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July 9, 2014

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

RE: Daniel Vermeychuk v. PECO Energy Company
PUC Docket No.: C-2013-2388323

Dear Ms. Chiavetta:

Enclosed for filing with the Commission is *PECO Energy Company Response to Complainant's Motion for Reconsideration* with regard to the matter referenced above.

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,

A handwritten signature in black ink, appearing to read "Shawane Lee", with a long, sweeping underline.

Shawane Lee
Counsel for PECO Energy Company

cc: Cynthia Fordham, Adm. Law Judge (via First Class mail)

sl/LO

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

DANIEL VERMEYCHUK	:	
	:	
v.	:	DOCKET NO. C-2013-2388323
	:	
PECO ENERGY COMPANY	:	

**RESPONDENT, PECO ENERGY COMPANY'S RESPONSE TO COMPLAINANT,
DANIEL VERMEYCHUK'S MOTION FOR RECONSIDERATION OF
ADMINISTRATIVE LAW JUDGE CYNTHIA WILLIAMS FORDHAM ORDER #3,
DATED JUNE 19, 2014**

PECO Energy Company ("PECO"), pursuant to 52 Pa. Code § 35.179, hereby responds to the Complainant, Daniel Vermeychuk's Motion for Reconsideration as follows:

(A) Denial of Complainant's Continuance Request to Review PECO's Discovery Responses:

An in-person hearing in this matter took place on Tuesday, January 28, 2014 at 10:00 am. PECO Energy received a continuance request from the Complainant, Daniel Vermeychuk, on Friday, January 24, 2014, requesting a continuance of the hearing. In the Complainant's continuance request, he stated that a continuance was necessary because he served PECO with an extensive Production of Documents and Interrogatories on January 8, 2014. The Complainant claimed that the 30 day period for answering the discovery request exceeded the January 28, 2014, hearing date. The Complainant additionally alleged that he needed time to analyze the discovery and could not do so within the time constraints given.

PECO Energy objected to the Complainant's continuance request as the company had prepared a response to the Complainant's Interrogatories and Request for Production of Documents and served the discovery on the Complainant via hand delivery on Friday, January 24, 2014 at his address of record. In addition to other information requested, the document

production contained every billing statement associated with the accounts Complainant raised in his formal complaint. Accordingly, the Complainant had all of the documentation he requested in hand (including the billing statements necessary to prosecute his case) at least four days prior to the scheduled hearing date.

Further, PECO additionally objected to the Complainant's continuance request as the Complainant had since December 17, 2013, (the date the Prehearing Order was issued) to begin preparing this matter for hearing. The Complainant should have issued the discovery requests at that time instead of waiting until January 8, 2014. Despite the prejudice to PECO Energy for Complainant's delay in serving discovery requests, PECO Energy prepared the Interrogatory responses and documentation requested by the Complainant to prosecute his case. Notably, Complainant did not point out any discovery deficiencies with respect to any documents or information received by PECO and did not allege that he did not receive information requested. Indeed, Complainant had time to review the documents produced by PECO and was prepared to prosecute his case.

PECO Energy asserts that the Complainant's delayed discovery requests and request to continue this matter for 90 days was an attempt to abuse the Pennsylvania Public Utility Commission process by further delaying collection of a \$96,208.60 balance. Accordingly, PECO Energy avers that denial of the Complainant's continuance request was proper and his Motion for Reconsideration should be denied.

(B) PECO's Objection to Complainant's Proposed Exhibit – Late Filed Exhibit B:

Mr. Vermeychuk offered late filed "Exhibit B" to demonstrate that he requested discontinuance of service at 2336 Providence Avenue, Apartment 1, Chester, PA. The letter is type-written addressed to PECO Energy, dated October 1, 2004 and signed by Daniel

Vermeychuk. Despite the assertions in Complainant's Motion for Reconsideration that the document was a business record produced by PECO, the October 1, 2004 letter was not produced by the company. In his Motion for Reconsideration, the Complainant states that the exhibit "consists of billing material they [PECO] created and correspondence concerning one of the accounts in question." He additionally states that "this documentation was produced and authored by [PECO]. However, the portion of late filed Exhibit "B" which the company objects to is the letter created by the Complainant. PECO objected to this letter because the Complainant presented no proof that this letter was actually mailed to PECO and has no evidence that PECO received this letter. Complainant did not present a certified mail receipt or federal express receipt or a stamped envelope showing the document was even mailed. The October 1, 2004 letter could have been typed up and prepared after the January 28, 2014, hearing. Accordingly, late-filed Exhibit "B" was properly excluded from evidence; and therefore, Complainant's Motion for Reconsideration should be denied.

(C) Utility Company Report:

In his Motion for Reconsideration, Complainant makes an extensive argument concerning not receiving a Utility Company Report after he filed his informal complaint with the Bureau of Consumer Services ("BCS"). The rules concerning Utility Company Reports are provided under 52 Pa. Code § 56.151(5)(i) which states:

Upon initiation of a dispute covered by this section, the public utility shall:

(5) Within 30 days of the initiation of the dispute, issue its report to the complaining party. The public utility shall inform the complaining party that the report is available upon request.

(i) If the complainant is not satisfied with the dispute resolution, the utility company report must be in writing and conform to

§ 56.152 (relating to contents of the public utility company report). Further, in these instances, the written report shall be sent to the complaining party if requested or if the public utility deems it necessary.

52 Pa. Code § 56.152 governs the contents of the Utility Company Report and provides:

A utility company report must include the following:

(1) A statement of the claim or dispute of the customer and a copy thereof if the claim or notice of dispute was made in writing.

(2) The position of the public utility regarding that claim.

(3) A statement that service will not be terminated pending completion of the dispute process, including both informal and formal complaints, so long as there is compliance with all requirements of the Commission.

(4) A statement that if the complaining party does not agree with the utility company report, an informal complaint shall be filed with the Commission to ensure the preservation of all of the complaining party's rights.

(5) The office where payment may be made or information obtained listing the appropriate telephone number and address of the public utility.

(6) A full and complete explanation of procedures for filing an informal complaint with the Commission (see § 56.162 (relating to informal complaint filing procedures)). If a written report is not requested by the complaining party or is not deemed necessary by the public utility, the public utility shall provide the information in § 56.162(1), (2) and (5). In addition, the public utility shall always provide the telephone number and address of the office of the Commission where an informal complaint may be filed.

In this case, the Complainant filed an informal complaint with the BCS on July 12, 2013 at case number 003122425 as a means to address his dispute with PECO Energy regarding the pending replevin action in the Delaware County Court of Common Pleas. The Complainant opted to file an informal complaint with the BCS rather than begin a dispute process directly

with the company. PECO did not issue a utility report and was not required to do so once the informal complaint had been filed. 52 Pa. Code §56.152(4) and §56.152 (6) support the fact that the utility report is a requirement prior to the informal complaint process as it details that an informal complaint should be filed “if the complaining party does not agree with the utility company report” and the utility report should include “a full and complete explanation of procedures for filing an informal complaint with the Commission.” If Complainant had proceeded with a dispute directly with the company instead of bringing the dispute to the BCS, he would have received a utility report as required by 52 Pa. Code §56.151 and §56.152. Instead, he received a BCS Decision Report as resolution of his dispute.

WHEREFORE, for the reasons set forth above, PECO requests that Your Honor deny Complainant’s Motion for Reconsideration.

Respectfully Submitted,



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DANIEL VERMEYCHUK

v.

PECO ENERGY COMPANY

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DOCKET NO. C-2013-2388323

VERIFICATION

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



Shawane L. Lee

Date: July 9, 2014

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CERTIFICATE OF SERVICE

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

Daniel Vermeychuk, Esquire
P.O. Box 305
Wallingford, PA 19086



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Dated at Philadelphia, Pennsylvania, July 9, 2014.