



An Exelon Company

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August 13, 2015

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

RE: Stephanie Mobley v. PECO Energy Company
PUC Docket No.: C-2015-2481758

Dear Ms. Chiavetta:

Enclosed for filing with the Commission is *PECO Energy Company's Exceptions* 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 stylized flourish at the end.

Shawane Lee
Counsel for PECO Energy Company

cc: Certificate of Service

SL/ab

REPLY EXCEPTIONS

PECO Energy Company (“PECO Energy”) hereby replies to the Exceptions filed by Stephanie Mobley (“Complainant”) in the above-referenced matter on July 31, 2015. On May 11, 2015, Complainant filed a formal complaint against PECO Energy. In her formal complaint, requested a payment agreement. Respondent, PECO Energy filed an Answer with New Matter on May 26, 2015, stating that the Complainant is presently enrolled in PECO Energy’s Customer Assistance Program (CAP) and the entire balance is comprised of CAP arrears. The Complainant did not file a response to PECO Energy’s Answer or New Matter. On June 19, 2015, PECO Energy filed a Motion for Judgment on the Pleadings requesting dismissal of the formal complaint pursuant to 66 Pa.C.S. § 1405(c). The Complainant did not file a response to PECO’s Motion.

On July 21, 2015, Administrative Law Judge Steven K. Haas (“ALJ Haas”) issued an Initial Decision, which granted PECO Energy’s Preliminary Objections and dismissed the Complainant’s formal complaint. In the Initial Decision, ALJ Haas ruled:

By not filing an answer to the Respondent’s new matter, Complainant has admitted that the entire unpaid account balance consists of CAP arrearages. As stated above, 66 Pa.C.S. § 1405(c) prohibits the Commission from ordering a payment arrangement on CAP arrearages. In these circumstances, conducting a hearing would be a fruitless exercise.

See Stephanie Mobley v. PECO Energy, Docket C-2015-2481758 (Order entered, July 21, 2015).

In her Exceptions, the Complainant states that she is a 42 year old mother with 3 children and has been diagnosed with early stages of dementia. Complainant requests that the PUC make an exception and give her an opportunity to pay her bill. The Complainant excepts to ALJ Haas’ Initial Decision and requests that her circumstances of having three children and early

onset dementia should be considered and that she be given an exception to have a payment agreement. ALJ Haas was not required to consider the Complainant's personal circumstances in determining whether the Complainant is entitled to a payment agreement. The entire balance at issue is comprised entirely of CAP arrears; therefore, ALJ Haas is not permitted to issue a payment agreement on this balance pursuant to 66 Pa.C.S. § 1405(c). Accordingly, the Complainant's exception is not a basis to overturn ALJ Haas' decision.

The Commission's Rules of Administrative Practice and Procedure permit the filing of a Motion for Judgment on the Pleadings. 52 Pa. Code Section 5.102. Pursuant to 52 Pa. Code §5.102(d)(1), a formal complaint may be dismissed without a hearing if there is no genuine issue of a material fact and a party is entitled to judgment as a matter of law. The Complainant was served with a copy of PECO's Motion for Judgment on the Pleadings with a Notice to Plead and was given an opportunity to respond. Where a question presented to the Commission is one of law, there is no necessity to hold a hearing. White Oak Borough Authority v. Pennsylvania Public Utility Commission, 183 A.2d. 502, 175 Pa.Super. 114. The Commission is granted discretion to dismiss a complaint without a hearing if a hearing is not necessary in the public interest. 66 Pa. C.S. § 703(b); 52 Pa. Code § 5.21(d). A hearing is necessary only to resolve disputed questions of fact, and is not required to resolve questions of law, policy or discretion. Dee-Dee Cab, Inc. v. Pa. Public Utility Comm., 817 A.2d 593, petition for allowance of appeal denied, 836 A.2d 123 (Pa. Commw. 2003); Lehigh Valley Power Committee v. Pa. Public Utility Comm., 563 A.2d 548 (Pa. Commw. 1989); Edan Transportation Corp. v. Pa. Public Utility Comm., 623 A.2d 6 (Pa. Commw. 1993).

Here, as noted by ALJ Haas in the Initial Decision, it is clear from the pleadings that the Complainant is not entitled to a payment agreement on her balance. ALJ Haas correctly stated in

his Initial Decision that 66 Pa. Code § 1405(c) prohibits bills incurred while on CAP to be the subject of payment agreements negotiated or approved by the Commission. 66 Pa. C.S. § 1405(c). The Complainant's balance is comprised entirely 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 on her balance, which is entirely comprised of CAP arrears.

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,



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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

STEPHANIE MOBLEY

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COMPLAINANT

v.

Docket No. CC201522837388

PECO ENERGY COMPANY,

RESPONDENT

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).

**Stephanie Mobley
2131 Wakeland Street
Philadelphia, PA 19124**

Dated at Philadelphia, Pennsylvania, August 13, 2015



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