



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

October 13, 2014

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

**RE: David M. Montanez, Sr. v. PECO Energy Company**  
**PUC Docket No.: F-2014-2440651**

Dear Ms. Chiavetta:

Enclosed for filing with the Commission is *PECO Energy Company's Motion for Judgment on the Pleadings* 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: David M. Montanez, Sr. (via First Class Mail)  
Angela Jones, Adm. Law Judge (via First Class Mail)

sl/LO

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**DAVID M. MONTANEZ, SR.**

v.

**PECO ENERGY COMPANY**

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**DOCKET NO. F-2014-2440651**

**NOTICE TO PLEAD**

*To: David M. Montanez, Sr.*

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: October 13, 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**

**DAVID M. MONTANEZ, SR.**

v.

**PECO ENERGY COMPANY**

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**DOCKET NO. F-2014-2440651**

**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 August 27, 2014, 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 September 3, 2014.

3. On September 19, 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 March 21, 2011 under Tier C. New Matter ¶1.

5. PECO averred that the Complainant recertified in the program under Tier D on December 4, 2013. New Matter ¶2.

6. PECO averred that the Complainant is scheduled to recertify in the CAP program on December 4, 2015. New Matter ¶3

7. PECO averred that Complainant remains actively enrolled in the CAP program.

New Matter ¶4

8. PECO averred that the Complainant's balance is \$5,139.37. New Matter ¶5.

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

10. 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 ¶7.

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

12. 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).

13. 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."

14. 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.

15. 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).

16. 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).

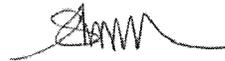
17. The pleadings in this case reveal the following:

- 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.

18. 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,



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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**

**DAVID M. MONTANEZ, SR.**

v.

**PECO ENERGY COMPANY**

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:  
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**DOCKET NO. F-2014-2440651**

**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  
David M. Montanez, Sr.  
14 West Basin Street  
Norristown, PA 19401



---

Shawane L. Lee

DATED: October 13, 2014

**EXHIBIT “1”**

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

---

**From:** eServe@pa.gov  
**Sent:** Wednesday, September 03, 2014 8:41 AM  
**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-2014-2440651**. 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.*

timely

BCS: 3216008  
PECO ENERGY

Must be returned by September 3, 2014

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 DAVID M. MONTANEZ SR.  
Street/P.O. Box 14 West Basin Apt # 54  
City NORRISTOWN State PA Zip 19401  
County montgomery

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

(610) 272-1143 (home) (484) 686-1091 (mobile)

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

Utility Account Number (from your bill) 51550 65165

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

SECRETARY'S BUREAU  
PA P.U.C.  
2014 AUG 27 AM 10:53  
RECEIVED

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

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.

\$120.00

new Payment Arrangements  
215.64  
→ 399.00  
THAT'S MY whole Disabil check

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 only get 713.00 A month

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.

At my ADDRESS wasnt Receiving A Bill + I only get 713.00 in

Other (explain). DISABILITY

I HAVE A BABY + A wife To support + They want me To pay 600.00 A month I need yous To TALK To THEM recd

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 you's to tell  
Peco I can only pay \$130.00 a  
month THAT IS ALL YOU GUYS ARE TO  
PROTECT ME + MY FAMILY THERE IS NO WAY  
I CAN PAY THIS 399.49 + 215.49 A MONTH  
I ONLY GET 713.00 A MONTH I DESPERATELY  
NEED THIS VACATED OR CHANGED TO 130.00 A  
MONTH 1 TIME A MONTH I'M SURE YOU'S CAN  
MAKE THIS HAPPEN FOR ME

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

6. Protection From Abuse (PFA)

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 From 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

*and I have NO clue!!!*

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

*My wife is calling you to discuss THIS matter.*

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.

However, if you are interested in receiving legal representation, you may contact the Widener Harrisburg Civil Law Clinic located at 3605 Vartan Way, Harrisburg, PA 17110, by phone at 717-541-0320 or via email at [lawclinichb@mail.widener.edu](mailto:lawclinichb@mail.widener.edu).

For additional information see Widener Harrisburg's Civil Law Clinic's website <http://law.widener.edu/Academics/ClinicalProgramsandProfessionalTraining/Clinics/HarrisburgCivillawClinic.aspx>. Based on your income, legal representation may be available to you at no cost or a reduced fee.

If you are already 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 Susan Strong  
Street/P.O. Box Sweede Street  
City NORRISTOWN State PA Zip 19401  
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.

Verification:

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

Paul H. Mendel Sr. 8/18/14  
(Signature of Complainant) (Date)

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

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

10. Two Ways to File Your Formal Complaint

Electronically. You must create an account on the PUC's eFiling system, which may be accessed at <http://www.puc.pa.gov/efiling/default.aspx>.

Note: If you are appealing your Bureau of Consumer Services (BCS) decision, you must file your formal complaint by mail.

Mail. Mail the completed form with your original signature and any attachments, by certified mail, first class mail, or overnight delivery to this address:

Secretary  
Pennsylvania Public Utility Commission  
400 North Street  
Harrisburg, Pennsylvania 17120

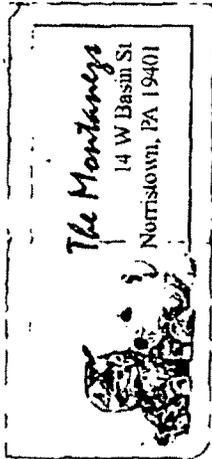
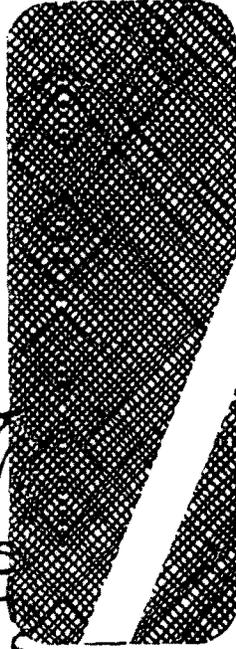
Note: Formal Complaints sent by fax or e-mail will not be accepted.

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

Keep a copy of your Formal Complaint for your records.



70  
Secretary of Public Utility Com.  
Pennsylvania  
400 NB  
Harrisburg PA  
17128

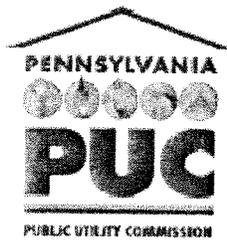


SECRETARY'S BUREAU  
PA 17128

2014 AUG 27 AM 10:32

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**EXHIBIT “2”**



# PENNSYLVANIA PUBLIC UTILITY COMMISSION

CONSUMERINFO UTILITY&INDUSTRY FILING&RESOURCES ABOUTPUC CONTACTUS

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## 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-2014-2440651
Description:	David M. Montanez Sr - PECO Energy Company Answer and New Matter
Transmission Date:	9/19/2014 11:27:06 AM
Filed On:	9/19/2014 11:27:06 AM
eFiling Confirmation Number:	1564670

### Uploaded File List

File Name	Document Class	Document Type
David Montanez Sr - Answer and New Matter.pdf	Communication	Answer to Formal Complaint

PECO ENERGY  
EXHIBIT



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

September 19, 2014

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

**RE: David M. Montanez, Sr. v. PECO Energy Company**  
**PUC Docket No.: F-2014-2440651**

Dear Ms. Chiavetta:

Enclosed for filing with the Commission is *PECO Energy Company's Answer and New Matter to Formal Complaint* 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

Scheduling Recommendation: **CALL OF THE DOCKET**

sl/LO

PENNSYLVANIA PUBLIC UTILITY COMMISSION

DAVID M. MONTANEZ, SR. :  
Complainant :  
v. : DOCKET NO. F-2014-2440651  
PECO ENERGY COMPANY :  
Respondent :

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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, September 19, 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>DAVID M. MONTANEZ, SR.</b>	:	
<b>Complainant</b>	:	
	:	
v.	:	<b>DOCKET NO. F-2014-2440651</b>
	:	
<b>PECO ENERGY COMPANY</b>	:	
<b>Respondent</b>	:	

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

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On September 3, 2014, PECO Energy Company ("PECO Energy") was served with a formal complaint filed by David M. Montanez, Sr. (hereafter "Complainant") in the above captioned docket. Pursuant to 52 Pa. Code § 5.61, PECO Energy 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, the Complainant requests a new payment agreement. The Complainant states that he receives \$713.00 a month in disability income and has a wife and baby to support. The Complainant requests that the PUC direct PECO Energy to change his agreement to \$130.00 per month. PECO Energy requests dismissal pursuant to 66 Pa. C.S. §1405(c).

The Complainant has an account with PECO Energy for gas and electric service at 14 West Basin Street, Norristown, PA 19401 under account number 51550-65165 on February 21, 2011. See Account Activity Statement, attached hereto as Exhibit "1". The Complainant was initially enrolled in PECO Energy's Customer Assistance Program ("CAP") on March 21, 2011 under Tier C based on a reported income of \$430.00 per month for two adults. The Complainant last recertified in the CAP program on December 4, 2013, under Tier D based. The Complainant is scheduled to recertify in the program on December 4, 2015. The Complainant is actively enrolled in the CAP program. The Complainant's entire balance is comprised of CAP arrears.

On April 2, 2014, the Complainant filed an informal complaint with the Bureau of Consumer Services ("BCS") at case number 003216008, requesting a payment agreement. On July 23, 2014, the BCS issued a Decision Report, stating:

CUSTOMER WAS TERMINATED ON 7/17/14 AS SHE DID NOT PAY CURRENT BILLS WHILE PUC CASE WAS PENDING – CASE WAS OPENED ON 4/2/14. FULL BALANCE IS CAP ARREARS – PUC CANNOT ASSIST WITH SERVICE RESTORATION.

See BCS Decision Report #003216008, attached hereto as Exhibit "3".

The Complainant's current balance is \$5,139.37. See Exhibit "1". The entire balance is comprised of CAP arrears. The Complainant is not entitled to a PUC ordered payment agreement on his balance as the balance is comprised of CAP arrears. 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." Consequently, pursuant to 66 Pa.C.S. § 1405(c), the PUC has no jurisdiction to give the Complainant a payment agreement.

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 initially enrolled in PECO Energy's Customer Assistance Program ("CAP") on March 21, 2011 under Tier C based on a reported income of \$430.00 per month for two adults.

2. The Complainant last recertified in the CAP program on December 4, 2013, under Tier D based.

3. The Complainant is scheduled to recertify in the program on December 4, 2015.

4. The Complainant is actively enrolled in the CAP program.

5. The Complainant's balance is \$5,139.37.

6. The Complainant's entire balance is comprised of CAP arrears.

7. The Complainant is not entitled to a PUC ordered payment agreement on this balance as it is comprised entirely of CAP arrears.

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 another payment agreement on that portion of his balance.

10. PECO Energy avers that the Complainant’s complaint should be dismissed pursuant to 66 Pa. C.S. §1405(c).

**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  
Philadelphia, PA 19101-8699  
(215) 841-6841  
Fax: 215.568.3389

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**DAVID M. MONTANEZ, SR.**  
**Complainant**

v.

**PECO ENERGY COMPANY**  
**Respondent**

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:  
:  
:  
:  
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:

**DOCKET NO. F-2014-2440651**

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**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: September 19, 2014

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Shawane L. Lee

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

<b>DAVID M. MONTANEZ, SR.</b>	:	
<b>Complainant</b>	:	
	:	
v.	:	<b>DOCKET NO. F-2014-2440651</b>
	:	
<b>PECO ENERGY COMPANY</b>	:	
<b>Respondent</b>	:	

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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 Answer in the above matter upon all interested parties by mailing a copy, properly addressed and postage prepaid to:

David M. Montanez, Sr.  
14 West Basin Street  
Norristown, PA 19401

Dated at Philadelphia, Pennsylvania, September 19, 2014.



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Shawane L. Lee  
Counsel for PECO Energy Company  
2301 Market Street, S23-1  
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

September 19, 2014

David M. Montanez, Sr.  
14 W. Basin Street  
Norristown, PA 19401

**RE: David M. Montanez, Sr. v. PECO Energy Company**  
**PUC Docket No.: F-2014-2440651**

Dear Mr. Montanez:

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", written over a horizontal line.

Shawane Lee  
Counsel for PECO Energy Company  
SL/lo  
Encl.

**EXHIBIT "1"**

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

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

Account Number: 51550-65165  
Account Status: Active  
Requested By: DAVID M MONTANEZ  
(484)681-1825 Extension:

Mail To: DAVID M MONTANEZ  
14 W BASIN ST  
NORRISTOWN PA 19401

Current Bill: \$184.00  
Billed Prior: \$4955.37  
Balance Due: \$5139.37  
Service Address: 14 W BASIN ST NORRISTOWN PA 19401  
Meter Bill Grp: 10  
Rate: CAP Option D Gas Residential Service  
CAP Opt D Electric Residential Service

DATE	CHARGE TYPE	BILLING PERIOD	READ	METER #	CHARGE AMOUNT	CREDIT AMOUNT	TOTAL BILL	BALANCE FORWARD	DUE DATE	KWH	CCF	KW
10/09/12	Late Payment Charge	09/11/12 10/10/12			\$9.86							
10/11/12	BUDGET BILLING				\$199.00							
	** Budget Bill Detail **	Actual Bill Amount:			237.23	1103.13						
10/11/12	Regular Bill				\$11.85		\$810.14	\$611.14	11/02	1881	24	
11/07/12	Late Payment Charge				\$199.00							
11/12/12	BUDGET BILLING				\$11.85							
	** Budget Bill Detail **	Actual Bill Amount:			126.21	1030.34						
11/12/12	Regular Bill				\$14.84		\$1020.99	\$821.99	12/04	1208	84	
12/11/12	Late Payment Charge				\$300.00							
12/12/12	BUDGET BILLING				\$14.84							
	** Budget Bill Detail **	Actual Bill Amount:			135.47	865.81						
12/12/12	Regular Bill				\$300.00		\$1335.83	\$1035.83	01/03	1203	153	
01/07/13	LIHEAP Payment				\$300.00							
01/15/13	BUDGET BILLING				\$140.00							
	** Budget Bill Detail **	Actual Bill Amount:			171.50	737.31						
01/15/13	Regular Bill				\$300.00		\$1495.83	\$1195.83	02/06	1424	218	
02/14/13	BUDGET BILLING				\$300.00							
	** Budget Bill Detail **	Actual Bill Amount:			147.37	584.68						
03/15/13	Regular Bill				\$705.04		\$1795.83	\$1495.83	03/08	1238	237	
03/15/13	BUDGET BILLING				\$300.00							
	** Budget Bill Detail **	Actual Bill Amount:			120.36	0.00						
03/15/13	Regular Bill				\$300.00		\$2500.87	\$1795.83	04/08	1119	192	
04/15/13	BUDGET BILLING				\$41.68							
	** Budget Bill Detail **	Actual Bill Amount:			133.36	\$2500.87						
04/15/13	DEFERRRD PAYMENT AGREEMENT				\$2400.87		\$341.68		05/07	1230	147	
04/15/13	Regular Bill				\$2459.19							
04/29/13	LIHEAP Payment				\$300.00							
04/29/13	Miscellaneous				\$2400.87							
04/29/13	Payment Agreement				\$2400.87							
04/29/13	Debit Transfer Payment				\$2400.87							
04/29/13	Paid In Advance				\$2400.87							
05/14/13	BUDGET BILLING				\$40.69							
	** Budget Bill Detail **	Actual Bill Amount:			89.56	-378.08						
05/14/13	DEFERRRD PAYMENT AGREEMENT				\$300.00							
05/14/13	Regular Bill				\$300.00		\$340.69		06/05	997	56	
05/29/13	Payment				\$2360.18							
06/10/13	Bill Out DPA due to Default				\$31.93							
06/11/13	Late Payment Charge				\$300.00							
06/13/13	BUDGET BILLING				\$33.74							
	** Budget Bill Detail **	Actual Bill Amount:			139.87	-488.21						
06/13/13	Regular Bill				\$33.74		\$2992.11	\$2692.11	07/05	1731	27	
07/10/13	Late Payment Charge				\$300.00							
07/15/13	BUDGET BILLING				\$300.00							
	** Budget Bill Detail **	Actual Bill Amount:			348.17	-440.04						
07/15/13	Regular Bill				\$20.00		\$3325.85	\$3025.85	08/06	2885	15	
08/05/13	RECONNECT FEE - CUT-OUT NON-PAY				\$181.00							
08/13/13	BUDGET BILLING				\$39.68							
	** Budget Bill Detail **	Actual Bill Amount:			332.88	-288.16						
08/13/13	Late Payment Charge				\$39.68		\$3566.53	\$3365.53	09/04	2781	16	
08/13/13	Regular Bill				\$39.68							



**EXHIBIT "2"**

### CAP HISTORY FOR ACCOUNT

**NAME:** DAVID M MONTANEZ

**ACCOUNT NUMBER:** 51550-65165

**ADDRESS:** 14 W BASIN ST  
NORRISTOWN PA 19401

**CASE:** F-2014-2440651

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Account 51550-65165 was established for DAVID M MONTANEZ for service at 14 W BASIN ST NORRISTOWN PA 19401 effective as of 2/21/2011.

- Account enrolled on CAP Tier C 3/21/2011 based on reported income of \$430.00 with 2 adults in household. (35% FPL)
- Recertification was completed on 10/26/11 (CAP TIER B) based on reported income of \$215.00 with 1 adult in household.
- Last recertification was completed on 12/4/13 (CAP TIER D) based on reported income of \$839.00 with 1 adults and 1 child in household.

View CAP History for Account 51550-65165

Account Edit Help

Activity Date	CAP Activity	CAP Rate
03/28/14	Sent CAP Application Packet	
12/04/13	Re-Certification completed	CAP Opt D Electric Residential Service
10/11/13	Re-Certification Letter Sent	
09/26/13	Re-Certification Letter Sent	
10/26/11	CAP Rate Change	CAP Opt B Electric Residential Service
03/21/11	Enrolled	CAP Opt C Electric Residential Service
10/11/11	Sent CAP Application Packet	

**EXHIBIT “3”**



September 19, 2014

**BCS Decision Report**

<b>BCS Case #:</b>	003216008	<b>Open Date:</b>	2014-04-02
<b>Customer Name:</b>	DAVID MONTANEZ		
<b>Service Address:</b>	14 WEST BASIN STREET		

	NORRISTOWN, PA 19401		
<b>BCS Bill Account #:</b>	5155065165	<b>Previous Case #:</b>	3131928
<b>Violation Type:</b>	NO	<b>Chapter Type:</b>	
<b>Decision Type:</b>	W	<b>Section / Rule:</b>	
<b>Investigator Name:</b>	LORI MARRAZZO		

**Decision Issued Date:** 2014-07-23  
**Case Closed Date:** 2014-07-21

**Letter Description:**  
 BLANK LETTER - DECISION

<b>Total Balance:</b>	\$4282.91	<b>Balance Date:</b>	2014-04-03
<b>Amount to Restore Service:</b>	\$0.00	<b>Amount to Continue Service:</b>	\$0.00
<b>Date Payment Due:</b>		<b>Regular Budget Amount:</b>	\$0.00
<b>Special Budget Payment:</b>	\$0.00	<b>Final Bill Monthly Payment:</b>	\$0.00
<b>Plus Arrears Payment:</b>	\$0.00	<b>End of Month Payment:</b>	\$0.00
<b>Current Monthly Payment:</b>	\$0.00		
<b>Payment Terms:</b>			

**PAR Description:**

**Resolution Description:**

CASE DISMISSED. CUSTOMER WAS TERMINATED ON 7/17/14 AS SHE DID NOT PAY CURRENT BILLS WHILE PUC CASE WAS PENDING--CASE WAS OPENED ON 4/2/14. FULL BALANCE IS CAP ARREARS--PUC CANNOT ASSIST WITH SERVICE RESTORATION. LAST PAYMENT RECEIVED TO ACCOUNT WAS LIHEAP PAYMENT ON 12/13/13 AND LAST CUSTOMER MADE PAYMENT WAS MADE ON 5/29/13 OF \$40.69. CUSTOMER STATED THEY HAVE NOT BEEN RECEIVING BILLS--CO REPORT STATES BILLS ARE BEING MAILED TO SERVICE ADDRESS AND THEY HAVE NOT RECEIVED ANY RETURNED MAIL. CUSTOMER DEFAULTED ON 3 CO PARS. AS OF 7/17/14, PECO IS REQUESTING \$625.76 FOR SERVICE RESTORATION (THIS INCLUDES A RECONNECTION FEE OF \$20.00). CUSTOMER MUST PAY \$625.76 FOR SERVICE RECONNECTION. CU IS ENROLLED IN CAP. CUSTOMERS CANNOT SELECT A SUPPLIER WHILE ENROLLED IN CAP. IF YOU WOULD LIKE TO ENROLL WITH A SUPPLIER, YOU MUST CONTACT THE COMPANY TO BE REMOVED FROM



**September 19, 2014**

CAP. FULL BALANCE IS CAP ARREARS. CU CANNOT FILE ANOTHER MEDICAL CERTIFICATE UNTIL DELINQUENT BALANCE IS ELIMINATED. BILLS ARE BEING SENT TO YOUR SERVICE ADDRESS VIA THE U.S. POSTAL SERVICE. THERE WERE NO PAYMENTS MADE TO THIS ACCOUNT SINCE THIS CASE WAS OPENED ON 4/02/2014. PECO TERMINATED SERVICE ON 7/17/2014 AS YOU HAD NOT PAID YOUR CURRENT CHARGES WHILE THIS CASE WAS PENDING WITH THE PUC. BASED ON THE PAYMENT HISTORY STATED ABOVE, YOU HAVE NOT MADE A GOOD FAITH EFFORT TO PAY YOUR OUTSTANDING BALANCE. THROUGH THIS DECISION, THE COMMISSION IS UPHOLDING THE COMPANY'S POSITION ON WHAT YOU MUST PAY TO HAVE YOUR SERVICE RESTORED. A COPY OF THE WRITTEN DECISION WILL BE E-MAILED TO THE COMPANY.