

Direct Dial: 215.841.6841

February 26, 2015

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

RE: M. Heather Michail v. PECO Energy Company
PUC Docket No.: F-2014-2404586

Dear Ms. Chiavetta:

Enclosed for filing with the Commission is *PECO Energy Company's Reply to Complainant's Petition 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,



Shawane Lee
Counsel for PECO Energy Company

cc: Certificate of Service

sl/LO

REPLY OF PECO ENERGY COMPANY
TO COMPLAINANT'S PETITION FOR RECONSIDERATION

PECO Energy Company ("PECO") hereby replies to the Petition for Reconsideration filed by M. Heather Michail ("Complainant") in the above-referenced matter on February 2, 2015. The Petition for Reconsideration was served on PECO by the Complainant on February 23, 2015. On February 4, 2014, Complainant filed a formal complaint against PECO. In her formal complaint, Complainant requested a payment arrangement. Respondent, PECO filed an Answer on February 20, 2014, stating that Complainant is presently enrolled in PECO's Customer Assistance Program ("CAP") and that the balance is comprised of CAP arrears. A telephonic hearing was held before Administrative Law Judge Mark A. Hoyer ("ALJ Hoyer") on April 17, 2014. ALJ Hoyer issued an Initial Decision on July 28, 2014, denying the Complainant's formal complaint.

The Complainant filed exceptions to ALJ Hoyer's Initial Decision on August 15, 2014.

In her exceptions, Complainant states:

I am in receipt of your notice. As I stated I would like to pay and settle this case very much. Following the hearing both my hours at work (enclosed) and my rent was increased. I would like to pay though the amount requested is too high for me to manage. Can it please be reduced? I have made all payments (current) on time and would like to be a good customer in good standing. Please contact me. I need some assistance.

PECO filed a response to the Complainant's Exceptions on August 22, 2014, averring that the ALJ properly denied the complaint because the PUC has no jurisdiction to give the Complainant a payment agreement on her \$5,970.15 balance comprised entirely of CAP arrears. PECO additionally averred that Complainant was not entitled to a payment agreement on her remaining \$564.75 balance because she had a poor payment history. On January 15, 2015, the Commission issued an Opinion and Final Order, dismissing the Complainant's complaint and

adopting ALJ Hoyer's August 8, 2014, Initial Decision. The Complainant has now filed a Petition for Reconsideration.

I. Complainant's Petition for Reconsideration should be dismissed because it does not raise any new or novel arguments.

In her Petition for Reconsideration, the Complainant states:

Judge Hoyer did not include any instructions upon receipt of his decision which I am not in agreement with. I contacted the PUC for help and advise (sic) awaiting response. Have a nice day.

The standard of review for a Petition for Reconsideration is set forth under 66 Pa.C.S. §703(g).

In Duick v. Pennsylvania Gas and Water Co., 56 Pa. P.U.C. 553 (1982), the Commission provided the following guidance on the criteria it would consider in deciding requests for reconsideration:

A petition for reconsideration, under the provisions of 66 Pa.C.S. §703(g), may properly raise any matters designed to convince the Commission that it should exercise its discretion under this code section to rescind or amend a prior order in whole or in part. In this regard we agreed with the Court in the Pennsylvania Railroad Company case, wherein it was said that "[p]arties..., cannot be permitted by a second motion to review and reconsider, to raise the same questions which were specifically considered and decided against them..." What we expect to see raised in such petitions are new and novel arguments, not previously heard, or considerations which appear to have been overlooked or not addressed by the Commission. Absent such matters being presented, we consider it unlikely that a party will succeed in persuading us that our initial decision on a matter or issue was either unwise or in error.

In this case, the Complainant claims she did not receive any instructions when ALJ Hoyer issued his Initial Decision. Clearly, the Complainant received ALJ Hoyer's Initial Decision with the cover sheet, giving instructions on filing Exceptions to the Initial Decision.

Complainant states in the Exceptions she filed on August 15, 2014 “I am in receipt of your notice.” The “notice” received by the Complainant contains instructions on filing Exceptions to the Initial Decision. The instructions indicate the Complainant should file Exceptions 20 days from the date of the letter – August 8, 2014. Consistent with these instructions, the Complainant filed timely Exceptions to ALJ Hoyer’s Initial Decision on August 15, 2014. Consequently, contrary to the Complainant’s allegations, it is evident the Complainant received instructions upon receipt of ALJ Hoyer’s Initial Decision.

In any event, even if the Complainant did not receive instructions with the Initial Decision (which is not the case here) this does not raise any “new or novel” issues for the Commission’s Final Order and Opinion to be reconsidered. PECO avers that the Complainant’s claim she did not receive instructions is designed to delay the adjudication of this matter and collection on her balance. The Complainant’s Petition for Reconsideration should be dismissed. The Complainant offers no new arguments to warrant reconsideration pursuant to the standard of review set forth in Duick v. Pennsylvania Gas and Water Co.

WHEREFORE, For the reasons set forth above, PECO respectfully requests that the Commission deny the Complainant’s Petition for Reconsideration on the merits and issue an Order upholding the Initial Decision and the Commission Final Order and Opinion in its entirety.

Respectfully submitted,



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

