

March 16, 2015

Via Electronic Filing

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

**Re: Docket No. C-2013-2393779
Roger McCall v. Pennsylvania Electric Company
Answer of Penelec to Petition for Rescission or Amendment**

Dear Secretary Chiavetta:

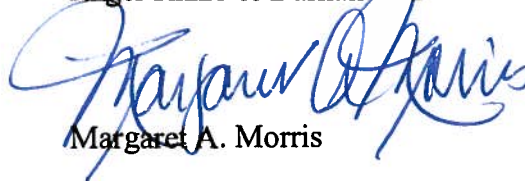
Enclosed for filing is the Answer of Penelec to the Petition for Rescission or Amendment filed by Roger McCall in the above captioned proceeding.

A copy of the Answer has been provided to the Complainant in the manner indicated on the attached Certificate of Service.

If there are any questions, please do not hesitate to contact me.

Very truly yours,

Reger Rizzo & Darnall LLP



Margaret A. Morris

MAM/jmm
Enclosure

cc: Cheryl Walker-Davis, OSA, PA Public Utility Commission [w/enc.]
Lauren Lepkoski, Esquire, FirstEnergy Service Company [w/enc.]
Roger McCall [w/enc.]

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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 E-Mail

Roger McCall
P.O. Box 225
Reynoldsville, PA 15851
RogerMcCall@verizon.net

Dated: March 16, 2015


Margaret A. Morris, Esquire

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

ROGER MCCALL

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Docket No. C-2013-2393779

PENNSYLVANIA ELECTRIC COMPANY

**PENNSYLVANIA ELECTRIC COMPANY'S
ANSWER TO COMPLAINANT'S PETITION FOR RECONSIDERATION**

Now comes Pennsylvania Electric Company (Penelec) pursuant to 52 Pa. Code § 5.61, replies to the Petition for Rescission or Amendment (Petition) filed by Roger McCall (Complainant).

Relevant Procedural Background

On November 18, 2013, the Complainant filed a formal Complaint against Penelec alleging that Penelec had not read the meter at his rental property and asked that Penelec be ordered to conduct meter readings at the start and end of service with the customer present or to accept meter readings phoned in by Complainant.

On December 12, 2013, Penelec filed an Answer and New Matter, denying the material averments and requesting the matter be referred to the OALJ Mediation Unit. Mediation was unsuccessful and a telephonic hearing was held on December 3, 2014.

On January 22, 2015, the Initial Decision of Administrative Law Judge Dennis J. Buckley was issued dismissing the Complaint. Exceptions were due on or

before February 11, 2015. No Exceptions were filed by either party and the Initial Decision became final by operation of law. 52 Pa. Code § 5.536(a).

On March 2, 2015, the Complainant filed a document labeled “Exceptions to the January 22, 2015 Initial Decision.” The Complainant provided no explanation for his failure to timely file Exceptions to the Initial Decision; the pleading was not served on Penelec.

The Commission exercised its discretion to accept the filing and treat it as a Petition for Rescission or Amendment under 52 Pa. Code § 5.572(d). By Secretarial Letter, dated March 10, 2015, Penelec was given until March 16, 2015 to file its responsive pleading.

Discussion

The Pennsylvania Public Utility Code (Code) establishes a party's right to seek relief following the issuance of a Commission's final decision pursuant to Subsections 703(f) and (g),¹ relating to rehearings, as well as the rescission and amendment of orders. Such requests for relief must be consistent with Section 5.572 of the Commission's Regulations,² relating to petitions for relief following the issuance of a final decision.

A petition to modify or rescind a final Commission order may be granted only judiciously and under appropriate circumstances, because such an action results in the disturbance of final Commission orders. *City of Pittsburgh v. Pennsylvania*

¹ 66 Pa. C.S. §§ 703(f) and 703(g).

² 52 Pa. Code § 5.572.

Department of Transportation, 490 Pa. 264, 416 A.2d 461 (1980). Additionally, while a petition under Section 703(g) may raise any matter designed to convince the Commission that it should exercise its discretion to amend or rescind a prior order, at the same time "[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." *Duick v. Pennsylvania Gas and Water Company*, 56 Pa. P.U.C. 553, 559 (1982) (quoting *Pennsylvania Railroad Co. v. Pennsylvania Public Service Commission*, 179 A. 850, 854 (Pa. Super. 1935)). Such petitions are likely to succeed only when they raise "new and novel arguments" not previously heard or considerations that appear to have been overlooked or not addressed by the Commission. *Duick* at 559.

Based on the record evidence, Judge Buckley found that the Complainant did not carry his burden of proof to sustain the allegations of the Complaint. ID at 8-9.

In his Petition, the Complainant objects to the procedural rulings of Judge Buckley and "believes" that Penelec's actions were "contrary to public policy and to the spirit of [its] Tariff." As evidence for its position, the Complainant cites the actions of "two other utilities that provide service to the property." Petition at 2.

The Complainant's claims do not constitute a basis for the Commission to reconsider its decision. The Petition does not raise any "new or novel" issues for the Commission to reconsider that were not previously heard or considered. The Petition does not allege any issues that were overlooked or not addressed by the Commission.

The Complainant failed to timely file exceptions seeking Commission review of his objections to the Initial Decision. The Petition offers no new argument to warrant reconsideration pursuant to the standard of review as set forth in *Duick*.

WHEREFORE, Pennsylvania Electric Company, requests that the Petition for Rescission or Amendment filed by Roger McCall, be denied on the merits.

Respectfully submitted,



Dated: March 16, 2015

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