



An Exelon Company

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November 2, 2015

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

RE: Mindy Jaye Zied v. PECO Energy Company
PUC Docket No.: F-2015-2500342

Dear Ms. Chiavetta:

Enclosed for filing with the Commission is *Response of Respondent, PECO Energy Company to Complainant, Mindy Zied's Motion for Summary Judgment* 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 long horizontal flourish extending to the right.

Shawane Lee
Counsel for PECO Energy Company

SL/ab

cc: Angela T. Jones, ALJ (via e-mail and first class mail)
Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

MINDY JAYE ZIED	:	
Complainant	:	
	:	
v.	:	DOCKET NO. F-2015-2500342
	:	
PECO ENERGY COMPANY	:	
Respondent	:	

**RESPONSE OF RESPONDENT,
PECO ENERGY COMPANY TO COMPLAINANT, MINDY ZIED'S
MOTION FOR SUMMARY JUDGMENT**

PECO Energy Company ("PECO Energy"), hereby responds to Complainant's Motion for Summary Judgment and responds as follows:

1. Denied. PECO specifically denies that the company "unlawfully" removed customer Binnie Zied's meter without notice. By way of further response, PECO disputes any settlement between the parties.

2. Denied as stated. The Complainant contacted the company and alleged she was being discriminated against. Counsel for PECO Energy attempted to address the Complainant's concerns and received the following email, refusing to address or resolve any issues she may have with the company:

August 21, 2015

Dear Mr. Lee, I am tied up in Federal Court at the moment, and have obligations in that Court that require time limits. With that being said, pertaining to your original email, and my several complaints to PECO pertaining to my discrimination complaints with your company, as well as the Statute of Limitations in the Commonwealth of Pennsylvania, because of the circumstances surrounding the times, dates, erroneous information and the verbal attack on my disability by your employees, it is my belief that this whole sordid affair is linked with other employees from both Government and State employees.

In the Third Circuit there is a rule that reflects "imputed notice" to the attorney of the entity in question. FYI, since you are aware of the discrimination complaints, and the fact my mother is a shareholder in Exelon, you will both be getting a copy of the PUC Complaint, but understand, that as to liability, you have been placed on notice that I am clearly alleging a "Civil Conspiracy"; "Disability and Racial Discrimination"; and "Retaliation" by your (PECO) employees and myself for past telephone conversations and actions which have taken place, which are clearly linked to the issues which are already in Federal Court.

Your email substantiates my prior suspicions of that, as to the indication that no matter what your employees state, it just doesn't matter, and you have no intention of trying to fix this problem, nor investigate it.

I don't know whether your original contact with me was based upon the actual discrimination complaints I filed with your company, or my conversation with another Attorney with PECO who I spoke with and discussed these problems with, Mr. William J. Donahue.

Your shut off notices as well as Alan Masses letter outright accusing me of living at this residence since 1986 (without any credible support) are already papers that are contained in my federal court record. The PUC complaint will not dissolve the damage and injuries that your company has instilled upon me.

It is sad that you prefer to be a defendant rather than to have investigated this matter in an attempt to try and resolve it.

Sincerely Yours,

Mindy Jaye Zied

3. PECO neither admits nor denies the allegations contained in Paragraph 3 of Complainant's Motion.

4. PECO neither admits nor denies the allegations contained in Paragraph 4 of the Complainant's Motion. PECO's Answer is document in writing that speaks for itself.

5. PECO neither admits nor denies the allegations contained in Paragraph 5 of the Complainant's Motion. The Complainant's response is a document in writing that speaks

for itself. By way of further response, PECO specifically denies any “mistakes, errors or deceitfulness” as alleged in Complainant’s Motion. PECO additionally avers that summary judgment is not appropriate as there are genuine issues of material fact in this matter that need to be litigated.

6. Denied. PECO states that the company was not properly served with the Complainant’s response or motion.

7. Denied. A hearing in this matter is appropriate as there are several disputed issues of material fact that need to be litigated and the Complainant has not proven her case in the documents submitted. Specifically, the Complainant disputes a meter removal and replacement. PECO specifically alleges in its answer the meter replacement was required due to an underground fault. The Complainant disputes PECO’s billing. PECO specifically averred in the company’s answer that the billing is correct. As there are several issues of material fact, the case must proceed to hearing. For instance, as the following email from the Complainant demonstrates there are several factual disputes between the parties, particularly with the billing; and therefore, summary judgment is not appropriate:

September 8, 2015

Mr. Lee, I don't know what PUC Complaint you were reading, but 1st, there was never a \$640.00 deposit, except for the error of the PUC investigator who obtained incorrect information.

Second, based upon the fact I was never told a deposit was needed, and that any application which I filed was cancelled, I never agreed to pay \$340 for a deposit, and based upon the fact that issue of fact is still being disputed, I never paid that deposit.

Last but not least you have totally ignored the entire (4) bills accrued within the four day period between July 30 and August 4, 2014 when your company improperly added the money plus some back onto the bill which was calculated in the settlement. Also, it is illegal to attach monies from one person's bill to a new account especially when your

company employees instructed Binnie Zied not to pay said bill pending resolution to the dispute.

I will be in further contact with Exelon in Chicago and will relay your answer to them.

Thus, I will be looking forward to:

- (1) Your answer to the PUC, which if I'm not mistaken is due within 20 days;
- (2) Your reasoning as to why you removed the meters off of 1948 Kentwood Street for 2 1/2 months and charged \$470.00 each of those months;
- (3) The tape previously requested of the phone conversation of the initial opening of my account;
- (4) The proof and source which led to the letter by your employee, Alan Masse as to the fact that I have lived at this residence since 1984.

Mindy J. Zied

8. PECO neither admits nor denies the allegations contained in paragraph 8 of the Complainant's Motion. By way of further response, a hearing for this matter is required as there are several genuine issues of material fact in dispute.

9. PECO neither admits nor denies the allegations contained in paragraph 9 of the Complainant's Motion. By way of further response, PECO avers that an in person hearing is required based on the number of witnesses the company will call and the number of exhibits the company will present at hearing. Further, the credibility of the parties is at issue due to the Complainant's "fraud" allegations and the Administrative Law Judge will be better equipped to determine credibility at an in person hearing.

10. Denied. PECO denies any affiliation between Kathy McHugh at the Social Security Administration and an alleged PECO employee, Manus McHugh. By way of further response, PECO has no employee named Manus McHugh.

PECO avers that this matter is not ripe for summary judgment as there are several genuine issues of factual dispute between the parties. The law is clear that the presiding officer will grant the motion if the pleadings, depositions, answers to interrogatories, admissions and affidavits show that there is no genuine issue as to a material fact and that the moving party is entitled to judgment as a matter of law. 52 Pa. Code §5.102(d)(1). The moving party bears the burden of showing that no genuine issue of material fact exists and that it is entitled to judgment as a matter of law. The Commission must view the record in the light most favorable to the non-moving party, giving that party the benefit of all reasonable inferences. First Mortgage Co. of Pennsylvania v. McCall, 459 A.2d 406(Pa. Super. 1983).

In this case, the pleadings in this matter have closed and the Complainant has failed to demonstrate there are no material facts existing. There are multiple disputes factual disputes between the parties; and therefore, ordering judgment in this case without a hearing on the merits would not be appropriate. For instance, the Complainant alleges that PECO committed fraud. PECO specifically denies the company engaged in any fraudulent activity and the Complainant has submitted no proof the company has done so. The Complainant alleges that she did not reside at the service address giving rise to the billing dispute and is not responsible for the bill incurred in her mother, Binne Zied's name. PECO disputes this fact and avers that the Complainant has resided at the residence and benefitted from the service. The Complainant disputes a meter that was removed from the service address and then returned at a later date. The company avers that the meter had to be removed because of an underground fault. The Complainant disputes the billing and claims the bills are erroneous. PECO avers in the company's answer that the billing is correct.

As there are multiple factual disputes, summary judgment is not appropriate at this stage in the proceeding and this matter should proceed to hearing.

WHEREFORE, PECO Energy Company respectfully requests that your Honorable Commission dismiss the Complainant's Motion for Summary Judgment and this matter proceed to hearing on the merits.

Respectfully Submitted,



Shawane L. Lee
Counsel for PECO Energy Company
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Fax: 215.568.3389

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v.	:	DOCKET NO. F-2015-2500342
	:	
PECO ENERGY COMPANY	:	
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VERIFICATION

I, Shawane L. Lee, hereby declare that I am counsel for PECO Energy Company; that as such I am authorized to make this verification on its behalf; that the facts set forth in the foregoing Pleading are true to the best of my knowledge, information and belief, and that I make this verification subject to the penalties of 18 Pa. C.S. § 4904 pertaining to false statements to authorities.



Date: November 2, 2015

Shawane L. Lee

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PENNSYLVANIA PUBLIC UTILITY COMMISSION**

MINDY JAYE ZIED	:	
Complainant	:	
	:	
v.	:	DOCKET NO. F-2015-2500342
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CERTIFICATE OF SERVICE

I, Shawane L. Lee, hereby certify that I have this day served a copy of PECO Energy Company's Response to Complainant's Motion for Summary Judgment in the above matter upon all interested parties by mailing a copy, properly addressed and postage prepaid to:

Mindy Zied
1948 Kentwood Street
Philadelphia, PA 19116

Dated at Philadelphia, Pennsylvania, November 2, 2015.



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