

February 4, 2014

Via Electronic Filing

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

**Re: Docket No. C-2012-2318472
Mark Mazza v. PECO Energy Company
Replies to Exceptions of PECO Energy Company**

Dear Secretary Chiavetta:

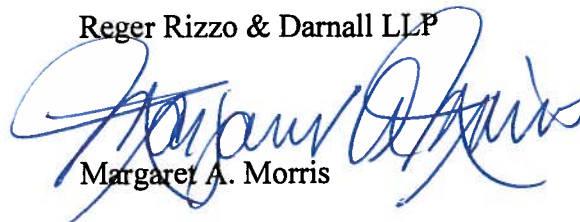
Enclosed for filing is the Replies of PECO Energy Company to the Exceptions of Mark Mazza (Complainant) to the Initial Decision of the Honorable Elizabeth H. Barnes in the above captioned matter. The filing is being made today consistent with the notification that the Commission's offices were closed yesterday due to weather.

A copy of the Replies to Exceptions has been provided 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
Enclosure

cc: Honorable Elizabeth H. Barnes, OALJ [w/enc.]
Cheryl Walker Davis, Esq., OSA [w/enc.]
Mark Mazza [w/enc.]
Ward L. Smith, Esq., Exelon Business Services [w/enc.]

**Re: Docket No. C-2012-2318472
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been served upon the following person, 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: February 4, 2014


Margaret A. Morris, Esquire

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

MARK MAZZA

v.

PECO ENERGY COMPANY

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Docket No. C-2012-2318472

**REPLIES TO COMPLAINANT'S EXCEPTIONS
ON BEHALF OF PECO ENERGY COMPANY**

Margaret A. Morris, Esq.
REGER RIZZO & DARNALL LLP
Cira Centre, 13th Floor
2929 Arch Street
Philadelphia, PA 19104

Dated: February 3, 2014

Counsel for PECO Energy Company

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Statutes

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I. Introduction

PECO Energy Company (“PECO” or the “Company”), by and through its attorneys, Reger Rizzo & Darnall LLP, hereby files its Replies to the Exceptions of Mark Mazza (“Complainant”) to the Initial Decision (“ID”) of Administrative Law Judge Elizabeth Barnes (“Judge Barnes”). The Commission should affirm, in its entirety, the well-reasoned and legally supported analysis set forth in the ID which dismissed the instant Complaint¹ (“Complaint #6”) and granted PECO’s request to bar future filings based on the undisputed balance of the last Company payment agreement (PAR).

This docket consists of three distinct sets of issues: (1) those raised by the Complainant in Complaint #6 (the Complainant has the burden of proof); (2) specific issues remanded by the Commission;² and (3) PECO’s New Matter alleging an abuse of the administrative process (PECO has the burden of proof).

In Complaint #6, the Complainant argues, “based on his understanding”³ that he has a complaint pending before the Commission as long as any appeal of that complaint is pending in any court or if his appeals are not completely exhausted, *up to and including an appeal to the United States Supreme Court*, PECO is prohibited from terminating his utility service for any reason.

PECO asserts that on July 26, 2012, the date of the 10-day notice, there was no complaint/dispute pending before the Commission which would stay termination pursuant to 52 Pa. Code § 56.141(2). The Commission’s Final Orders for Complaints #2/3 and Complaint #5 were entered on December 6, 2010 and on June 1, 2012, respectively.

¹ This is the sixth of nine formal complaints filed by the Complainant since 2008. *ID* p. 1.

² The identified issues were: (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.

³ Complaint ¶ 4.

The crux of the Complainant's argument in the present proceeding, as well as the pending proceeding for Consolidated Complaints #7/8/9,⁴ is whether Complaints #2/3 and Complaint #5 are still pending before the Commission after the Final Orders in those respective dockets has been entered. Judge Barnes, based on the record evidence and sound legal principles and precedent, found that:

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(b) is automatically lifted.

ID at 23.

The ID is founded on substantial, competent and relevant record evidence and sufficiently specific and should be adopted without modification. Judge Barnes specifically found that the Complainant failed to carry his burden of proof that (1) there were "2 pending PUC cases" which stayed termination; (2) he was entitled to a second Commission PAR; and (3) a reduction in the account balance based on financial circumstances was warranted. Judge Barnes found that PECO did carry its burden of proof that the Complainant was abusing the process by filing meritless complaints.

The Complainant's Exceptions, for the most part, string legal principles together but do not provide any factual, legal or basic explanation as to why the Commission should "reverse, vacate or remand this matter." The Complainant, as has been his pattern, makes conclusory statements in an attempt to reargue the position poorly presented at hearing; when questioned on cross-examination, he did not remember the specific facts of his prior complaints or that a Commission PAR was directed in Complaints #2/3.

Some assertions stated in the Exceptions are unrelated to the issues raised at the hearing and addressed in the ID. Other assertions appear to be a mere regurgitation of the

⁴ An in-person Hearing in Consolidated Docket Nos. C-2013-2383618, C-2013-2392536 and C-2013-2393225 is scheduled for February 21, 2014.

Complainant's poorly supported claims presented at the hearing. PECO asserts the Complainant's Exceptions to the Findings of Fact based on *his direct testimony* and *information he provided in discovery* is a prime example of the Complainant's bad faith; he provides no reason why a finding of fact based on his testimony is erroneous and not sufficient to support the finding.

Judge Barnes carefully weighed the testimony of both parties and the admitted exhibits; she found that PECO's testimony should be given more weight than that of the Complainant. The Findings of Fact are supported by the substantial record evidence. The Conclusions of Law correctly apply the relevant statutes and legal principles to the record evidence. The Conclusions of Law along with the very extensive Findings of Fact made by Judge Barnes are more than sufficient to support the conclusions reached in the ID and should be adopted without modification.

II. Procedural History

PECO incorporates the procedural history as set forth in the ID, as if fully set forth herein. ID at 1-8.

On November 20, 2013, PECO filed its Main Brief, which included proposed Findings of Fact and Conclusions of Law, in accordance with the briefing schedule issued by Judge Barnes. Neither party was directed to file briefs but both parties were given the opportunity; the Complainant choose not to file a Main Brief or a Reply to PECO's Main Brief.

The ID was issued on December 27, 2013 which, *inter alia*, dismissed Complaint #6 with prejudice and recommended that the Complainant be barred from filing further complaints regarding the undisputed balance of \$9,742.85. ID at 33.

The Complainant filed Exceptions on January 17, 2014. Although a Certificate of Service was filed indicating service upon counsel for PECO, no document has been received.⁵

In accordance with the Commission's directive granting until February 3, 2014 and Section 5.535 of the Commission's regulations,⁶ the Company timely submits these Replies to the Complainant's Exceptions.

III. Initial Decision

Judge Barnes carefully weighed the testimony of the Complainant and PECO's witness and issued a well-reasoned decision based on the substantial record evidence and the law. The fifty-six (56) Findings of Fact (ID at 8-14) are based on the record evidence and the eighteen (18) Conclusions of Law (ID at 30-32) correctly apply the relevant statutes and legal principles to the record evidence. The Commission is under no obligation to make every possible finding of fact or conclusion of law which may be drawn from the record evidence.

Based on the Findings of Fact and Conclusions of Law Judge Barnes concluded, *inter alia*, the following:

A. Complaint #6

- Complainant failed to carry his burden of proof that the 10-day notice issued on July 26, 2013 was stayed as a result of "2 pending PUC cases";
- A second Commission PAR was not permitted under 66 Pa. C.S. 1405(d) since the Complainant defaulted on his prior Commission PAR and there had been no change in income;
- A reduction of the account balance of \$10,422.22⁷ was not warranted; the gross household income had increased annually, albeit slightly, since 2011.

⁵ This is the third time in this proceeding that the Complainant has failed to serve his filing on counsel for PECO in spite of verifying that fact in the Certificate of Service filed with the Commission's Secretary.

⁶ 52 Pa. Code § 5.535.

⁷ The balance as of October 11, 2013.

B. Issues Directed by the Commission

- 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)⁸ is automatically lifted.
- The Complainant does not timely pay his bills in full and on time; the account balance is currently over \$10,000.
- The undisputed balance as of August 13, 2012, the date of the last Company PAR, was \$9,742.85.

C. PECO's New Matter: Abuse of Process

- The Complainant has abused the administrative process by the filing of meritless complaints.
- Consistent with Commission precedent the Complainant should be barred from the filing of any complaint regarding the undisputed balance of \$9,742.85.

IV. The Complainant's Exceptions

The Complainant specifically stated that he:

[F]iles exceptions to findings of facts numbers 4, 6, 8-13, 14, 16, 17, 18, 19, 20, 24, 25, 26, 27, 28, 29, 30, 31, 54, 56 and conclusions of law 4, 5, 6, 7, 11, 12, 13, 16, 17, 18 and order numbers 1, 2, 3, and 4. It is averred the findings of fact and conclusions of law are a denial of complainant's due process rights, improper lack of foundation, prejudicial, errors of law, errors of fact and abuses of discretion. There was a lack of substantial and/or clear and convincing evidence to support the above numbered exceptions.

Exceptions at 1.

In addition to the above specific Exceptions, the Complainant also raises issues not addressed at hearing or issues outside the scope the present proceeding. The Exceptions do not cite to any record evidence or provide the supporting reasoning for the exception; rather he offers a string of legal principles, conclusory statements and opinions in support of his request that the "Commission reverse, vacate [the ID] or remand this matter [for further hearing]." Exceptions at 5.

⁸ Judge Barnes inadvertently stated the applicable section as 52 Pa. Code § 56.141(b) rather than 52 Pa. Code § 56.141(2).

V. PECO's Replies to Exceptions

A. Overview

The Complainant's Exceptions, in large part, are moot and should be summarily dismissed. Although he has excepted to specific Findings of Fact set forth in the ID, he did not except to Finding of Fact # 55, which states:

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.

ID at 14

As a result, the Complainant has accepted this Finding of Fact. Therefore, the Complainant's sole remaining issue before the Commission for consideration is his request for a PAR and/or reduction in his balance based on his financial circumstances. It should be noted that the Complainant did not except to Finding of Fact # 21:

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

ID at 10.

To the extent the Commission does not summarily dismiss the "2 pending PUC cases" allegation, PECO contends that the Complainant's Exceptions merely re-argue his position on this issue. His position is based on his opinion; he offers no legal support. His arguments are conclusory in nature, at times contradictory, and contrary to the record evidence.

The Commission should affirm the Findings of Facts and Conclusions of Law set forth in the well-reasoned ID and sustain the dismissal of Complaint #6. The Exceptions fail to set forth any information to suggest that the Complainant otherwise satisfied his burden of proof or that the Findings of Fact were somehow in error. See, Noll v. Columbia Gas of Pennsylvania, Inc., Docket No. C-2013-2353658 (Opinion and Order

entered January 23, 2014). The Complainant is precluded from raising issues in his Exceptions that were not presented at hearing. Hodak v. Penelec, Docket No. C-2011-2274277 (Opinion and Order entered January 24, 2013). Any issue outside the scope of the proceeding or document not admitted into the record is not properly before the Commission and should be disregarded. Seidenstricker v. Metropolitan Edison Company, Docket No. F-2008-2019388 (Opinion and Order entered July 28, 2009).

The Complainant's Exceptions raise both procedural and substantive issues which are addressed below.

B. Procedural Issues

1. Violation of Commission Regulations

The Complainant's Exceptions violate Section 5.533(b) of the Commission's regulations⁹ which mandates, *inter alia*, that each exception be numbered, cite to relevant pages of the ID and state the supporting reason for each specific exception.

While the Complainant, appearing *pro se*, did specify certain Findings of Fact and Conclusion of Law, he does not state any reason in support of those identified Exceptions. While the Company recognizes that the Commission has been hesitant to rule unfavorably against *pro se* litigants like the Complainant based on technical grounds, in this case a substantial part of the Exceptions should be summarily rejected because the Complainant does not provide his reason why the ruling was an error of law or fact. Noll, supra. The Complainant is no stranger to the Commission's process; he has participated in and has previously filed exceptions in other complaint proceedings. As such, he is familiar with the Commission's process and even though *pro se*, the Commission should not condone his lack of respect and adherence to the basic rules of practice before the Commission and leave the Commission and PECO to "guess" his arguments.

⁹ 52 Pa. Code § 5.533(b).

The Complainant's Exceptions should be summarily dismissed for failure to conform to the Commission regulations for the filing of exceptions.

2. The Complainant's Exceptions Inappropriately Attempt To Introduce New Evidence After Close of The Record.

Section 5.431 of the Commission's regulations¹⁰ provides that after the record is closed, additional matters may not be relied upon or accepted into the record unless allowed for good cause shown by the presiding officer or the Commission upon motion. The Complainant has raised numerous issues that he could have, but did not, present at the October 24, 2013 hearing.

At no time prior to the issuance of the ID or the filing of exceptions did the Complainant file a petition to reopen the record to introduce any of the alleged "issues that should have been considered" by Judge Barnes. Even if the Commission considers the Complainant's Exceptions as a request to reopen the record to consider additional issues -- for example, whether there are any medical conditions or illnesses (although no medical certification has ever been filed with PECO) -- those issues raised by the Complainant are not based on newly discovered evidence which would justify granting such relief. A petition seeking to reopen the record may be entertained as a petition for reconsideration, under the provisions of 66 Pa. C.S. § 703(g), if the newly discovered evidence was not in existence, or was not discoverable through the exercise of due diligence, prior to the expiration of the time within which to file a petition for rehearing. Duick v. Pennsylvania Gas and Water Co., Docket No. C-R0597001 (Order entered December 17, 1982).

The issues allegedly "not considered by Judge Barnes" were not raised by the Complainant at the hearing. It is intellectually dishonest and another example of bad faith that the Complainant alleges Judge Barnes erred by not considering a fact and/or issue that the Complainant could have but did raise on the record. If the Complainant believed that this "issue/evidence" would have assisted in his case, he should have

¹⁰ 52 Pa. Code § 5.431.

presented testimony on that matter during the hearing rather than raising it for the first time in the exceptions period. The hearing has concluded and it is now too late to attempt to introduce evidence that was clearly available to the Complainant at the time of hearing. In accordance with Duick, the Commission should not entertain the issues not raised at the hearing but raised for the first time in the Complainant's Exceptions.

The Complainant's Exceptions raising issues that could have but were not presented at hearing should be denied.

3. The Complainant's Exceptions Attempt To Raise Issues Outside The Scope of The Proceedings.

Section 5.431 is also applicable to the numerous issues raised for the first time in the Complainant's Exceptions which are outside the scope of the present proceeding – for example, the merits of Consolidated Complaints #7/8/9. These Exceptions are beyond the scope of what the Commission may consider and should be summarily rejected. As the Commission has previously recognized, a *pro se* litigant is not absolved of complying with procedural rules.¹¹ In Blauhut v. PECO Energy Co.,¹² the Commission recognized that a *pro se* litigant whose exceptions were based on non-record evidence and additional argument were not a basis for exceptions under Section 5.533 and could not be considered. The same result should occur here.

The Complainant's Exceptions raising issues outside the scope of the proceeding, should not be considered by the Commission.

C. Substantive Issues

The Complainant listed specific Findings of Facts and Conclusions of Law¹³ that are a denial of his "due process rights, improper lack of foundation, prejudicial, errors of law, errors of fact and abuses of discretion. There was a lack of substantial and/or clear

¹¹ Lewis v. PECO Energy Co., Docket No. C-2010-2189187 (Order entered May 4, 2011).

¹² Blauhut v. PECO Energy Co., Docket No. C-2009-2087552 (Order entered January 29, 2010).

¹³ The Complainant also excepted to Ordering Paragraphs 1 through 4; no response is warranted. However, PECO would note the Complainant seeks to have the matter remanded yet does not object to the closing of the docket.

and convincing evidence to support the above numbered exceptions.” He does not provide any supporting reason to justify sustaining his position.

1. Exceptions to Specific Findings of Fact

Findings of Fact numbers 4, 6, 8, 9, 11, 12 are based on the testimony of the Complainant and his discovery responses which were admitted into the record.¹⁴ The Complainant provides no explanation as to why *his own testimony* is a denial of his “due process rights, improper lack of foundation, prejudicial, errors of law, errors of fact and abuses [sic] of discretion or the lack of substantial and/or clear and convincing evidence to support these Findings of Fact.” This is yet another example of the Complainant’s disrespect for the process and bad faith.

The Complainant’s Exceptions to these Findings of Fact are without merit and should be summarily denied.

Findings of Fact numbers 10, 13, 14, 16, 17, 18, 19, 20, 24, 25, 26, 27, 28, 29, 30, 31, 54 and 56 are based on the substantial record evidence; the Complainant has not provided any factual or legal support for his position that these Findings of Fact should be modified or vacated. The Complainant merely offers his personal opinion in support of his position. No matter how strongly held an opinion does not constitute evidence. Pennsylvania Bureau of Corrections v. City of Pittsburgh, 532 A.2d 12 (Pa. 1987).

The Complainant’s Exceptions to these Findings of Fact are without merit and should be summarily denied. Noll, *supra*.

2. Exceptions to Specific Conclusions of Law

The Complainant excepts to Conclusions of Law numbers 4, 5, 6, 7, 11, 12, 13, 16, 17 and 18. These Conclusions of Law are based on valid legal precedent established by case law, codified by statute and/or Commission regulations. The Complainant has

¹⁴ See, PECO Exhibits R-7 and R-8.

not provided any factual or legal support for his position that these Conclusions of Law should be modified or vacated.

The Complainant merely offers his personal opinion in support of his position. No matter how strongly held, an opinion does not constitute evidence. Pennsylvania Bureau of Corrections, *supra*.

The Complainant's Exceptions to the Conclusions of Law are without merit and should be summarily denied. Noll, *supra*.

3. Admissibility of Exhibits

The Complainant excepts to the "admission of PECO's exhibits at hearing over his objection"; however, he does not specify which of PECO's eight admitted Exhibits this exception applies nor provide any support for his opinion/conclusion. PECO's witness, Teresa Ferrier, properly identified, authenticated and provided the necessary foundation for each of the admitted exhibits.

Consistent with her authority,¹⁵ Commission precedent,¹⁶ and the record evidence, Judge Barnes' ruling admitting PECO's Exhibits should be affirmed; this Exception should be denied.

The Complainant excepts to the admission of PECO's late-filed Exhibits (R-9, R-10, R-11 and R-12). He provided no reason in support of this Exception. The late-filed exhibits consists of the Commission's Final Orders and, where applicable, the Appellate Orders for Complaints #1, #2/3, #4 and #5. PECO's witness properly identified, authenticated and provided the necessary foundation for each of the late-filed Exhibits. Admitting PECO's late-filed Exhibits into evidence ensures that the record in this proceeding is complete by including the Commission's final orders entered in the prior five complaint proceedings. It is in the public interest that the record in this proceeding

¹⁵ 52 Pa. Code § 5.401.

¹⁶ Noll, *supra*.

be complete in that it will aid the Commission in reaching a decision in this proceeding. The admission of PECO's late-filed exhibits is consistent with Judge Barnes' authority, Commission precedent and the record evidence and should be affirmed.

The Complainant's Exceptions regarding Judge Barnes' ruling on PECO's late-filed Exhibits should be denied.

The Complainant objects to Judge Barnes' refusal to permit him to late-file an exhibit to support his allegation that he "did not enter into a PAR with PECO." Judge Barnes ruled that the Complainant's request for a PAR was always a part of "this proceeding" and his request to late-file various bills to support his claim that "things" just "showed up on his bills" was not timely. Judge Barnes' ruling is legally sound and should be affirmed.

The Complainant's Exceptions regarding Judge Barnes' ruling on the proposed exhibits of the parties should be denied.

D. Complaint #6

The ID properly sets forth the Complainant's legal burden necessary to sustain Complaint #6 and the analysis that the Complainant did not meet that burden. ID at 14-121. PECO incorporates by reference the discussion set forth in its Main Brief at 11-15 in support of Judge Barnes' findings and analysis.

As Judge Barnes recognized in her well-reasoned ID, the Complainant did not meet his burden of proving that: (1) there were "2 pending PUC cases" when he filed Complaint #6; (2) he was entitled to a second Commission PAR; and/or (3) a reduction in the account balance based on financial circumstances was warranted.

The Complainant's Exceptions consists solely of unsupported assertions and personal opinions; his testimony, no matter how strongly held, does not constitute evidence. Pennsylvania Bureau of Corrections, *supra*. The Complainant's assertions,

personal opinions or “understanding” do not constitute evidence. Even *pro se* complainants must provide relevant and necessary information.¹⁷ The ID should be adopted without modification.

The Complainant’s Exceptions that he sustained his burden of proof for Complaint #6 should be denied.

E. The Issues Directed by the Commission

The ID properly sets forth the discussion of the issues remanded by the Commission. ID at 22-24. PECO incorporates by reference the discussion set forth in its Main Brief at 15-19 in support of Judge Barnes’ findings and analysis.

The Complainant alleges that the ID is “beyond the scope of the issues on remand from the Commission” yet does not specify what issue or the rationale for this allegation.

Judge Barnes, based on the record evidence and sound legal principles, correctly: (1) analyzed the applicability of Section 56.141(2) to Complaint #6; (2) concluded an investigation into the Complainant’s payment history; (3) determined the undisputed amount as of the date Complaint #6 was filed; and (4) determined the undisputed amount as of the date of the hearing.

The Complainant does not specify any error of fact or law to support his general conclusory position that the ID should be vacated or reversed. The arguments set forth in the Complainant’s Exceptions merely regurgitate his poorly supported claims presented at the hearing and at times assert contradictory claims within his Exceptions.¹⁸ The ID should be adopted without modification.

¹⁷ Groch v. Unemployment Comp. Bd. of Review, 472 A.2d 286 (Pa. Cmwlth. 1984); Vann v. Unemployment Comp. Bd. of Review, 494 A.2d 1081 (Pa. 1985).

¹⁸ For example, (1) the Complainant argues that Judge Barnes “wrongfully found complainant was missing payment” versus “payments were [paid] monthly for a while [sic]” versus “if there was a gap [in payments] was due to complainant’s bankruptcy filing;” (2) the Complainant “did not except to Finding of Fact #55” versus “issue is still being litigated;” and (3) Judge Barnes “did not consider the new complaints in this proceeding” versus “the new complaints have yet to be litigated”.

The Complainant's Exceptions disputing Judge Barnes' disposition of the issues remanded by the Commission should be denied.

F. PECO's New Matter: Abuse of Process

The ID properly sets forth the discussion of PECO's New Matter which alleged the Complainant had abused the administrative process. ID at 25-29. PECO incorporates by reference the discussion set forth in its Main Brief at 20-24 in support of Judge Barnes' findings and analysis.

Judge Barnes ruled that PECO carried its burden of proof that the Complainant is abusing the administrative due process to avoid payment and to delay the termination of his service for non-payment. Judge Barnes found that the Complainant does not provide anything more than his opinion to support his claims that his prior complaints were still pending before the Commission after the final orders were entered. ID at 27. Based on the record evidence and Commission precedent Judge Barnes recommended that the Commission bar the Complainant from filing other complaints pertaining to the undisputed balance of \$9,742.85, the balance of the last Company's PAR negotiated on August 18, 2012. ID at 29.

The Complainant alleges that this finding was "a [sic] improper ruling, without due process . . . when the merits and allegations in open PUC complaint filings are pending and yet to be heard and litigated." Exceptions at 3. Consolidated Complaints #7/8/9 are not part of the present proceeding although PECO notes that those complaints are indicative of the Complainant's further "meritless filings."

The Complainant does not specify the errors of law or fact, based on the underlying record evidence, in support of his conclusory position that he is not an abuser and that he has acted in good faith; his argument merely regurgitate his poorly supported claims presented at the hearing. The record shows that the Complainant received and later defaulted on four Company and one Commission¹⁹ PARs. In the case of serial

¹⁹ The Commission PAR was directed in the Final Order for Complaints #2/3.

filers, such as the Complainant, the Commission has determined that where the complainant has utilized a variety of means to avoid termination and unnecessarily extend [the] proceeding [the Commission reaches] the point where [it] must protect the interest of the other ratepayers who ultimately may bear the burden of Complainant's growing arrearage. Seidenstricker, *supra*. The ID should be adopted without modification.

The Complainant's Exceptions that PECO did not carry its burden of proof that the Complainant has abused the administrative process should be denied.

VI. Conclusion

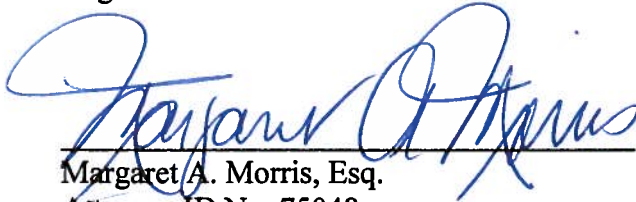
The Complainant's Exceptions, raising non-record issues, irrelevant points or repeating positions soundly rejected by Judge Barnes based on the record evidence, are without merit. The Findings of Facts and Conclusions of Law are based on substantial evidence, sound legal principles and Commission precedent. The Complainant has failed to introduce sufficient evidence to support a *prima facie* case in support of his claims or to refute PECO's evidence in support of its allegation that he is abusing the administrative process. The Complainant's Exceptions should be denied and the Initial Decision should be adopted without modification.

WHEREFORE, PECO Energy Company respectfully requests that the Commission adopt the Initial Decision of the Honorable Elizabeth H. Barnes without

modification and dismiss the Formal Complaint of Mark Mazza.

Respectfully submitted,

Reger Rizzo & Darnall LLP



Dated: February 3, 2014

Margaret A. Morris, Esq.
Attorney ID No. 75048
Cira Centre, 13th Floor
2929 Arch Street
Philadelphia, PA 19104
(215) 495-6524
(215) 495-6600
mmorris@regerlaw.com

Counsel for PECO Energy Company