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September 1, 2015

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

RE: Linda M. Boggess v. PECO Energy Company
PUC Docket No.: C-2015-2483633

Dear Ms. Chiavetta:

Enclosed for filing with the Commission is *PECO Energy Reply 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,



Shawane Lee
Counsel for PECO Energy Company

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REPLY EXCEPTIONS

PECO Energy Company ("PECO") hereby replies to the Exceptions filed by Linda Boggess ("Complainant") in the above-referenced matter on August 8, 2015. On or about May 21, 2015, Complainant filed a formal complaint against PECO. In her formal complaint, Complainant states that PECO refused to give her a payment agreement although she has several health problems. The Complainant requested that she be given a payment agreement and a chance to catch up on her bill. Respondent, PECO filed an Answer with New Matter on May 27, 2015, stating that the Complainant is presently enrolled in PECO's Customer Assistance Program (CAP) and the entire balance is comprised of CAP arrears. The Complainant did not file a response to PECO's Answer or New Matter. On June 19, 2015, PECO 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 20, 2015, Administrative Law Judge Steven K. Haas ("ALJ Haas") issued an Initial Decision, which granted PECO'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 Linda M. Boggess v. PECO Energy, Docket C-2015-2483633 (Order entered, July 20, 2015).

In her Exceptions, the Complainant states that she is being forced to remain in PECO's Customer Assistance Program and due to increases in income she was told she is not eligible for CAP and should be permitted to drop out of the program. Complainant states she does not

believe that ALJ Haas' CAP rate ruling should apply to her. In the Complainant's formal complaint, she requested a payment agreement and did not allege that she was being forced to remain in the CAP program nor did she raise a dispute about additional household income that would make her ineligible for the CAP program. These are new allegations – thus, ALJ Haas could not consider this when making his decision. Even if the Complainant were dropped from the CAP program, her current balance is comprised entirely of CAP arrears; therefore, pursuant to 66 Pa.C.S. § 1405(c), ALJ Haas could not give her the relief she requested – a payment agreement. Complainant's exception raising new allegations is not a basis to overturn ALJ Haas' Initial Decision.

In her exceptions, the Complainant encloses medical documentation showing she has a medical condition. While the Complainant may have a medical condition, including cancer requiring radiation therapy and surgery, ALJ Haas was not required to consider the Complainant's medical 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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