



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

April 15, 2014

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

RE: Billy Wilburn v. PECO Energy Company
PUC Docket No.: F-2013-2375491

Dear Ms. Chiavetta:

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

—	Answer
—	Answer & New Matter
—	Motion For Continuance Request
—	Motion for Judgment on the Pleadings
—	Motion to Admit Exhibits
—	Motion to Consolidate
—	Preliminary Objection
—	Exceptions
<u>X</u>	<u>Reply Exceptions</u>
—	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: Billy Wilburn (via First Class Mail)

REPLY EXCEPTIONS

PECO Energy Company (“PECO Energy”) hereby replies to the Exceptions filed by Billy Wilburn (“Complainant”) in the above-referenced matter on April 5, 2014. On July 24, 2013, Complainant filed a formal complaint against PECO Energy. In his formal complaint, Complainant alleged that his bills at 3101 Woodhaven Road were high and he believed other residents were “tapping into” his service. He claims he never knew he could file a high bill complaint and requested a payment agreement for his balance. Respondent, PECO Energy filed an Answer with New Matter on August 6, 2013, stating that Complainant is not entitled to a new payment agreement pursuant to 66 Pa.C.S. §1405(d) as he had defaulted on a previous Bureau of Consumer Services issued payment agreement. PECO Energy additionally averred that the Complainant did not dispute high bills or request a high bill field investigation while he resided at 3101 Woodhaven Road.

An in-person hearing was held before Administrative Law Judge Angela T. Jones (“ALJ Jones”) on January 9, 2014. ALJ Jones issued an Initial Decision on March 26, 2014, wherein she dismissed the Complainant’s formal complaint, stating that he had not met his burden of proof and that absent a change of income he was not entitled to a second Commission-issued payment agreement.

The Commission should sustain the Initial Decision of ALJ Jones. Complainant does not allege ALJ Jones made an error of law or abused her discretion in any manner. Instead, Complainant excepts to the decision issued by ALJ Jones because he simply disagrees with her decision. Specifically in his exceptions, Complainant states the following:

\

(1) Payment Agreement

With regard to his request for a payment agreement, the Complainant states in his Exceptions:

I agree that I had a payment agreement but disagree with the ruling of default. I paid the agreed upon amount but was not able to pay it by the requested date. I generally paid the bill a week or so later.

Here the Complainant admits in his exceptions that he did not pay the payment agreement by the bill due date and paid his bill “a week or so later.” The record reflects that the Complainant had an agreement previously issued by the Bureau of Consumer Services on May 11, 2012 at case number 002965691. The Complainant did not pay his bill on time by the June due date; accordingly, his agreement defaulted on July 11, 2012. Indeed, the record shows the Complainant made no payments to his account from May through October 2012. If a payment agreement is not paid by the due date, the agreement will default. That is what happened here. Accordingly, the Complainant’s exception disagreeing “with the ruling of default” has no merit.

(2) Alleged High Bill

The Complainant states in his Exceptions that he disagrees with ALJ Jones’ decision regarding his high bill complaint because he claims he “repeatedly called [PECO] about [his] bill and making payments. The Complainant states that it is unfair that PECO cannot investigate his high bill concerns because he no longer resides at the premises. In this case, the record reflects that the Complainant moved from the service address 3101 Woodhaven Road on June 1, 2013. Tr. 28. The Complainant disputed his electric bills from mid-2011 through May 2013. Tr. 10, 12, 23. However, the entire time the Complainant resided at the property, he never contacted the company to complain of high bills or to request an investigation. He waited until he moved out

of the property and no longer had access to the premises before he asked the company to investigate and to make his complaints. Once the Complainant moved out of the premises, the company could not go to the premises and conduct a high bill field investigation in a unit now rented to someone else, with a separate usage pattern, different appliances, etc. In effect, the doctrine of laches is applicable here as the Complainant “slept on his rights”. As a result of his delay in advising the company about his high bill concerns and moving from the property, the Complainant no longer had a justified claim at the premises regarding his high bill concerns. Nevertheless, the record reflects that the kilowatt hour usage was in line with the Complainant’s summer and winter usage and there was a distinct pattern in the Complainant’s usage history to reflect there were no high bills. Accordingly, ALJ Jones correctly ruled that she “did not find that the record supports the claim that Complainant’s bills from mid-2011 through May 2013 are high.” The Complainant’s Exception in this regard should be dismissed.

(3) Theft of Service

The Complainant raises in his Exceptions that he attempted to obtain a police report to prove there had been theft of service at the service address. He disputes the fact that the burden of proof should rest on him to prove there was theft of service.

The Complainant waited until he moved out of the premises to make an allegation that someone was stealing service at the premises. Once the Complainant left the premises, the company had no opportunity to investigate this allegation. At the hearing, the Complainant claimed he could obtain a police report, demonstrating there was criminal activity regarding theft of service during the disputed period. ALJ Jones gave the Complainant a period of time to submit the police report as a late-filed exhibit to support his claim. The Complainant failed to

submit a police report or any other evidence as a late-filed exhibit. The Complainant presented no other proof at hearing there was theft of service. Thus, ALJ Jones correctly ruled that “the Complainant did not support his allegation that theft of electric service occurred at the service address.”

Here, the Complainant disputes the fact that he has the burden of proof. ALJ Jones correctly articulated in her Initial Decision that it is Complainant that has the burden of proof pursuant to 66 Pa.C.S.A. § 332(a), and it is incumbent upon the Complainant to establish that PECO Energy violated its tariff, the Public Utility Code, or a Commission Order or regulation. Complainant failed to present any evidence at all whatsoever to justify his high bill concerns or his allegations of theft of service. Accordingly, his complaint was properly dismissed.

For the reasons set forth above, PECO respectfully requests that the Commission deny the Exceptions and issue an Order upholding the Initial Decision in its entirety.

Respectfully submitted,



Shawane L. Lee
Counsel for PECO Energy Company
2301 Market Street, S23-1
P.O. Box 8699
Philadelphia, PA 19101-8699
Direct Dial: 215.841.6841
Fax: 215.568.3389

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

BILLY WILBURN

COMPLAINANT

v.

PECO ENERGY COMPANY,

RESPONDENT

:
:
:
:
:
:
:
:
:
:
:
:
:

Docket No. F-2013-2375491

CERTIFICATE OF SERVICE

I, Shawane L. Lee, hereby certify that I have this day served a true copy of the foregoing Reply Exceptions upon the parties listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

**Billy Wilburn
3806 Bensalem Boulevard, Apt. 102
Bensalem, PA 19020**

Dated at Philadelphia, Pennsylvania, April 15, 2014



Shawane L. Lee
Counsel for PECO Energy Company
2301 Market Street, S23-1
P.O. Box 8699
Philadelphia, PA 19101-8699
Direct Dial: 215.841.6841;
Fax: 215.568.3389