-10.

46. The Complainant filed Complaint #6 on August 1, 2012 which is the subject of this case. Tr. 78-79 and PECO Exhibit R-3.

47. The Complainant filed Complaint #7 on September 6, 2013 alleging invalid notice of termination due to "pending appeals and future appeals." Tr. 79 and PECO Exhibits R-3 and R-6.

48. Mr. Mazza paid \$266.58 on July 2, 2012, reducing the account balance to the balance forward of \$9,600.12. Tr. 69 and PECO Exhibit R-1.

49. Complainant's total balance on July 13, 2012 was \$9,866.70, including arrears of \$9,600.12. Tr. 69 and PECO Exhibits R-1 and R-2.

50. PECO assessed a late payment charge of \$142.73 on July 13, 2012 leaving a total balance of \$9,742.85. Tr. 69 and PECO Exhibit R-1.

51. The Complainant received a 10-day Notice dated July 26, 2012 for an outstanding balance of \$9,600.12. Tr. 42 and PECO Exhibit R-5.

52. The Complainant was required to pay \$9,600.12 to avoid termination of service. Tr. 44 and PECO Exhibit R-5.

53. When PECO issued the 10-day Notice, there were no complaints pending before the Commission. Tr. 86 and PECO Exhibits R-3, R-9 and R-10.

54. There is no ambiguity that the 10-day Notice stated that the amount needed to avoid termination was \$9,600.12. Tr. 85-85 and PECO Exhibit R-5.

55. PECO has an obligation to other ratepayers to manage uncollectible accounts. Tr. 87-88.

Proposed Conclusions of Law

1. The Commission has jurisdiction over the parties and subject matter of this proceeding. 66 Pa. C.S. §§102, 701, 1405, 1501.

2. As the party seeking affirmative relief from the Commission, Complainant bears the burden of proof. 66 Pa. C.S. §332(a).

3. To satisfy his burden of proof, Complainant must demonstrate that Respondent violated the Public Utility Code or a regulation or Order of the Commission. 66 Pa. C.S. §701. This must be shown by a preponderance of the evidence. Patterson v. Bell Telephone Company of Pennsylvania, 72 PA PUC 196 (1990).

4. Preponderance of the evidence means that the party with the burden of proof has presented evidence that is more convincing, by even the smallest amount, than that presented by the other party. Samuel J. Lansberry, Inc. v. Pa. P.U.C., 578 A.2d 600, 602, alloc.den., 602 A.2d 863 (1992).

5. The Complainant has failed to establish that the utility violated the Public Utility Code or a regulation or Order of the Commission in requiring payment from Complainant for the services that it rendered. 66 Pa. C.S. §701.

6. A public utility is entitled to full payment for service provided to customers and all customers are obligated to pay for utility service provided to them. Kea v. Peoples Natural Gas Co., 60 PA PUC 215 (1985); Scaccia v. West Penn Power Co., 55 PA PUC 637 (1982).

7. The Complainant failed to establish his entitlement to another payment agreement on his balance. 66 Pa. C.S. §§1405(d) and (e).

8. The Commonwealth Court found that the Complainant's appeal of the Final Order in Complaint #5 was "frivolous," with "no basis in law or fact." Mazza v. Pennsylvania Pub. Util. Comm'n, No. 1418 C.D. 2012 (2013).

9. Assertions, personal opinions or perceptions do not constitute evidence. Pennsylvania Bureau of Corrections v. City of Pittsburgh, 532 A.2d 12 (Pa. 1987).

10. Chapter 56 .1 imposes an obligation on PECO to use the tools of Chapter 56 to ensure that people who can pay their bills, do in fact, pay their bills so that other customers' rates are not increased to compensate for those not paying. 52 Pa. Code § 56.1.

11. An "adjudication" is defined as any final order, decree, decision, *determination or ruling by the Commission affecting personal or property rights, privileges, immunities, duties, liabilities or obligations of any or all of the parties to the proceeding in which the adjudication is made.* 2 P.S. § 101.

12. A Final Order is defined as one that ends litigation, puts litigants out of court or precludes a party from presenting the merits of his claim. Pittsburgh Bd. of Pub. Educ. v. Pa. Human Rels. Comm'n, 820 A. 2d 838 (Pa. Commw. Ct. 2003).

13. The Commonwealth Court has exclusive jurisdiction of appeals from the final orders of the Commission. 42 Pa. C.S. § 763(a)(1).

14. The appeal to the Commonwealth Court is one that may be taken as of right from the Commission and the order on appeal must be a final order. Pa. R.A.P. § 341.

15. There is ample Commission precedent to support the preclusion of a party from filing further informal or formal complaints when the party has been an abuser of the system. Seidenstricker v. Metropolitan Edison Co., Docket No. F-2008-2019388, Commission Final Order entered July 28, 2009. See also, Thomas v. The Peoples Natural Gas Co., Docket No. C-2009-2102194, Commission Opinion and Order entered June 17, 2010; Argento's Pizza v. Philadelphia Gas Works, Docket Nos. C-2009-2138055 and C-2010-2167822, Commission Final Order entered October 1, 2010.

Conclusion

The Final Orders in Complaints #2/3 and #5 were issued before July 26, 2012; there was no complaint pending before the Commission. Once a final, appealable order has been issued by the Commission, the matter is no longer in dispute before the Commission and unless a stay has been granted, termination may be undertaken pursuant to the Commission's Final Order. As a result, the 10-day Notice was valid and termination was not stayed pursuant to 52 Pa. Code § 56.141(2). The Complainant has not carried his burden of proof that the 10-day Notice was stayed; he has offered only opinion testimony.

The Complainant seeks a substantial reduction of all bill based on his unemployment status since 2007. The Complainant has not carried his burden of proof that his account balance should be reduced; he has offered only opinion testimony.

A second PAR is not permitted under Chapter 1405(d); there is no record evidence that the Complainant has had a change in income; instead, the Complainant's household finances have improved since the Company PAR was issued in August 2012.

The undisputed amount on the account as of August 13, 2013 is \$9,742.85, the balance for the last negotiated Company PAR. A PAR, by definition, requires the

customer to admit liability for the billed services and requires the utility to amortize the balance over a period of time without incurring late fees or being subject to termination.

The Complainant is misusing the complaint process by filing meritless complaints alleging that until the U.S. Supreme Court refuses to hear his appeal, his complaints are still pending at the Commission and PECO is prohibited from terminating his service. The Complainant provides nothing more than opinion testimony to support his claim.

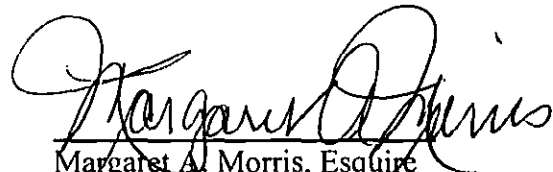
There is ample Commission precedent to support the preclusion of a party from filing further informal or formal complaints when the party has been an abuser of the system. *The Complainant has never disputed the accuracy of any charge or any bill; his appeals raised only procedural issues. The Commission and the Commonwealth Court have found no merit in any of his Complaints (except to direct a PUC PAR). Complaints #7, #8 and #9 are an indication that the Complainant will continue to file frivolous complaints to prevent PECO from lawfully terminating his service for non-payment.*

WHEREFORE, for the foregoing reasons, PECO Energy Company respectfully requests that this Honorable Court dismiss with prejudice the Formal Complaint of Mark Mazza at Docket No. C-2012-2318472 in its entirety and bar Mark Mazza from the filing of further complaints, informal or formal, regarding the undisputed amount of the last

Company PAR in the amount of \$9,742.85.

Respectfully submitted,

Dated: November 20, 2013



Margaret A. Morris, Esquire
Attorney I.D. No. 75048
Reger Rizzo & Darnall LLP
Cira Centre, 13th Floor
2929 Arch Street
Philadelphia, PA 19104
(215) 495-6524 (Office)
(215) 495-6600 (Fax)
mmorris@regerlaw.com

Counsel for PECO Energy Company

Docket No. C-2012-2318472
Mark Mazza v. PECO Energy

Attachment 1

COMPLAINT # 8

Mark Mazza v. PECO Energy Company
Docket No. C-2013-2393225
Filed October 29, 2013

10/29/13

To: PUC -

From: MARK MAZZA
MAZZA v. PECO

To PUC -

Attached is a new complaint
for filing. Thank you,
M. Mazza

RECEIVED

OCT 29 2013

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

C-2013-2393225
Complaint #8

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Formal Complaint Form

Please print in ink or type.

1. CUSTOMER (COMPLAINANT) INFORMATION

Your name, mailing address, county, telephone number, utility account number and service address:

Name MARK MAZZA

Street/P.O. Box 1271 FARM RD Apt #

City Berwyn State Pa Zip 19312

County Chester

Daytime Telephone Number Where We Can Contact You: (610) 389-0614

E-mail Address (optional):

Utility Account Number (from your bill) 72730 01005

If your complaint involves utility service provided to a different address than your mailing address, please list this information below.

Name

Street/P.O. Box

City State Zip

2. FULL NAME OF UTILITY COMPANY (RESPONDENT):

PECO

RECEIVED

OCT 29 2013

PA PUBLIC UTILITY COMMISSION SECRETARY'S BUREAU

3. TYPE OF UTILITY (check one)

[X] ELECTRIC

[] STEAM HEAT

[X] GAS

[] WASTE WATER

[] WATER

[] MOTOR CARRIER

(e.g., taxi, moving company, limousine)

[] TELEPHONE (local, long distance)

4. COMPLAINT (check one)

A. In general, what is your complaint?

- I want to oppose the company's proposed rate increase.
- There are incorrect charges on my bill.
- There is a reliability, safety or quality problem with my utility service.
- I received a notice that my utility service is being terminated.
- I would like a payment agreement.
- Other (explain).

B. State the facts of your complaint.

Include any specific dates, times or places that may be important. If the complaint is about a bill, tell us about any charges that you believe are not correct. Use additional paper if you need more space. Provide copies of all relevant documents you believe will support your complaint.

I have been paying monthly charges on a timely basis. On or about 10/4/13 I paid monthly charges of \$340.44. The attached bill indicated payment of \$10,613.22 was due by 10/4/13. PECO is fully aware that approximately \$10,000 claimed is at issue and not final as the amount is subject to PUC complaints and/or appeals in the court system. It is alleged the bill amount is improper and disputed. I then received a second bill claiming that I owed \$391.60 due 11/4/13. The bill provides no explanation and says service may be shut off. Both bills provide no explanation regarding the amounts PECO say pay these amounts. Contacting PECO on both bills provided no explanation why PECO is sending bills seeking these amounts. I am not past due on current charges, and believe the threat of shut off is unjustified and a improper billing practice. The amount of \$391.60 is claimed to be due 11/4/13, yet I received a PECO call saying it was urgent with no other message left.

5. RELIEF

How do you want your complaint to be resolved? Use additional paper if you need more space.

Request the PUC conduct a investigation into PECO's billing practices and procedures regarding my account. During the investigation and until final decision by the PUC and appellate courts, request the PECO bills for my account not claim or state the total amount claimed by PECO until all PUC complaints are adjudicated and until all appeals are exhausted. Seek a injunction and/or stay of all termination/shutoff notices during pendency and disposition of all PUC complaints and court appeals. Request injunction or stay to enjoin PECO from billing and sending termination/shutoff notices, and to enjoin PECO from terminating/shutting off service for all or the entire amount claimed during pendency and final disposition of all PUC complaints and court appeals.

Request a compromise of the amounts claimed and budgetment arrangement or plan.

6. PROTECTION FROM ABUSE

Answer the following question if your complaint is against a natural gas distribution utility, an electric distribution utility or a water distribution utility AND your complaint is about a billing problem, a request to receive service, a security deposit request, termination of service or a request for a payment agreement.

Has a court granted a "Protection from Abuse" order for your personal safety or welfare?

YES

NO

7. PRIOR UTILITY CONTACT

Answer the following question only if you are a residential customer and your complaint is against an electric distribution utility, natural gas distribution utility or a water distribution utility.

Have you spoken to a utility company representative about this complaint?

YES (includes appeals of BCS determinations)

NO

If you tried to, but could not speak to a utility company representative about your complaint, please explain why.

8. LEGAL REPRESENTATION (IF ANY)

If you are represented by a lawyer in this matter you must provide your lawyer's name, address, telephone number, and e-mail address, if known.

Lawyer's Name N/A

Street _____

City _____ State _____ Zip _____

Area Code/Phone Number _____

E-mail Address (If Known) _____

9. VERIFICATION AND SIGNATURE

You must print or type your name below on the line provided for the verification paragraph, and you must sign and date (in ink) this form on the lines provided.

Verification:

I MARY MARZA hereby state that the facts above set forth are true and correct (or are true and correct to the best of my knowledge, information and belief) and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

M. Marza 10/29/13
(Signature) (Date)

Title of authorized employee or officer

10. FILING

Please return the completed form to one of the addresses listed below:

If using U.S. Postal Service:

If using overnight delivery service:

Secretary Pennsylvania Public Utility Commission P.O. Box 3265 Harrisburg, PA 17105-3265	Secretary Pennsylvania Public Utility Commission 400 North Street Commonwealth Keystone Building, 2 nd Floor Harrisburg, Pennsylvania 17120
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Facsimiles and/or electronic filings of the complaint will not be accepted.

If you have any questions about filling out this form, please contact the Secretary's Bureau at 717-772-7777.

Keep a copy of your complaint for your records.



Emergency and Repairs: 1-800-891-1000. This is the number to call to report power outages, gas leaks or odors, and safety hazards related to PECO Equipment. For all other business, call 1-800-494-4000.

0041

MARK MAZZA
1271 FARM RD
BERWYN PA 19312-2064

Questions
1-800-494-4000
www.peco.com

8:30 am - 5:00 pm, Mon - Fri

Account Number: 7273001005
Date: October 15, 2013
Service Address:
1271 FARM RD
BERWYN PA 19312

Your bill is past due

You have not paid the \$391.60 you owe. Your balance must be paid now. Until you pay this amount, we will continue to add late-payment charges.

To avoid additional late payment charges, please pay your bill right away. If you have paid your bill in the last few days, please ignore this letter.

If you are having trouble paying

We have several programs that could help you manage your monthly bills, such as:

- budget billing to even out the cost of monthly bills throughout the year and
- payment arrangements to help you pay off past due amounts.

We are here to help...

Contact us at 1-888-480-1533 to discuss your account.

To avoid more late-payment charges, please pay now \$391.60. See back for ways to pay

If you do not pay

If you do not pay, your service may be shut off.

Power Pay!

Take the worry out of paying your energy bills on time. Enroll in Power Pay - just complete the form on the back and we will do the rest!

Did you know...?

Most hot water heaters are set too high. Lowering the temperature setting may lower your electric or natural gas hot water costs.

*10/21/13 - spoke to Adrienne
says \$391.60 is paid
due to bus strike*

When paying in person, please bring the entire bill.

Return only this portion with your check made payable to PECO. Please write your account number on your check.



- Check here to enroll in Power Pay automatic account debit and complete form on reverse side.
- Check here to pledge a donation to NEAF and complete form on reverse side.

Monday through Friday 8:30 a.m. to 5:00 p.m.
1-877-432-9384

2981 | AT 0.381 | 100002703 | 001030 010 01 1007809 | 1 10102013
MARK MAZZA
1271 FARM RD
BERWYN PA 19312-2064



Account Number
72730-01005

Payment Receipt Start

Payment Amount

Please pay this amount by 11/04/2013 **\$391.60**



PECO Energy Co.
PO Box 13439
Philadelphia PA 19162-0439



INFORMATION ABOUT YOUR BILL

Reading Your Meter: Actual Reading - Your meter is read each month by our automated meter reading system. **Customer Reading** - A reading you give us if we cannot read your meter. **Estimated Reading** - If we cannot read your meter, your monthly charges will be based on the average temperature and your past electric and gas use.

Meter Reading Schedule: Your monthly meter reading is scheduled through our automated system. Your scheduled meter reading date is shown on your bill.

Employee Identification: All PECO employees carry a special picture identification card. You may ask to see it.

Rate Schedule: A listing of all of our rates can be found on our website at www.peco.com, in our business office, or by calling 1-800-494-4000.

Basic Charge: Charges, based on rates approved by Pennsylvania Public Utility Commission, for the energy you used plus a monthly charge for maintaining your service.

CAP (Customer Assistance Program): Discounted rate for verified low-income customers. Call 1-800-774-7040 for more information.

Late Payment Charges: All bills are due and payable by the due date shown on the front of the bill. The due date applies to the current charges only and does not extend the due date for payment of previous charges. Past due amounts may be subject to a finance charge of 2 percent per month (1.5 percent for rates GS and R) **Demanded Information (Commercial Customers Only)**

- **Registered Peak Demand:** Maximum rate for highest half hour of energy use for each billing period. It is measured in kilowatts (kW) and averaged during a 30-minute period.

Check Clearing Notification: When you provide a check as payment, you authorize us either to use information from your check to make a one-time electronic fund transfer from your account or to process the payment as a check transaction.

ELECTRIC AND GAS TERMS USED IN YOUR BILL

Administrative Charge: Charges to reimburse utilities for the costs associated with buying electricity for customers.

Ancillary Charge: Charges to reimburse utilities for the cost associated with operating the system that moves energy from generating stations to PECO's system for delivery to its customers.

Balancing Service Charge: Charge for fixed and variable storage costs for each Ccf of gas delivered.

Billing Demand (kW): The calculated or measured rate of energy usage supplied after any required adjustments such as for minimums or power factor.

Ccf - Hundred Cubic Feet: Unit of measure for the gas you use. One Ccf is the amount of gas used to run an average size house heater nonstop for one hour.

Customer Charges: Monthly basic electric and/or gas charges covering the costs of billing, meter reading, equipment, and maintenance.

- **Customer Charge Meter 2:** Monthly basic electric charge covering the costs of billing, meter reading, equipment, and maintenance for those customers with an additional residential electric meter.

Distribution Charges: Charges to cover the costs associated with delivering electricity and natural gas to customers.

Energy Efficiency Charge: Charges to reimburse utilities for the costs associated with energy efficiency and conservation programs as required by Pennsylvania's Act 129.

Gas Cost Adjustment (GCA): Either a credit or charge reflecting the difference between utilities projected and actual costs to purchase natural gas for customers. **Generation Charge:** Charges to reimburse utilities for the costs to purchase electricity for customers. These charges are passed along to customers at the exact price PECO pays, with no markup. If the generation service is from an electric generation supplier, it is competitively priced and is not regulated by the Public Utility Commission.

Kilowatt Hour (kWh): Unit of measure for electricity. One kWh is the amount of energy used by a 100-watt bulb for 10 hours.

Lumen: Unit of measurement of the quantity of light.

Natural Gas Supply Charge: Charges to reimburse utilities for the costs to purchase natural gas for customers. These charges are passed along to customers at the exact price PECO pays, with no markup.

Peak Load Contribution: A customer's contribution to PECO's peak load at the time of highest demand from the previous summer.

PECO Smart A/C Saver - Credit: A credit for participation in the PECO Smart A/C Saver program to reduce your energy use.

Price to Compare (electric): The price used to evaluate offers from competitive electric generation suppliers. The Price to Compare includes generation, transmission and alternative energy charges. This is the amount you will be charged by PECO if you do not stay with a competitive electric generation supplier.

Price to Compare (gas): The price used to evaluate offers from competitive natural gas suppliers. The Price to Compare includes your Natural Gas Supply charges. This is the amount you will be charged by PECO if you do not stay with a competitive natural gas supplier.

Power Factor: An adjustment applied for inefficient use of power. Percentage of correction applied to the registered/measured demand (kW) to reflect the correct billing demand.

Purchased Generation Adj.: Either a credit or charge reflecting the difference between utilities projected and actual costs to purchase electricity for default service customers.

Service Location Distribution Charge: A charge to receive service at a particular Service Location, which shall comprise each lighting installation and must be separately connected to a delivery point on the Company's secondary circuit.

State Gross Receipts Tax: State tax on electric utilities. This is included in PECO's basic charges.

State Tax Adjustment: Either a credit or charge reflecting certain changes in state taxes. It may include part of the State Gross Receipts Tax.

Transmission Charge: Charges to move electricity from generating stations to PECO's electric delivery system. The Federal Energy Regulatory Commission regulates transmission prices and services.

Working Capital Charge: Charge to compensate PECO for costs incurred during the period when service was provided to its default service customers and when payment was received.



Matching Energy Assistance Fund (MEAF) Pledge Form

You can help needy residents in the Delaware Valley pay their energy bills by making a donation to the Matching Energy Assistance Fund (MEAF). When you do, PECO will match your contribution, dollar for dollar - to double the amount of money donated to MEAF. It's easy to make a difference in the community. Just complete this form and mail it with your payment. For questions or more information, call 1-800-403-6806.

YES, I'd like to empower local families in my neighborhood with a pledge donation to MEAF. Please add the amount indicated to my monthly bill. (Minimum \$1)

\$1 \$5 \$10 \$ _____

YES, I'd like to empower local families in my neighborhood with a one-time donation to MEAF.

\$ _____ One-time donation (Payable to PECO.)

POWER PAY - Payment Authorization

If you enroll in Power Pay, each bill will be automatically deducted from your checking or savings account on the date it is due. You'll still receive a monthly statement, but you'll no longer have to write a check. Please continue to pay as usual until you see a bank deduction on your bill. If you have any questions about Power Pay, please visit www.peco.com/powerpay or call our toll-free hotline number, 1-800-494-4000.

FINANCIAL INSTITUTION

CHECK

YOUR BANK ACCOUNT NUMBER AND BANK TRANSACTION NUMBER

SAVINGS

X

SIGNATURE

By signing this form, I authorize PECO to instruct my bank/savings institution to make my payments from the account listed above. I understand this authorization may be revoked by me at any time by providing PFC27 with a written notice to discontinue my automatic payment.



Emergency and customer service information... PECO

Name: MARK MAZZA
Account Number: 72730-01005
Phone Number: 610-889-0814
Service Address: 1271 FARM RD, BERWYN

Billing Summary

Table with 2 columns: Description and Amount. Rows include Bill Date (09/12/2013), Thank you for your payment of \$134.33, EPI Voided Transfer (\$2,872.30), Charges from previous bill (\$134.33), Transfer service (\$2,743.40), Transfer service 1271 FARM RD BERWYN (\$4,522.75), Total Other Charges (\$10,272.78), Current Period Charges (Gas \$28.52, Electric \$311.92), Total New Charges (\$340.44), Total Amount Due on 10/04/2013 (\$10,613.22)

General Information

Next scheduled meter reading: October 6, 2013
PECO, 2301 Market St, Philadelphia, PA 19103-1380. If you have any questions or concerns, please call 1-800-494-4000 before the due date.

- Customer Self Service - Manage Your Account 24/7
- www.pcco.com/online - Go paperless: receive and pay your bill
- www.pcco.com/service - Start, stop and transfer your service
- www.pcco.com/energysave - Save energy and money
- Pay by phone with credit/debit card at 1-877-432-8384 (\$2.35 fee)

Constellation, c/o Residential Care, 1221 Lerner St, Suite 850, Houston, TX 77010, 877-897-8985, http://home.constellation.com/

Message Center

New charges contain estimated total state taxes of \$8.51, including \$16.40 for State Gross Receipts Tax.

Your estimated electric price to compare is \$0.0935 per kWh. This may change in March, June, September and December. For more information and supplier offers visit www.PAPowerSwitch.com and www.oca.state.pa.us.

Your gas price to compare for your rate class is \$0.5716 per Ccf. This may change in March, June, September and December. For more information on how to shop for natural gas visit http://www.pco.pa.gov/consumer_informational_gas/natural_gas_shopping/gas_shopping_tool.aspx.

Handwritten notes: #1265104501/11/11, 90 4/11, 2-3 5

When paying in person, please bring the utility bill.

(continued on next page)



Return only this portion with your check made payable to PECO. Please write your account number on your check.

- Check here to enroll in Power Pay automatic account debit and complete form on reverse side.
Check here to pledge a donation to MEAF, and complete form on reverse side.

To pay by phone call 1-877-432-8384. A convenience fee will apply.

72730 0100 50000 0000

20639 1 AV 0.357 MARK MAZZA 1271 FARM RD BERWYN PA 18312-2084

Account Number 72730-01005 Payment Receipt Stamp

Payment Amount

Please pay this amount by 10/04/2013 \$10,613.22

PECO - PAYMENT PROCESSING PO BOX 37832 PHILADELPHIA PA 19101-0832

00000340440000013433

727300100500000000032770000009

Docket No. C-2012-2318472
Mark Mazza v. PECO Energy

Attachment 2

COMPLAINT # 9

Mark Mazza v. PECO Energy Company
Docket No. C-2013-2392536
Filed November 14, 2013

11/07/13

To: PUC

From: MARK MAZZA

RECEIVED

NOV 14 2013

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

MAZZA v. PUC
New Filing

Dear Ms. Chiavetta -

Attached please find for filing a new complaint versus PECO. Please file same and return a time stamped copy of page 1 of the complaint in the self addressed stamped envelope.

Thank you
M. Mazza

C-2013-2372536
Complaint # 09

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Formal Complaint

*Filing this form begins a legal proceeding and you will be a party to the case.
If you do not wish to be a party to the case, consider filing an informal complaint.*

To complete this form, please type or print legibly in ink.

1. Customer (Complainant) Information

Provide your name, mailing address, county, telephone number(s), e-mail address and utility account number:

Name MARK MAZZA

Street/P.O. Box 1271 Farm Rd Apt #

City BERWYN State PA Zip 19312

County chester

Telephone Number(s) Where We Can Contact You During the Day:

(610) 289-0614 (home) () (mobile)

E-mail Address (optional):

Utility Account Number (from your bill)

If your complaint involves utility service provided to a different address or in a different name than your mailing address, please list this information below.

Name

Street/P.O. Box

City State Zip

2. Name of Utility or Company (Respondent)

Provide the full name of the utility or company about which you are complaining. The name of your utility or company is on your bill.

PECO

RECEIVED

NOV 14 2013

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

3. Type of Utility Service

Check the box listing the type of utility service that is the subject of your complaint (check only one):

- ELECTRIC WASTEWATER/SEWER
 GAS TELEPHONE/TELECOMMUNICATIONS (local, long distance)
 WATER MOTOR CARRIER (e.g. taxi, moving company, limousine)
 STEAM HEAT

4. Reason for Complaint

What kind of problem are you having with the utility or company? Check all boxes below that apply and state the reason for your complaint. Explain specifically what you believe the utility or company has done wrong. Provide relevant details including dates, times and places and any other information that may be important. If the complaint is about billing, tell us the amount you believe is not correct. Use additional paper if you need more space. Your complaint may be dismissed without a hearing if you do not provide specific information.

- The utility is threatening to shut off my service or has already shut off my service.
PECO did not send a billing statement due for November. Received a 10 day shut off for 11/19/13, as I the amount, allegedly due are not explained in any way. Dispute the \$679.37 claimed.
- I would like a payment agreement.
- Incorrect charges are on my bill. Provide dates that are important and an explanation about any amounts or charges that you believe are not correct. Attach a copy of the bill(s) in question if you have it/them. The charges on the bill are not explained. I believe they are incorrect. The last bill received was approximately \$390.00 and working since. No explanation in writing or by phone that the \$679.37 represents. Prior bills had monthly charges and \$10.00 plus claimed. Now, no bills explained past due claimed.
- I am having a reliability, safety or quality problem with my utility service. Explain the problem, including dates, times or places and any other relevant details that may be important.
- Other (explain).

I believe the attached billing is incorrect, unjust and discriminatory. I normally receive billing statements at the end of a month and the amount is usually due in the first week of the subsequent month. Here, I received a termination notice when at the same time did not receive a prior month's billing statement, thus no bill for monthly amounts due in early November.

I contend the billing practices are unusual and without notice. Due to other pending PUC cases and appeals, the irregular and unexplained billing may be a effort by PECO counsel and corporate counsel to threaten termination and promote filing of another PUC complaint. I received the attached bill with no explanation of what the post due balance represents. The bill also refers to a payment plan, which I have no notice or knowledge of. I have not spoken to anyone at PECO about a payment plan. If a payment plan was added, the company - PECO - did this. I did not want to file another PUC complaint, but PECO is threatening termination without cause and justification.

Note: If your complaint is only about removing or modifying a municipal lien filed by the City of Philadelphia, the Public Utility Commission (PUC) cannot address it. Only local courts in Philadelphia County can address this type of complaint. The PUC can address a complaint about service or incorrect billing even if that amount is subject to a lien.

In addition, the PUC generally does not handle complaints about cell phone or Internet service, but may be able to resolve a dispute regarding voice communications over the Internet (including the inability to make voice 911/E911 emergency calls) or concerns about high-speed access to Internet service.

5. Requested Relief

How do you want your complaint to be resolved? Explain what you want the PUC to order the utility or company to do. Use additional paper if you need more space.

Request to enter a stay or injunction of termination notices as bill amounts are in dispute and the billing cycles, procedures and practices are irregular and misleading. Seek a investigation of the billing practices and procedures utilized for my account. Order that PECO provide monthly statements for service to my property, and exclude from billing the \$9,500.00-\$10,000 from the bill which represents amounts that are still in the appeal process and being litigated pursuant to complaints filed and/or pending with the PUC.

Note: The PUC can decide that a customer was not billed correctly and can order billing refunds. The PUC can also fine a utility or company for not following rules and can order a utility or company to correct a problem with your service. Under state law, the PUC cannot decide whether a utility or company should pay customers for loss or damages. Damage claims may be sought in an appropriate civil court.

6. Protection from Abuse

Has a court granted a "Protection from Abuse" order that is currently in effect for your personal safety or welfare? The PUC needs this information to properly process your complaint so that your identity is not made public.

Note: You must answer this question if your complaint is against a natural gas distribution utility, an electric distribution utility or a water distribution utility AND your complaint is about a problem involving billing, a request to receive service, a security deposit request, termination of service or a request for a payment agreement.

Has a court granted a "Protection from Abuse" order for your personal safety or welfare?

YES

NO

If your answer to the above question is "yes," attach a copy of the current Protection for Abuse order to this Formal Complaint form.

7. Prior Utility Contact

a. Is this an appeal from a decision of the PUC's Bureau of Consumer Services (BCS)?

YES

NO

Note: If you answered yes, move to Section 8. No further contact with the utility or company is required. If you answered no, answer the question in Section 7 b. and answer the question in Section 7 c. if relevant.

b. If this is not an appeal from a BCS decision, have you spoken to a utility or company representative about this complaint?

YES

NO

Note: You must contact the utility first if (1) you are a residential customer, (2) your complaint is against a natural gas distribution utility, an electric distribution utility or a water utility AND (3) your complaint is about a billing problem, a service problem, a termination of service problem, or a request for a payment agreement.

Verification:

I MARK MAZZA, hereby state that the facts above set forth are true and correct (or are true and correct to the best of my knowledge, information and belief) and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

[Signature] _____ 11/14/13
(Signature of Complainant) (Date)

Title of authorized employee or officer (only applicable to corporations, associations, partnerships, limited liability companies or political subdivisions)

Note: If the Complainant is a corporation, association, partnership, limited liability company or political subdivision, the verification must be signed by an authorized officer or authorized employee. If the Formal Complaint is not signed by one of these individuals, the PUC will not accept it.

10. Filing

You may electronically file your Formal Complaint with the PUC. To do so, you need to establish an account on the PUC's eFiling system, which may be accessed at <http://www.puc.pa.gov/efiling/default.aspx>.

If you do not electronically file your Formal Complaint, mail the completed form (along with any attachments) to one of the addresses listed below:

If using U.S. Postal Service:

If using overnight delivery service:

Secretary Pennsylvania Public Utility Commission P.O. Box 3265 Harrisburg, PA 17105-3265	Secretary Pennsylvania Public Utility Commission 400 North Street Commonwealth Keystone Building, 2 nd Floor Harrisburg, Pennsylvania 17120
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Note: Formal Complaints sent by fax or e-mail will not be accepted.

If you have any questions about filling out this form, please contact the Secretary's Bureau at 717-772-7777.

Keep a copy of your Formal Complaint for your records.

RECEIVED

NOV 14 2013

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU



0112

**TEN DAY SHUT OFF NOTICE
(AVISO DE SUSPENSION DE SERVICIO EN 10 DIAS)**

Account Number: 7273001005
For Service To: 1271 FARM RD
Date Prepared: November 5, 2013

Past Due Amt: \$679.37
New Billing: \$0.00
Total Amount: \$679.37

Your Electric/Gas Service May Be Shut Off
Because your bill is past due, we will shut off the service to 1271 FARM RD on or after 8:00 a.m. on November 19, 2013.

We will NOT shut off your electric/gas service if you do ONE of the following:

- Pay \$679.37 in full before November 19, 2013, this includes any amount you owe on your payment plan. This notice is effective for 60 days.
- Pay the catch up amount on your agreement if it has defaulted. Call 1-888-480-1533 for the amount.
- Show us a paid receipt for the past due amount.
- You may be eligible for a payment agreement or special assistance programs. Call 1-888-480-1533 right away if you dispute this bill or to provide us with household income and occupant information to determine your eligibility.
- To talk about your bill, please call our office at 1-888-480-1533.

WE MUST RECEIVE YOUR PAYMENT BEFORE THE SHUT-OFF DATE. WE WILL NOT ACCEPT PAYMENTS AT YOUR PROPERTY.

If we shut off your electric/gas service, you may have to pay all of the following before we can turn service on:

- Past Due Amount of **\$679.37**
- Deposit Past Due Amount of **\$0.00**
- Agreement Unbilled Balance **\$0.00**
- Total **\$679.37**

*If your service is shut off, you may be required to pay any additional bills that have become past due to restore your service.

**If your service is shut off, you may have to make substantial payments in order to have your service restored. In addition to any balance owed, you will have to pay a Reconnection Charge of between \$20.00 and \$1,700.00. This fee amount is set by PECO's tariff and based on how much work is needed to restore your service. You may also be required to pay a deposit equal to two times your average monthly usage.

MEDICAL EMERGENCY NOTICE

Let us know if you or anyone presently and normally living in your home is seriously ill. WE WILL NOT SHUT OFF YOUR SERVICE during such an illness provided you:

1. Have your licensed physician or nurse practitioner certify by phone and in writing that such an illness exists and that it may be aggravated if your service is shut off, phone certification must be followed by written certification within 7 days.

'AND'

2. Make arrangements to pay this bill. You must provide us with household income and occupant information to determine your payment terms while protected under the medical certification.

IMPORTANT TO KNOW

Before we shut off your utility service please read the back of this notice. You may be eligible for certain protections from shut off.

Atencion! Este es un mensaje muy importante. Si usted no lo entiende, favor de llamar a 1-888-480-1533.

Send payment in the enclosed envelope or pay your bill at an authorized payment location or PECO Energy's Main Office (23rd & Market Streets Philadelphia). To pay by credit card or check by phone, call 1-877-432-9384. The service provider will charge a convenience fee of \$2.35.

See other side for more information

PC033CF

PRIORITY MAIL PRIORITY MAIL PRIORITY MAIL PRIORITY MAIL PRIORITY MAIL

UNITED STATES POSTAL SERVICE
Visit us at usps.com
Visit us at usps.com
USA, May 2008

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U.S. POSTAGE
PAID
BERWYN, PA
NOV 14 2013
PERMIT
1098



\$5.60
00098285-06



PRIORITY MAIL

FROM:
MT 22A
1271 FARM RD
Berwyn, Pa. 19312

TO:
Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, Pa.
17105-3265

- DATE OF DELIVERY SPECIFIED*
- USPS TRACKING™ INCLUDED*
- INSURANCE INCLUDED*
- PICKUP AVAILABLE
* Domestic only



USPS TRACKING #
9114 9011 5981 8062 0067 74

Valid only Jan. 2013
7500-14-000-7002

1 AON

**Re: Docket No. C-2012-2318472
Mark Mazza v. PECO Energy Company
Main Brief of PECO**

CERTIFICATE OF SERVICE

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

Via First Class and Electronic Mail

Mr. Mark Mazza
1271 Farm Road
Berwyn, PA 19312
mdmjob@verizon.net

Dated: November 20, 2013


Margaret A. Morris, Esq.

RECEIVED

NOV 20 2013

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

UPS CampusShip: View/Print Label

- 1. Ensure there are no other shipping or tracking labels attached to your package.** Select the Print button on the print dialog box that appears. Note: If your browser does not support this function select Print from the File menu to print the label.
- 2. Fold the printed sheet containing the label at the line so that the entire shipping label is visible.** Place the label on a single side of the package and cover it completely with clear plastic shipping tape. Do not cover any seams or closures on the package with the label. Place the label in a UPS Shipping Pouch. If you do not have a pouch, affix the folded label using clear plastic shipping tape over the entire label.

3. GETTING YOUR SHIPMENT TO UPS

UPS locations include the UPS Store[®], UPS drop boxes, UPS customer centers, authorized retail outlets and UPS drivers.

Schedule a same day or future day Pickup to have a UPS driver pickup all your CampusShip packages.

Hand the package to any UPS driver in your area.

Take your package to any location of The UPS Store[®], UPS Drop Box, UPS Customer Center, UPS Alliances (Office Depot[®] or Staples[®]) or Authorized Shipping Outlet near you. Items sent via UPS Return Services(SM) (including via Ground) are also accepted at Drop Boxes. To find the location nearest you, please visit the Resources area of CampusShip and select UPS Locations.

Customers with a Daily Pickup

Your driver will pickup your shipment(s) as usual.

FOLD HERE

MARGARET A. MORRIS, ESQ. 2154956524 REGER RIZZO & DARNALL 2929 ARCH STREET PHILADELPHIA PA 19104		0.0 LBS LTR	1 OF 1
SHIP TO: ROSEMARY CHIAVETTA, ESQUIRE 7177727777 PA PUBLIC UTILITY COMMISSION 2 NORTH 400 NORTH ST HARRISBURG PA 17120-0200		PA 171 9-20	
			
UPS NEXT DAY AIR		1	
TRACKING #: 1Z 4XF 624 01 9040 4017			
			
BILLING: P/P			
Reference # 1: 07-1271.012			
CS 15.6.12. WXP1E80 45.0A 10/2013			