



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

Direct Dial: 215.841.6841

January 31, 2014

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

**RE: Thomas Bailey v. PECO Energy Company**  
**PUC Docket No.: F-2014-2399067**

Dear Ms. Chiavetta:

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

—	Answer
—	Answer & New Matter
—	Motion Objecting to Continuance Request
<u>X</u>	<b><u>Motion for Judgment on the Pleadings</u></b>
—	Motion to Admit Exhibits
—	Motion to Consolidate
—	Preliminary Objection
—	Exceptions
—	Reply Exceptions
—	Main Brief
—	Reply Petition

I have enclosed a Certificate of Service showing that a copy of the above document was served on the interested parties. Thank you for your time and attention on this matter.

Very truly yours,

Shawane Lee  
Counsel for PECO Energy Company  
SL/lo

cc: Thomas Bailey (via First Class Mail)

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**THOMAS BAILEY**

**v.**

**PECO ENERGY COMPANY**

:  
:  
:  
:  
:

**DOCKET NO. F-2014-2399067**

**NOTICE TO PLEAD**

*To: Thomas Bailey*

Pursuant to 52 Pa. Code §§5.101 and 5.62(c), you are hereby notified that, if you do not file a written response denying or correcting the enclosed Motion for Judgment on the Pleadings within 20 days from service of this notice, the facts set forth by PECO Energy Company may be deemed to be true, thereby requiring no other proof. All pleadings, such as a Reply to Motion, must be filed with the Secretary of the Pennsylvania Public Utility Commission, with a copy served to counsel for PECO Energy Company, Shawane Lee, and where applicable, the Administrative Law Judge presiding over the issue.

Failure to respond to this Motion could result in the dismissal of your case.

File with:

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

With a copy to:

Shawane L. Lee, Esquire  
PECO Energy Company  
2301 Market Street, S-23  
Philadelphia, PA 19103

Dated: January 31, 2014



---

Shawane L. Lee  
Counsel for PECO Energy Company  
2301 Market Street, S-23  
Philadelphia, PA 19101-8699  
Tel. (215) 841-6841  
Fax. (215) 568-3389  
shawane.lee@exeloncorp.com

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**THOMAS BAILEY**

**v.**

**PECO ENERGY COMPANY**

:  
:  
:  
:  
:

**DOCKET NO. F-2014-2399067**

**MOTION FOR JUDGMENT ON THE PLEADINGS**

PECO Energy Company ("PECO"), pursuant to 52 Pa. Code §5.102, respectfully requests that your Honorable Commission dismiss the instant complaint inasmuch as Complainant requests a payment arrangement. No factual dispute has been raised in the pleadings. Pursuant to 66 Pa.C.S. §1405(c), Complainant is ineligible for a Commission-ordered payment agreement, and thus Complainant fails to state a claim upon which relief can be granted. Therefore, PECO is entitled to judgment as a matter of law.

1. On or about December 23, 2013, Complainant filed a Formal Complaint against Respondent, PECO, requesting to receive a Commission-ordered payment agreement. A copy of Complainant's Formal Complaint is attached hereto as Exhibit 1.

2. PECO was served with the Formal Complaint on January 2, 2014.

3. On January 10, 2014, PECO filed an Answer, New Matter and Notice to Plead. A copy of PECO's Answer and New Matter is attached hereto as Exhibit 2.

4. PECO averred in its New Matter that Complainant was enrolled in its Customer Assistance Program (CAP) on October 20, 2008. New Matter ¶1.

5. PECO also averred that Complainant is an active CAP customer. New Matter ¶4.

6. PECO further averred that the entire balance on Complainant's account is comprised of CAP arrears. New Matter ¶5.

7. As the entire balance consists of CAP arrears, PECO averred that no agreement may be issued under 66 Pa.C.S. §1405(c). New Matter ¶¶5-6.

8. To date, 20 days have passed since PECO filed its New Matter.

9. PECO has not been served with a response to its New Matter, and therefore it requests that the facts stated therein be deemed admitted. 52 Pa.Code §5.63(b) (providing that facts in new matter may be deemed admitted if there is no reply).

10. Under 66 Pa.C.S. §1405(c), the Commission is precluded from establishing a payment agreement for customers participating in CAP. Section 1405(c) states as follows: “Customer assistance program rates shall be timely paid and shall not be the subject of payment agreements negotiated or approved by the commission.”

11. The Commission’s regulations at 52 Pa. Code §5.102(a) permits any party to move for summary judgment or judgment on the pleadings after the pleadings are closed, but within such time as to not delay a hearing. Under 52 Pa. Code §5.102(d)(1), the presiding officer will grant the motion if the pleadings, depositions, answers to interrogatories, admissions and affidavits show that there is no genuine issue as to a material fact and that the moving party is entitled to judgment as a matter of law.

12. The moving party bears the burden of showing that no genuine issue of material fact exists and that it is entitled to judgment as a matter of law. The Commission must view the record in the light most favorable to the non-moving party, giving that party the benefit of all reasonable inferences. *First Mortgage Co. of Pennsylvania v. McCall*, 459 A.2d 406 (Pa. Super. 1983).

13. The provision at 52 Pa. Code §5.102(c) serves judicial economy by avoiding a hearing where no factual dispute exists. If no factual issue pertinent to the resolution of the

case exists, a hearing is unnecessary. *Lehigh Valley Power Committee v. Pennsylvania Public Utility Commission*, 563 A.2d. 557 (Pa. Cmwlth. 1989).

14. The pleadings in this case reveal the following:

- a. There is no factual dispute that (a) Complainant is enrolled in CAP, (b) the entire past due balance is CAP arrears, (c) the sole relief Complainant seeks is a Commission-ordered payment agreement.
- b. Under 66 Pa.C.S. §1405(c), the Commission is prohibited from ordering a payment agreement for an account holder whose past due balance consists of CAP arrears. Therefore, the Commission cannot grant the sole relief Complainant seeks.

15. Because no factual dispute exists and the Complaint fails to state a claim for which relief can be granted, PECO is entitled to judgment as a matter of law.

**WHEREFORE**, PECO Energy Company respectfully requests that your Honorable Commission dismiss the instant complaint with prejudice, as it relates to a request for a prohibited payment agreement on CAP arrears, and the Complaint therefore fails to state a claim upon which relief can be granted.

Respectfully submitted,



---

Shawane L. Lee  
PECO Energy Company  
2301 Market Street, S23-1  
PO Box 8699  
Philadelphia, PA 19101-8699  
(215) 841-6841  
Fax: 215.568.3389  
Shawane.Lee@exeloncorp.com

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

<b>THOMAS BAILEY</b>	:	
	:	
v.	:	<b>DOCKET NO. F-2014-2399067</b>
	:	
<b>PECO ENERGY COMPANY</b>	:	

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a true copy of the foregoing Motion for Judgment on the Pleadings upon the party listed below, in accordance with the requirements of 52 Pa. Code §1.54 (relating to service by a party).

VIA First Class Mail  
Thomas Bailey  
3906 Fairmount Avenue, Apt. #1  
Philadelphia, PA 19104



---

Shawane L. Lee

DATED: January 31, 2013

# **EXHIBIT “1”**

**O'Neill, Leslie:(BSC)**

---

**From:** eServe@pa.gov  
**Sent:** Thursday, January 02, 2014 1:20 PM  
**To:** Lee, Shawane L.:(BSC)  
**Cc:** O'Neill, Leslie:(BSC)  
**Subject:** PA PUC eServe Notice

**Importance:** High

Dear Shawane L Lee,

A(n) **Formal Complaint Form** has been served in this proceeding. This document is docketed as **F-2014-2399067**. You may view this document at **Formal Complaint Form**

You are receiving this email because you are a(n) **Respondent** for this case and have agreed to be served electronically. By selecting electronic service (eService), you have agreed that this notification constitutes valid service. Electronic service of any and all documents will be in place of paper service.

Thank You,  
Public Utility Commission  
Commonwealth of Pennsylvania

*\* Please do not respond to this automatically generated email.*

Amely

BCS: 3124957  
PECO ENERGY

Must be returned by DECEMBER 31, 2013

**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 THOMAS BAILEY  
Street/P.O. Box 3906 FAIRMOUNT AVE Apt # 1  
City PHILA. State PA. Zip 19104  
County PHILA.

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

267 693-1971 (home)      267 315-8169 (mobile)

E-mail Address (optional): \_\_\_\_\_

Utility Account Number (from your bill) 68890-61005

**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  
2013 DEC 23 AM 11:07  
P.A.P.U.C.  
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.
- 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.
- 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).

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.

I would like to get a payment Agreement in writing of what to expect to pay each month on monthly bill including past due bill to catch things up from past, I am not saying that PECO has tried to enforce wrong payments on me, just that they didn't inform me how this was to be done month to month also they have me set up to pay on about the 27th to 29th of each month which is impossible for me, because I am on SSD, I don't get my check until the 3rd of each month so they charge me ~~me~~ late fees every month which I don't think is fair because they know my check date is the 3rd of each month. I requested a due date change - was denied

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.

P.S. I think that there may be something wrong with meter readings, they change my meter about 5 times in one year alone (2) <sup>about</sup> years ago

**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.

- c. If you tried to speak to a utility company representative about your complaint but were not able to do so, please explain why.

Note: Even if you are not required to contact the utility or company, you should always try to speak to a utility or company representative about your problem before you file a Formal Complaint with the PUC.

8. Legal Representation

If you are filing a Formal Complaint as an individual on your own behalf, you are not required to have a lawyer. You may represent yourself at the hearing.

If you are represented by a lawyer in this matter, provide your lawyer's name, address, telephone number, and e-mail address, if known. Please make sure your lawyer is aware of your complaint. If represented by a lawyer, both you and your lawyer must be present at your hearing.

Lawyer's Name \_\_\_\_\_

Street/P.O. Box \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Area Code/Phone Number \_\_\_\_\_

E-mail Address (if known) \_\_\_\_\_

Note: Corporations, associations, partnerships, limited liability companies and political subdivisions are required to have a lawyer represent them at a hearing and to file any motions, answers, briefs or other legal pleadings.

9. Verification and Signature

You must sign your complaint. Individuals filing a Formal Complaint must print or type their name on the line provided in the verification paragraph below and must sign and date this form in ink. If you do not sign the Formal Complaint, the PUC will not accept it.





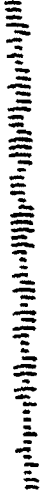
PHILADELPHIA PA 191  
NOV 20 2013 PM 7 1

Mr. Thomas Bailey  
F11  
3906 Fairmount Ave  
Philadelphia, PA 19104

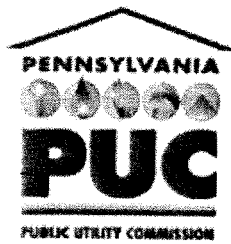
RECEIVED  
2013 DEC 23 AM 11:07  
P.A.P.U.C.  
SECRETARY'S BUREAU

SECRETARY  
PENNSYLVANIA Public Utility Commission  
P.O. Box 3265  
HARRISBURG, PA. 17105-3265

17105326565



# **EXHIBIT “2”**



**PENNSYLVANIA**  
PUBLIC UTILITY COMMISSION

CONSUMERINFO UTILITY&INDUSTRY FILING&RESOURCES ABOUTPUC CONTACTUS

[Login to eFiling](#) | [Contact Us](#) | [Search](#)

- [My Filings](#)
- [New Filing](#)
- [Modify Account](#)
- [POR Search](#)
- [eService Directory](#)
- [Subscriptions](#)
- [Technical Assistance](#)
- [eFiling FAQs](#)
- [Log Off](#)

**eFiling Successfully Transmitted**



Your filing has been electronically received. Upon review of the filing for conformance with the Commission's filing requirements, a notice will be issued acknowledging such compliance and assigning a Docket Number. The matter will receive the attention of the Commission and you will be advised if any further action is required on your part.

Print this page for your records. The date filed on will be the current day if the filing occurs on a business day before or at 4:30 PM Harrisburg, PA time. It will be the next business day if the filing occurs after 4:30 PM Harrisburg, PA time or on weekends or holidays.

*If your filing **exceeds 250 pages**, you are required to submit **one** paper copy of the filing within 3 business days of submitting the electronic filing. This paper copy can be mailed to: Secretary, Pennsylvania Public Utility Commission, Commonwealth Keystone Building, 400 North Street, 2nd Floor, Harrisburg, PA 17120 . Please print a copy of this page and attach it to the paper copy of your filing as the first page.*

eFiling Confirmation	
Docket Number:	F-2014-2399067
Description:	Thomas Bailey - Answer and New Matter of PECO Energy Company
Transmission Date:	1/10/2014 12:00:07 PM
Filed On:	1/10/2014 12:00:07 PM
eFiling Confirmation Number:	1534739

**Uploaded File List**

File Name	Document Class	Document Type
Thomas Bailey - Answer and New Matter.pdf	Communication	Answer to Formal Complaint



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

Direct Dial: 215.841.6841

January 10, 2014

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

**RE: Thomas Bailey v. PECO Energy Company**  
**PUC Docket No.: F-2014-2399067**

Dear Ms. Chiavetta:

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

- Answer
- X   **Answer & New Matter**
- Motion Objecting to Continuance Request
- Motion for Judgment on the Pleadings
- Motion to Admit Exhibits
- Motion to Consolidate
- Preliminary Objection
- Exceptions
- Reply Exceptions
- Main Brief
- Reply Petition

I have enclosed a Certificate of Service showing that a copy of the above document was served on the interested parties. Thank you for your time and attention on this matter.

Very truly yours,

Shawane Lee  
 Counsel for PECO Energy Company  
 SL/lo

Scheduling Recommendation:    Call of the Docket    **X Not Call of the Docket**

PENNSYLVANIA PUBLIC UTILITY COMMISSION

THOMAS BAILEY  
Complainant  
v.  
PECO ENERGY COMPANY  
Respondent

:  
:  
:  
:  
:  
:  
:  
:  
:  
:

DOCKET NO. F-2014-2399067

---

NOTICE TO PLEAD

Pursuant to 52 Pa. Code §§ 5.101 and 5.62(c), you are hereby notified that, if you do not file a written response denying or correcting the enclosed NEW MATTER of PECO Energy Company within 20 days from service of this notice, a decision may be rendered against you. All pleadings, such as a Reply to NEW MATTER, must be filed with the Secretary of the Pennsylvania Public Utility Commission, with a copy served to counsel for PECO Energy Company, Shawane L. Lee, and where applicable, the Administrative Law Judge presiding over the issue.

File with:  
Rosemarie Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, Second Floor  
Harrisburg, PA 17120

With a copy to:  
Shawane L. Lee, Esq.  
PECO Energy Company  
2301 Market Street, S-23  
Philadelphia, PA 19103

Dated at Philadelphia, PA, January 10, 2014



---

Shawane L. Lee  
Counsel for PECO Energy Company  
2301 Market Street S-23  
Philadelphia, PA 19101-8699  
215-841-6863  
Shawane.lee@exeloncorp.com

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

<b>THOMAS BAILEY</b>	:	
<b>Complainant</b>	:	
	:	
v.	:	<b>DOCKET NO. F-2014-2399067</b>
	:	
<b>PECO ENERGY COMPANY</b>	:	
<b>Respondent</b>	:	

---

**ANSWER OF RESPONDENT,**  
**PECO ENERGY COMPANY**

---

On January 2, 2014, PECO Energy Company ("PECO Energy") was served with a formal complaint filed by Thomas Bailey (hereafter "Complainant") in the above captioned docket. Pursuant to 52 Pa. Code § 5.61, PECO responds to the Complaint and states:

1. Admitted.
2. Admitted.
3. Admitted.
4. Unless specifically admitted herein, PECO Energy denies all material allegations of fact and conclusions of law in the instant Complaint. In his formal Complaint, Complainant requests a payment agreement. The Complainant states that it is impossible for him to pay his bill by the 27<sup>th</sup> to 29<sup>th</sup> each month because he does not receive his social security disability check until the 3<sup>rd</sup> of each month. Accordingly, he is late making payments and the company charges him late fees every month. Finally, the Complainant alleges there may be something wrong with his meter readings. He alleges that PECO Energy changed his meter approximately five times in

one year two years ago. PECO Energy avers there is no issue with the Complainant's meter and requests dismissal pursuant to 66 Pa. C.S. §1405(c).

PECO Energy's records reveal that the Complainant established an account for electric service at 3906 Fairmount Street, Apartment #1, Philadelphia, PA 19104 under account number 68890-61005. See Account Activity Statement, attached hereto as Exhibit "1". The Complainant enrolled in PECO Energy's low-income Customer Assistance Program ("CAP") under Tier E on October 20, 2008 and last recertified December 7, 2012. See CAP History, attached hereto as Exhibit "2". The Complainant's next scheduled recertification date is December 7, 2014. See Exhibit "2". The Complainant is actively enrolled in the CAP program. The Complainant's entire balance is comprised of CAP arrears.

The Complainant's meter has been changed twice since he established his account with the company. The Complainant had meter number 058084636, which was changed to meter number 334206695 on March 29, 2010. Meter number 334206695 was changed to meter number 336802651 on February 13, 2012. There have been no additional meter changes. Since the Complainant has had an account with the company, he has not requested a high bill field investigation for any issues regarding his meter.

On July 18, 2013, the Complainant filed an informal complaint with the Bureau of Consumer Services ("BCS") stating that he has been faithfully paying an agreement with the company; however, his bills continue to climb higher. See Case Details Report #003124957, attached hereto as Exhibit "3". On November 27, 2013, the BCS issued a Decision Report, dismissing the complainant pursuant to 66 Pa. C.S. §1405(c). See BCS Decision Report, attached hereto as Exhibit "4". On December 11, 2013, the Pennsylvania Public Utility

Commission sent correspondence to the Complainant, advising they had received his request to appeal the BCS Decision. See Letter, dated 12/11/13, attached hereto as Exhibit "5".

The Complainant's balance is \$1414.50. See Exhibit "1". The entire balance is comprised of CAP arrears. Accordingly, the Complainant is not entitled to a PUC ordered payment agreement on his balance. 66 Pa.C.S. § 1405(c) provides that, "(c)ustomer assistance program rates shall be timely paid and shall not be the subject of payment agreements negotiated or approved by the commission." Additionally, the Complainant's payment history is very poor. The Complainant's account activity statement demonstrates that he misses monthly payments and does not pay the entire billed amount by the due date.

5. Denied.

6. Admitted

7. Admitted.

8. PECO Energy neither admits nor denies the allegations in paragraph 8. PECO is without knowledge or information sufficient to form a belief as to the truth of this averment and, therefore, such allegation is deemed denied.

9. Paragraph 9 is a Verification and Signature to which no response is required.

10. Paragraph 10 contains information regarding Filing, to which no response is required.

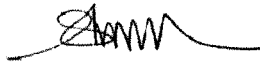
**NEW MATTER OF RESPONDENT, PECO ENERGY COMPANY**

PECO Energy Company ("PECO Energy"), pursuant to 52 Pa. Code § 5.62(b), further responds to the Complaint and states:

1. The Complainant was enrolled in the Customer Assistance Program (“CAP”) under Tier E on October 20, 2008. See Exhibit “2”.
2. He was re-certified on December 7, 2012. See Exhibit “2”.
3. His next scheduled recertification date is on December 7, 2014.
4. The Complainant remains actively enrolled in the CAP program.
5. The Complainant’s entire balance is comprised of CAP arrears.
6. The Complainant is not entitled to a PUC ordered payment agreement as his balance contains CAP arrears.
7. Additionally, the Complainant’s poor payment history does not demonstrate good faith. The Complainant does not pay the entire bill owed by the due date and misses payments. See Exhibit “1”.
8. 66 Pa.C.S. § 1405(c) provides that, “(c)ustomer assistance program rates shall be timely paid and shall not be the subject of payment agreements negotiated or approved by the commission.”
9. Consequently, pursuant to 66 Pa.C.S. § 1405(c), the PUC has no jurisdiction to give the Complainant a payment agreement on his balance.

**WHEREFORE**, PECO Energy Company respectfully requests that your Honorable Commission dismiss the instant Complaint.

Respectfully Submitted,



---

Shawane L. Lee  
Counsel for PECO Energy Company  
2301 Market Street, S23-1  
P.O. Box 8699  
Philadelphia, PA 19101-8699  
(215) 841-6841  
Fax: 215.568.3389

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

<b>THOMAS BAILEY</b>	:	
<b>Complainant</b>	:	
	:	
<b>v.</b>	:	<b>DOCKET NO. F-2014-2399067</b>
	:	
<b>PECO ENERGY COMPANY</b>	:	
<b>Respondent</b>	:	

---

**VERIFICATION**

I, Shawane L. Lee, hereby declare that I am counsel for PECO Energy Company; that as such I am authorized to make this verification on its behalf; that the facts set forth in the foregoing Pleading are true to the best of my knowledge, information and belief, and that I make this verification subject to the penalties of 18 Pa. C.S. § 4904 pertaining to false statements to authorities.

Date: January 10, 2014



---

Shawane L. Lee

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

<b>THOMAS BAILEY</b>	:	
Complainant	:	
	:	
v.	:	<b>DOCKET NO. F-2014-2399067</b>
	:	
<b>PECO ENERGY COMPANY</b>	:	
Respondent	:	

---

**CERTIFICATE OF SERVICE**

I, Shawane L. Lee, hereby certify that I have this day served a copy of PECO Energy Company's Answer in the above matter upon all interested parties by mailing a copy, properly addressed and postage prepaid to:

Thomas Bailey  
3906 Fairmount Avenue, Apt. #1  
Philadelphia, PA 19104

Dated at Philadelphia, Pennsylvania, January 10, 2014.



---

Shawane L. Lee  
Counsel for PECO Energy Company  
2301 Market Street, S23-1  
P.O. Box 8699  
Philadelphia, PA 19101-8699  
(215) 841-6841  
Fax: 215.568.3389  
Shawane.Lee@exeloncorp.com



Exelon Business Services Company  
Legal Department

2301 Market Street/S23-1  
Philadelphia, PA 19103

215 568 3389 Fax  
www.exeloncorp.com

Direct Dial: 215 841-6841

January 10, 2014

Thomas Bailey  
3906 Fairmount Avenue, Apt. #1  
Philadelphia, PA 19104

**RE: Thomas Bailey v. PECO Energy Company**  
**PUC Docket No.: F-2014-2399067**

Dear Mr. Bailey:

Enclosed is a copy of PECO Energy Company's response to the formal complaint filed in the above-referenced docket. The law requires PECO Energy to file an answer to your Public Utility Commission complaint. Keep these papers for your records. This is not a decision on your complaint. PECO's response may include a New Matter, Motion or Preliminary Objection. Please note that if you do not respond to a New Matter, Motion, or Preliminary Objection an unfavorable decision may be rendered against you. Responses to New Matters and Motions must be filed within 20 days. Responses to Preliminary Objections must be filed within 10 days. If there is no New Matter, Motion or Preliminary Objection included, no response is required.

Soon, the Public Utility Commission will schedule either a settlement conference or a hearing on your complaint. The Commission will let you know by mail whether there will be a conference or a hearing and will include instructions on what to do next. If the matter is set for hearing, the notice will provide you with information about the date, time and place of the hearing. If we are unable to resolve your complaint and have to proceed with a hearing, a judge will be at the hearing and will decide your complaint. You must call the Public Utility Commission if you have any questions about the hearing or if you cannot attend the hearing.

Thank you for your time and attention on this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read "Shawane Lee", with a stylized flourish at the end.

Shawane Lee  
Counsel for PECO Energy Company

SL/lo  
Encl.

**EXHIBIT “1”**

PECO Account Activity Statement

Date: 01/03/14

Page: 1 of 3

\*\*\* Account Information \*\*\*

Account Number: 68890-61005  
 Account Status: Active  
 Requested By: THOMAS S BAILEY  
 THOMAS S BAILEY  
 (267) 693-1971 Extension:

Mail To:  
 THOMAS S BAILEY  
 3906 FAIRMOUNT AV  
 APT #1  
 PHILADELPHIA PA 19104

Current Bill:  
 Billed Prior: \$1085.50  
 Balance Due: \$1414.50  
 Service Address:  
 3906 FAIRMOUNT AV  
 APT #1  
 PHILADELPHIA PA 19104

Credit Amount: \$0.00  
 Deposit Requested: \$0.00  
 Deposit On-Hand: \$0.00  
 Meter Bill Grp: 05  
 Rate: CAP Opt E Electric Residential Service

\*\*\* Current Account Status \*\*\*

DATE	CHARGE TYPE	BILLING PERIOD	READ	METER #	CHARGE AMOUNT	CREDIT AMOUNT	TOTAL BILL	BALANCE FORWARD	DUE DATE	KWH
------	-------------	----------------	------	---------	---------------	---------------	------------	-----------------	----------	-----

08/05/11	Payment	07/07/11 08/05/11			\$133.00	\$145.34	\$145.34		08/30	1951
08/08/11	BUDGET BILLING				\$12.34		\$12.34			
** Budget Bill Detail ** Actual Bill Amount: 296.60										
08/08/11	DEFERRED PAYMENT AGREEMENT				\$12.34		\$12.34			
09/02/11	Regular Bill				\$133.00	\$145.34	\$145.34		08/30	1951
09/07/11	BUDGET BILLING				\$12.34		\$12.34			
** Budget Bill Detail ** Actual Bill Amount: 237.30										
09/07/11	DEFERRED PAYMENT AGREEMENT				\$12.34		\$12.34			
10/03/11	Regular Bill				\$133.00	\$145.34	\$145.34		09/29	1615
10/06/11	BUDGET BILLING				\$12.34		\$12.34			
** Budget Bill Detail ** Actual Bill Amount: 157.70										
10/06/11	DEFERRED PAYMENT AGREEMENT				\$12.34		\$12.34			
10/06/11	Regular Bill				\$666.07	\$145.34	\$145.34		10/28	1171
11/02/11	Bill Out DPA due to Default				\$2.19		\$2.19			
11/03/11	Late Payment Charge				\$145.34		\$145.34			
11/03/11	Payment				\$666.07		\$666.07			
11/04/11	Payment Agreement				\$133.00	\$354.49	\$354.49		11/28	925
11/04/11	BUDGET BILLING				\$12.33		\$12.33			
** Budget Bill Detail ** Actual Bill Amount: 115.65										
11/04/11	Regular Bill				\$209.00	\$135.19	\$135.19		11/28	925
12/02/11	Payment				\$12.33		\$12.33			
12/07/11	BUDGET BILLING				\$209.00		\$209.00			
** Budget Bill Detail ** Actual Bill Amount: 160.77										
12/07/11	DEFERRED PAYMENT AGREEMENT				\$12.33		\$12.33			
12/07/11	Regular Bill				\$209.00	\$221.33	\$221.33		12/29	1189
01/03/12	Payment				\$12.33		\$12.33			
01/10/12	BUDGET BILLING				\$209.00		\$209.00			
** Budget Bill Detail ** Actual Bill Amount: 173.36										
01/10/12	DEFERRED PAYMENT AGREEMENT				\$12.33		\$12.33			
01/10/12	Regular Bill				\$209.00	\$221.33	\$221.33		02/01	1315
02/03/12	Payment				\$12.33		\$12.33			
02/09/12	BUDGET BILLING				\$209.00		\$209.00			
** Budget Bill Detail ** Actual Bill Amount: 174.32										
02/09/12	DEFERRED PAYMENT AGREEMENT				\$12.33		\$12.33			
02/09/12	Regular Bill				\$209.00	\$221.33	\$221.33		03/02	1321
03/02/12	Payment				\$12.33		\$12.33			
03/08/12	BUDGET BILLING				\$209.00		\$209.00			
** Budget Bill Detail ** Actual Bill Amount: 170.33										
03/08/12	DEFERRED PAYMENT AGREEMENT				\$12.33		\$12.33			
03/08/12	Regular Bill				\$209.00	\$221.33	\$221.33		03/30	1296
04/03/12	Payment				\$12.33		\$12.33			
04/06/12	BUDGET BILLING				\$209.00		\$209.00			
** Budget Bill Detail ** Actual Bill Amount: 181.89										
04/06/12	DEFERRED PAYMENT AGREEMENT				\$12.33		\$12.33			
04/06/12	Regular Bill				\$209.00	\$221.33	\$221.33		04/30	1359
05/03/12	Payment				\$12.33		\$12.33			
05/07/12	BUDGET BILLING				\$209.00		\$209.00			
** Budget Bill Detail ** Actual Bill Amount: 179.48										
05/07/12	DEFERRED PAYMENT AGREEMENT				\$12.33		\$12.33			
05/07/12	Regular Bill				\$209.00	\$221.33	\$221.33			
05/07/12	Payment				\$12.33		\$12.33			

PECC Account Activity Statement

Date: 01/03/14  
Page: 2 of 3

DATE	CHARGE TYPE	BILLING PERIOD	READ	METER #	CHARGE AMOUNT	CREDIT AMOUNT	TOTAL BILL	BALANCE FORWARD	DUE DATE	KWH
05/07/12	DEFERRED PAYMENT AGREEMENT									
05/07/12	Regular Bill				\$12.33					
06/06/12	BUDGET BILLING	05/06/12 06/05/12			\$209.00	\$221.33	\$221.33		05/29	1344
	** Budget Bill Detail **	Actual Bill Amount:			94.08	25.72				
06/06/12	DEFERRED PAYMENT AGREEMENT									
06/06/12	Regular Bill				\$12.33					
07/06/12	BUDGET BILLING	06/05/12 07/05/12			\$182.00	\$221.33	\$221.33		06/28	812
	** Budget Bill Detail **	Actual Bill Amount:			60.35	-95.93				
07/06/12	DEFERRED PAYMENT AGREEMENT									
07/06/12	Regular Bill				\$12.33					
08/06/12	BUDGET BILLING	07/05/12 08/05/12			\$182.00	\$194.33	\$194.33		07/30	592
	** Budget Bill Detail **	Actual Bill Amount:			110.42	-167.51				
08/06/12	DEFERRED PAYMENT AGREEMENT									
08/06/12	Regular Bill				\$12.33					
09/05/12	BUDGET BILLING	08/05/12 09/04/12			\$182.00	\$194.33	\$194.33		08/28	943
	** Budget Bill Detail **	Actual Bill Amount:			100.56	-248.95				
09/05/12	DEFERRED PAYMENT AGREEMENT									
09/05/12	Regular Bill				\$12.33					
10/02/12	Bill Out DPA due to Default				\$542.77					
10/03/12	Payment Agreement				\$194.33					
10/03/12	Payment Agreement				\$542.77					
10/04/12	BUDGET BILLING	09/04/12 10/03/12			\$3.38	\$194.33	\$194.33		09/27	878
	** Budget Bill Detail **	Actual Bill Amount:			103.08	-327.87				
10/04/12	Regular Bill				\$182.00					
11/02/12	BUDGET BILLING	10/03/12 11/01/12			\$108.00	\$185.38	\$185.38		10/26	831
	** Budget Bill Detail **	Actual Bill Amount:			222.35	-213.52				
11/02/12	DEFERRED PAYMENT AGREEMENT									
11/02/12	Regular Bill				\$12.34					
12/05/12	BUDGET BILLING	11/01/12 12/04/12			\$108.00	\$120.34	\$120.34		11/26	1554
	** Budget Bill Detail **	Actual Bill Amount:			453.31	131.79				
12/05/12	DEFERRED PAYMENT AGREEMENT									
12/05/12	Regular Bill				\$12.34					
01/02/13	Bill Out DPA due to Default				\$518.09					
01/02/13	Late Payment Charge				\$1.81					
01/03/13	Payment Agreement				\$120.34					
01/03/13	Payment Agreement				\$518.09					
01/08/13	BUDGET BILLING	12/04/12 01/07/13			\$108.00	\$122.15	\$122.15		01/30	3264
	** Budget Bill Detail **	Actual Bill Amount:			455.01	478.80				
01/08/13	DEFERRED PAYMENT AGREEMENT									
01/08/13	Regular Bill				\$12.34					
02/04/13	Bill Out DPA due to Default				\$505.75					
02/05/13	Payment Agreement				\$122.15					
02/05/13	Payment Agreement				\$505.75					
02/05/13	Late Payment Charge				\$7.56					
02/07/13	BUDGET BILLING	01/07/13 02/06/13			\$108.00	\$115.56	\$115.56		03/01	2968
	** Budget Bill Detail **	Actual Bill Amount:			411.02	781.82				
02/07/13	Regular Bill				\$277.00					
03/01/13	Payment				\$113.00					
03/08/13	BUDGET BILLING	02/06/13 03/07/13			\$277.00	\$289.34	\$289.34		04/01	3203
	** Budget Bill Detail **	Actual Bill Amount:			445.96	950.78				
03/08/13	DEFERRED PAYMENT AGREEMENT									
03/08/13	Regular Bill				\$12.34					
03/22/13	IRHEAP Payment				\$113.00					



**EXHIBIT “2”**

CAP History

Name: Thomas Bailey  
Account: 68890-61005  
Address: 3906 Fairmount Ave, 1<sup>st</sup> Fl  
Philadelphia PA 19104  
Case: Docket# F-2014-2399067

**CAP Program for Account 68890-61005**

Date Taken	CAP Rate	FPL %	Recertification Date	End Date	CAP Status
10/20/08	E	114.00	12/07/14	/ /	Enrolled in Progr

**View CAP History for Account 68890-61005**

Activity Date	CAP Activity	CAP Rate
12/07/12	Re-Certification completed	CAP Opt E Electric Residential Service
11/05/12	Re-Certification Letter Sent	
10/19/12	Re-Certification Letter Sent	
12/31/10	CAP Rate Change	CAP Opt E Electric Residential Service
11/18/10	Re-Certification completed	zCAP Opt E Electric Residential Service
10/05/10	Re-Certification Letter Sent	
09/20/10	Re-Certification Letter Sent	
10/20/08	Enrolled	zCAP Opt E Electric Residential Service

**Task List**

CAP enrolled 10/20/08 and last recertified 12/07/12, Tier E with monthly income of \$1064.00 for 1 adult, 114%FPL. Pre-Program arrears set aside were \$369.57 and forgiven 09/08/09. Next scheduled recertification date is 12/07/14.

**EXHIBIT “3”**





**January 8, 2014**

COULD HELP ME, I WOULD GREATLY APPRECIATE IT. THANK YOU VERY MUCH FOR YOUR TIME AND CONSIDERATION IN THIS MATTER.

**Company Position:**

07/17/2013 LCC I TRIED TO GET THEM TO LOWER THE BILL, I TOLD THEM I COULDN'T AFFORD \$377.44 EVERY MONTH, BUT THEY JUST SAID, IF THEY TOOK IT DOWN IT WOULD STILL BE AT LEAST 320.00 OR SO. WHEN I TOLD THEM I COULDN'T AFFORD THAT, THEY SAID SORRY THAT WAS WHAT THE BILL WILL BE. NO COMPROMISE AT ALL.

**EXHIBIT “4”**



January 8, 2014

**BCS Decision Report**

BCS Case #: 003124957                      Open Date: 2013-07-18  
Customer Name: THOMAS BAILEY  
Service Address: 3906 FAIRMOUNT AVE 1ST FL

PHILADELPHIA, PA 19104  
BCS Bill Account #: 6889061005                      Previous Case #:  
Violation Type: NO                                      Chapter Type:  
Decision Type: W                                      Section / Rule:  
Investigator Name: LINDA SCOTT-  
MCKILLOP

Decision Issued Date: 2013-11-27  
Case Closed Date: 2013-11-25

Letter Description:  
EGW PAR W/COMPLEX DISPUTE/NO PAYMENT AGREEMENT/LEVEL 1

Total Balance:	\$1418.40	Balance Date:	2013-11-20
Amount to Restore Service:	\$0.00	Amount to Continue Service:	\$0.00
Date Payment Due:		Regular Budget Amount:	\$280.00
Special Budget Payment:	\$0.00	Final Bill Monthly Payment:	\$0.00
Plus Arrears Payment:	\$0.00	End of Month Payment:	\$0.00
Current Monthly Payment:	\$0.00		
Payment Terms:			

PAR Description:

Resolution Description:  
COMPANY PERMITTED TO ADJUST BUDGET BILLING DUE TO USAGE.CAP  
CUSTOMER, NOT ELIGIBLE FOR PUC PAR

**EXHIBIT “5”**



COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA PUBLIC UTILITY COMMISSION  
P.O. BOX 3265, HARRISBURG, PA 17105-3265

IN REPLY PLEASE  
REFER TO OUR FILE

DECEMBER 11, 2013

BCS: 3124957

THOMAS BAILEY  
3906 FAIRMOUNT AVE 1<sup>ST</sup> FLOOR  
PHILADELPHIA PA 19104

68890-61005

Dear Sir/Madam:

We have received your request to appeal the decision of the Bureau of Consumer Services.

We have enclosed one complaint form for you to complete. Please read carefully the instructions to help you complete the form.

**\*\* Please make sure you sign the form. We must receive your original signature in order for us to process your complaint. Your form will be returned to you if an original signature is not received.**

Return the form to us on or before DECEMBER 31, 2013 to the address listed below:

Secretary  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265

**While you wait for us to reach a decision on your complaint, you must pay all undisputed bills (ones that are not a part of your complaint). As long as you pay all undisputed bills and return this formal complaint form to us on time, the company is not permitted to terminate your service.**

**Commission Procedures for Formal Complaints**

- We send a copy of this letter to the company so they know you are appealing the Bureau of Consumer Services' Informal Decision;
- We also send the company a copy of your completed formal complaint form. Once they receive it, they have 20 days to send us an answer to your complaint. The company will send you a copy of their answer.

PECO ENERGY  
EXHIBIT 5

- Once we receive all the paperwork, we usually will schedule your hearing before an Administrative Law Judge.
- We will notify both you and the company by mail when the hearing date is set.
- If you cannot travel to your hearing, you can request that the hearing be held by phone. This is called a telephonic hearing. If we can, we will schedule a telephonic hearing for you.
- We will most likely schedule your hearing sometime within three months after you file your complaint form. If you know of certain dates when you will not be available for a hearing, let us know when you file your formal complaint. We will try to work around your schedule.
- **If you cannot attend the hearing on the scheduled date, you must request a different time or date. You should request the change at least 5 days before your hearing by writing to:**

**Office of Administrative Law Judge  
Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265**

**YOU SHOULD INCLUDE YOUR DAYTIME TELEPHONE NUMBER IN YOUR LETTER. DEPENDING ON YOUR REASON FOR NOT BEING ABLE TO ATTEND THE SCHEDULED HEARING, YOUR REQUEST TO CHANGE THE HEARING MAY OR MAY NOT BE APPROVED. WE WILL LET YOU KNOW OUR DECISION ON YOUR REQUEST FOR CHANGING THE HEARING DATE BEFORE THE DATE OF THE HEARING.**

**YOU MUST ATTEND SCHEDULED HEARINGS IN PERSON OR BY PHONE. IF YOU DO NOT ATTEND, YOUR COMPLAINT MAY BE DISMISSED (THROWN OUT).**

If you have any questions about the complaint process, please call the Bureau of Consumer Services, toll free, at 1-800-692-7380.

Very truly yours,



**Rosemary Chiavetta  
Secretary**

RC: KMS

cc: PECO ENERGY