



.....  
An Exelon Company

Legal Department  
2301 Market Street / S23-1  
P.O. Box 8699  
Philadelphia, PA 19101-8699

Direct Dial: 215.841.6841

August 31, 2015

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

**RE: Dennis Hinkson v. PECO Energy Company**  
**PUC Docket No.: C-2015-2478207**

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 Dennis Hinkson (“Complainant”) in the above-referenced matter on August 11, 2015. On or about March 12, 2015, Complainant filed a formal complaint against PECO Energy. In his formal complaint, requested a payment agreement. Respondent, PECO Energy filed an Answer with New Matter on May 1, 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 May 21, 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 Energy’s Motion.

On July 17, 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 Dennis Hinkson v. PECO Energy, Docket C-2015-2478207 (Order entered, July 17, 2015).

In his Exceptions, the Complainant states that he did not get much assistance from PECO or the Public Utility Commission on how to respond to the letters received from PECO. The Complainant states that he owes PECO over \$6,000 and PECO has always offered him programs to help pay his bills. The Complainant admits that he has defaulted in the past but he has

difficulty caring for seven children and a sick brother. He states that after an injury in 2005 and an IRS bank seizure, he is in a better position to manage a reasonable payment agreement.

In his Exceptions, the Complainant once again reiterates his request for a payment agreement. Pursuant to 52 Pa. Code 5.533(b), “[e]ach exception must . . . identify the finding of fact or conclusion of law to which exception is taken and cite relevant pages of the decision,” and “[s]upporting reasons for the exceptions shall follow each specific exception.” Complainant’s attempt to further litigation in this matter by simply disagreeing with the outcome of the Initial Decision without identifying any specific error of law or abuse of discretion fails to satisfy the requirements; is procedurally improper, and should be dismissed summarily.

Additionally, the Complainant admits receiving PECO Energy’s “letters”, including the Motion for Judgment on the Pleadings, which contained a Notice to Plead, specifying the procedure for filing a response. Under the regulations, that is the only assistance PECO is required to give to the Complainant regarding the pleadings. By filing the formal complaint, the Complainant is under a duty to review and respond to the pleadings. Further, 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 his 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 his 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,



---

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



**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**DENNIS HINKSON**  
  
**COMPLAINANT**

v.

**PECO ENERGY COMPANY,**  
  
**RESPONDENT**

:  
:  
:  
:  
:  
:  
:  
:  
:  
:  
:  
:

**Docket No. C-2015-2478207**

**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).

**Dennis Hinkson**  
**5816 Florence Avenue**  
**Philadelphia, PA 19143**

Dated at Philadelphia, Pennsylvania, August 31, 2015



---

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