



An Exelon Company

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

Direct Dial: 215.841.6841

January 6, 2016

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

RE: Kevin Smith v. PECO Energy Company
PUC Docket No.: C-2015-2516676

Dear Ms. Chiavetta:

Enclosed for filing with the Commission is *Motion for Judgment on the Pleadings* 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

cc: Certificate of Service

SL/alb
Enclosure

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

KEVIN SMITH

v.

PECO ENERGY COMPANY

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:
:

DOCKET NO. C-2015-2516676

NOTICE TO PLEAD

To: Kevin Smith

Pursuant to 52 Pa. Code §§5.101 and 5.62(c), you are hereby notified that, if you do not file a written response denying or correcting the enclosed Motion for Judgment on the Pleadings within 20 days from service of this notice, the facts set forth by PECO Energy Company may be deemed to be true, thereby requiring no other proof. All pleadings, such as a Reply to Motion, must be filed with the Secretary of the Pennsylvania Public Utility Commission, with a copy served to counsel for PECO Energy Company, Shawane Lee, and where applicable, the Administrative Law Judge presiding over the issue.

Failure to respond to this Motion could result in the dismissal of your case.

File with:

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

With a copy to:

Shawane L. Lee, Esquire
PECO Energy Company
2301 Market Street, S-23
Philadelphia, PA 19103

Dated: January 6, 2016



Shawane L. Lee
Counsel for PECO Energy Company
2301 Market Street, S-23
Philadelphia, PA 19101-8699
Tel. (215) 841-6841
Fax. (215) 568-3389
shawane.lee@exeloncorp.com

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

KEVIN SMITH

v.

PECO ENERGY COMPANY

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DOCKET NO. C-2015-2516676

MOTION FOR JUDGMENT ON THE PLEADINGS

PECO Energy Company ("PECO"), pursuant to 52 Pa. Code §5.102, respectfully requests that your Honorable Commission dismiss the instant complaint inasmuch as Complainant requests a payment arrangement. No factual dispute has been raised in the pleadings with respect to the payment agreement. Pursuant to 66 Pa.C.S. §1405(c), Complainant is ineligible for a Commission-ordered payment agreement, and thus Complainant fails to state a claim upon which relief can be granted. Therefore, PECO is entitled to judgment as a matter of law regarding the prohibited payment agreement.

1. On or about December 7, 2015, Complainant filed a Formal Complaint against Respondent, PECO, requesting to receive a Commission-ordered payment agreement. A copy of Complainant's Formal Complaint is attached hereto as Exhibit 1.

2. PECO was served with the Formal Complaint on December 7, 2015.

3. In Complainant's Formal Complaint, he ticks the box "The utility is threatening to shut off my service or has already shut off my service".

4. The Complainant requests for relief:

I would like a chance to make payment arrangements for the previous balance.

5. On December 17, 2015, PECO filed an Answer, New Matter and Notice to Plead.

A copy of PECO's Answer and New Matter is attached hereto as Exhibit 2.

6. PECO averred in its New Matter that Complainant was initially enrolled in its Customer Assistance Program (CAP) on February 28, 2013 under Tier D1. New Matter ¶1.

7. PECO averred that Complainant's CAP status transferred to his new service address on May 22, 2014. New Matter ¶2.

8. PECO averred that the Complainant re-certified in the program on March 11, 2015 under Tier D1. New Matter ¶3.

9. PECO averred that Complainant's CAP status transferred to his current address at 87 S. State Road, Apartment B-13. New Matter ¶4.

10. PECO averred that the Complainant is scheduled to recertify in the program on March 11, 2017. New Matter ¶5.

11. PECO averred that the Complainant is actively enrolled in the CAP program. New Matter ¶6.

12. PECO averred that the Complainant's entire balance is comprised of CAP arrears. New Matter ¶7

13. As the entire balance consists of CAP arrears, PECO averred that no agreement may be issued under 66 Pa.C.S. §1405(c). ¶8.

14. To date, 20 days have passed since PECO filed its New Matter.

15. PECO has not been served with a response to its New Matter, and therefore it requests that the facts stated therein be deemed admitted. 52 Pa.Code §5.63(b) (providing that facts in new matter may be deemed admitted if there is no reply).

16. Under 66 Pa.C.S. §1405(c), the Commission is precluded from establishing a payment agreement for customers participating in CAP. Section 1405(c) states as follows:

“Customer assistance program rates shall be timely paid and shall not be the subject of payment agreements negotiated or approved by the commission.”

17. The Commission’s regulations at 52 Pa. Code §5.102(a) permits any party to move for summary judgment or judgment on the pleadings after the pleadings are closed, but within such time as to not delay a hearing. Under 52 Pa. Code §5.102(d)(1), 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.

18. 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).

19. The provision at 52 Pa. Code §5.102(c) serves judicial economy by avoiding a hearing where no factual dispute exists. If no factual issue pertinent to the resolution of the case exists, a hearing is unnecessary. *Lehigh Valley Power Committee v. Pennsylvania Public Utility Commission*, 563 A.2d. 557 (Pa. Cmwlt. 1989).

20. The pleadings in this case reveal the following:

- a. There is no factual dispute that (a) Complainant is enrolled in CAP, (b) the entire past due balance is CAP arrears.
- b. Under 66 Pa.C.S. §1405(c), the Commission is prohibited from ordering a payment agreement for an account holder whose past due balance consists of

CAP arrears. Therefore, the Commission cannot grant the relief Complainant seeks regarding the payment agreement.

21. Because no factual dispute exists regarding the prohibited payment agreement and the Complaint fails to state a claim for which relief can be granted, PECO is entitled to judgment as a matter of law with respect to the requested payment agreement.

WHEREFORE, PECO Energy Company respectfully requests that your Honorable Commission dismiss the instant complaint with prejudice, as it relates to a request for a payment agreement on CAP arrears, and the Complaint therefore fails to state a claim upon which relief can be granted.

Respectfully submitted,



Shawane L. Lee
PECO Energy Company
2301 Market Street, S23-1
PO Box 8699
Philadelphia, PA 19101-8699
(215) 841-6841
Fax: 215.568.3389
Shawane.Lee@exeloncorp.com

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

KEVIN SMITH

v.

PECO ENERGY COMPANY

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DOCKET NO. C-2015-2516676

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing Motion for Judgment on the Pleadings upon the party listed below, in accordance with the requirements of 52 Pa. Code §1.54 (relating to service by a party).

VIA First Class Mail

Kevin D. Smith, Jr.
87 South State Road, B-13
Upper Darby, PA 19082

VIA First Class Mail

Administrative Law Judge Cynthia Williams Fordham
Pennsylvania Public Utility Commission
Suite 4063, 801 Market Street
Philadelphia, Pennsylvania 19107



Shawane L. Lee

DATED: January 6, 2016

EXHIBIT 1

Botak, Amy:(PECO)

From: eServe@pa.gov
Sent: Monday, December 07, 2015 2:01 PM
To: Lee, Shawane L.:(PECO)
Cc: Botak, Amy:(PECO)
Subject: [EXTERNAL] PA PUC eServe Notice

Importance: High

Dear Shawane L Lee,

A(n) **Formal Complaint** has been served in this proceeding. This document is docketed as **C-2015-2516676**.

You may view this document at

Formal Complaint

You are receiving this email because you are a(n) **Respondent** for this case and have agreed to be served electronically. By selecting electronic service (eService), you have agreed that this notification constitutes valid service. Electronic service of any and all documents will be in place of paper service.

Thank You,
Public Utility Commission
Commonwealth of Pennsylvania

** Please do not respond to this automatically generated email.*

PECO ENERGY
EXHIBIT **1**

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Formal Complaint

Filing this form begins a legal proceeding and you will be a party to the case. If you do not wish to be a party to the case, consider filing an informal complaint.

To complete this form, please type or print legibly in ink.

1. Customer (Complainant) Information

Provide your name, mailing address, county, telephone number(s), e-mail address and utility account number. It is your responsibility to update the Commission with any changes to your address and to where you want documents mailed to you.

Name Kevin D. Smith Jr

Street/P.O. Box 87 S. State Rd Apt # B-13

City Upper Darby State Pa Zip 19082

County Delaware

Telephone Number(s) Where We Can Contact You During the Day:

() (home) (610) 638-9221 (mobile)

E-mail Address (optional): Kdspwhs@a.m.com

Utility Account Number (from your bill) 46406 81094

If your complaint involves utility service provided to a different address or in a different name than your mailing address, please list this information below.

Name

Street/P.O. Box

City State Zip

RECEIVED 2015 DEC - 7 AM 10:32 PA.P.U.C. SECRETARY'S BUREAU

2. Name of Utility or Company (Respondent)

Provide the full name of the utility or company about which you are complaining. The name of your utility or company is on your bill.

Peco Energy Co.

3. Type of Utility Service

Check the box listing the type of utility service that is the subject of your complaint (check only one):

- ELECTRIC WASTEWATER/SEWER
 GAS TELEPHONE/TELECOMMUNICATIONS (local, long distance)
 WATER MOTOR CARRIER (e.g. taxi, moving company, limousine)
 STEAM HEAT

4. Reason for Complaint

What kind of problem are you having with the utility or company? Check all boxes below that apply and state the reason for your complaint. Explain specifically what you believe the utility or company has done wrong. Provide relevant details including dates, times and places and any other information that may be important. If the complaint is about billing, tell us the amount you believe is not correct. Use additional paper if you need more space. **Your complaint may be dismissed without a hearing if you do not provide specific information.**

- The utility is threatening to shut off my service or has already shut off my service.
- I would like a payment agreement.
- Incorrect charges are on my bill. Provide dates that are important and an explanation about any amounts or charges that you believe are not correct. Attach a copy of the bill(s) in question if you have it/them.
- I am having a reliability, safety or quality problem with my utility service. Explain the problem, including dates, times or places and any other relevant details that may be important.
- Other (explain).

Note: If your complaint is only about removing or modifying a municipal lien filed by the City of Philadelphia, the Public Utility Commission (PUC) cannot address it. Only local courts in Philadelphia County can address this type of complaint. The PUC can address a complaint about service or incorrect billing even if that amount is subject to a lien.

In addition, the PUC generally does not handle complaints about cell phone or Internet service, but may be able to resolve a dispute regarding voice communications over the Internet (including the inability to make voice 911/E911 emergency calls) or concerns about high-speed access to Internet service.

5. Requested Relief

How do you want your complaint to be resolved? Explain what you want the PUC to order the utility or company to do. Use additional paper if you need more space.

I would like a chance to make payment arrangements for the previous balance.

Note: The PUC can decide that a customer was not billed correctly and can order billing refunds. The PUC can also fine a utility or company for not following rules and can order a utility or company to correct a problem with your service. Under state law, the PUC cannot decide whether a utility or company should pay customers for loss or damages. Damage claims may be sought in an appropriate civil court.

10/22/2015

Kevin Smith
Acct#4640681094

I am appealing your decision to cut my power off and not give me an opportunity to setup payment arrangements. The balance that I'm being asked to pay in the amount of \$1550.48 to the CAP program is for my previous residence (195 North Union Ave – Lansdowne, PA 19050). I did not get on the CAP program until July 2015 for my current resident at PECO's request.

I admit that I owe the balance for the previous address and I would like to make payment arrangements; I was not on the CAP program for that address. I have been paying my current bills and have not had any issues until now.

I also have a son that has asthma and requires electricity to medicate and administer various treatments; I have received several medical forms but I am now at my limit but my son still requires medication.

Please reconsider and make some type of arrangements so that I can get my services turned back on as soon as possible.

If you need to speak to me, please contact me at the phone number provided on the attached form. Any assistance and reconsideration is appreciated.

RECEIVED
2015 DEC - 7 AM 10: 32
PA.P.U.C.
SECRETARY'S BUREAU

6. Protection From Abuse (PFA)

Has a court granted a "Protection From Abuse" order that is currently in effect for your personal safety or welfare? The PUC needs this information to properly process your complaint so that your identity is not made public.

Note: You must answer this question if your complaint is against a natural gas distribution utility, an electric distribution utility or a water distribution utility AND your complaint is about a problem involving billing, a request to receive service, a security deposit request, termination of service or a request for a payment agreement.

Has a court granted a "Protection From Abuse" order for your personal safety or welfare?

YES
NO

If your answer to the above question is "yes," attach a copy of the current Protection From Abuse order to this Formal Complaint form.

7. Prior Utility Contact

a. Is this an appeal from a decision of the PUC's Bureau of Consumer Services (BCS)?

YES
NO

Note: If you answered yes, move to Section 8. No further contact with the utility or company is required. If you answered no, answer the question in Section 7 b. and answer the question in Section 7 c. if relevant.

b. If this is not an appeal from a BCS decision, have you spoken to a utility or company representative about this complaint?

YES
NO

Note: You must contact the utility first if (1) you are a residential customer, (2) your complaint is against a natural gas distribution utility, an electric distribution utility or a water utility AND (3) your complaint is about a billing problem, a service problem, a termination of service problem, or a request for a payment agreement.

- c. If you tried to speak to a utility company representative about your complaint but were not able to do so, please explain why.

Note: Even if you are not required to contact the utility or company, you should always try to speak to a utility or company representative about your problem before you file a Formal Complaint with the PUC.

8. **Legal Representation**

If you are filing a Formal Complaint as an individual on your own behalf, you are **not** required to have a lawyer. You may represent yourself at the hearing.

If you are already represented by a lawyer **in this matter**, provide your lawyer's name, address, telephone number, and e-mail address, if known. Please make sure your lawyer is aware of your complaint. If represented by a lawyer, both you and your lawyer must be present at your hearing.

Lawyer's Name N/A

Street/P.O. Box _____

City _____ State _____ Zip _____

Area Code/Phone Number _____

E-mail Address (if known) _____

Note: Corporations, associations, partnerships, limited liability companies and political subdivisions are **required** to have a lawyer represent them at a hearing **and** to file any motions, answers, briefs or other legal pleadings.

9. Verification and Signature

You must sign your complaint. Individuals filing a Formal Complaint **must** print or type their name on the line provided in the verification paragraph below and **must** sign and date this form in **ink**. If you do not sign the Formal Complaint, the PUC **will not accept** it.

Verification:

I Kevin D. Smith Jr., hereby state that the facts above set forth are true and correct (or are true and correct to the best of my knowledge, information and belief) and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Kevin D. Smith Jr.
(Signature of Complainant)

10/26/15

(Date)

Title of authorized employee or officer (only applicable to corporations, associations, partnerships, limited liability companies or political subdivisions)

Note: If the Complainant is a corporation, association, partnership, limited liability company or political subdivision, the verification **must** be signed by an authorized officer or authorized employee. If the Formal Complaint is **not signed** by one of these individuals, the PUC **will not accept** it.

10. Two Ways to File Your Formal Complaint

Electronically. You must create an account on the PUC's eFiling system, which may be accessed at <http://www.puc.pa.gov/efiling/default.aspx>.

Note: If you are appealing your Bureau of Consumer Services (BCS) decision, you must file your formal complaint by mail.

Mail. Mail the completed form with your original signature and any attachments, by certified mail, first class mail, or overnight delivery to this address:

Secretary
Pennsylvania Public Utility Commission
400 North Street
Harrisburg, Pennsylvania 17120

Note: Formal Complaints sent by fax or e-mail will **not** be accepted.

If you have any questions about filling out this form, please contact the Secretary's Bureau at 717-772-7777.

RECEIVED
2015 DEC -7 AM 10:32
PA PUC
SECRETARY'S BUREAU

Keep a copy of your Formal Complaint for your records.

> K. Smith
67 S. Stet Rd
Apt B-13
Upper Derby, Pa 19082



FIRST CLASS MAIL

RECEIVED
2015 DEC -7 AM 10:33
PA.P.U.C.
SECRETARY'S BUREAU



Common. of PA. Public Utility
Commission
P.O. 3265
HARRISBURG PA 17135-3265

610 South Bohmer Street
West Chester, PA 19382

7105

EXHIBIT 2



PENNSYLVANIA PUBLIC UTILITY COMMISSION

CONSUMERINFO UTILITY&INDUSTRY FILING&RESOURCES ABOUTPUC CONTACTUS

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eFiling Successfully Transmitted



Your filing has been electronically received. Upon review of the filing for conformance with the Commission's filing requirements, a notice will be issued acknowledging such compliance and assigning a Docket Number. The matter will receive the attention of the Commission and you will be advised if any further action is required on your part.

Print this page for your records. The date filed on will be the current day if the filing occurs on a business day before or at 4:30 PM Harrisburg, PA time. It will be the next business day if the filing occurs after 4:30 PM Harrisburg, PA time or on weekends or holidays.

If your filing exceeds 250 pages, you are required to submit one paper copy of the filing within 3 business days of submitting the electronic filing. This paper copy can be mailed to: Secretary, Pennsylvania Public Utility Commission, Commonwealth Keystone Building, 400 North Street, 2nd Floor, Harrisburg, PA 17120 . Please print a copy of this page and attach it to the paper copy of your filing as the first page.

eFiling Confirmation	
Docket Number:	C-2015-2516676
Description:	Kevin D. Smith, Jr. - PECO Energy Company Answer to Formal Complaint
Transmission Date:	12/17/2015 1:51:05 PM
Filed On:	12/17/2015 1:51:05 PM
eFiling Confirmation Number:	1615562

Uploaded File List

File Name	Document Class	Document Type
Kevin D Smith - Answer to Formal Complaint.pdf	Communication	Answer to Formal Complaint

PECO ENERGY
CREDIT **2**



An Exelon Company

Legal Department
2301 Market Street / S23-1
Philadelphia, PA 19101-8699

Direct Dial: 215-841-6841

December 17, 2015

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

RE: Kevin D. Smith, Jr. v. PECO Energy Company
PUC Docket No.: C-2015-2516676

Dear Ms. Chiavetta:

Enclosed for filing with the Commission is *PECO Energy's Answer to the Formal Complaint*. At this time, PECO Energy Company is requesting that the above-referenced matter be scheduled for an in person hearing.

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

SL/ab
Enclosure

cc: *Scheduling Recommendation: Call of the Docket*

PENNSYLVANIA PUBLIC UTILITY COMMISSION

KEVIN D. SMITH, JR. :
Complainant :
v. : DOCKET NO. C-2015-2516676
PECO ENERGY COMPANY :
Respondent :

NOTICE TO PLEAD

Pursuant to 52 Pa. Code §§ 5.101 and 5.62(c), you are hereby notified that, if you do not file a written response denying or correcting the enclosed NEW MATTER of PECO Energy Company within 20 days from service of this notice, a decision may be rendered against you. All pleadings, such as a Reply to NEW MATTER, must be filed with the Secretary of the Pennsylvania Public Utility Commission, with a copy served to counsel for PECO Energy Company, Shawane L. Lee, and where applicable, the Administrative Law Judge presiding over the issue.

File with:
Rosemarie Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, Second Floor
Harrisburg, PA 17120

With a copy to:
Shawane L. Lee, Esq.
PECO Energy Company
2301 Market Street, S-23
Philadelphia, PA 19103

Dated at Philadelphia, PA, December 17, 2015



Shawane L. Lee
Counsel for PECO Energy Company
2301 Market Street S-23
Philadelphia, PA 19101-8699
215-841-6863
Shawane.lee@exeloncorp.com

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

KEVIN D. SMITH, JR.	:	
Complainant	:	
	:	
v.	:	DOCKET NO. C-2015-2516676
	:	
PECO ENERGY COMPANY	:	
Respondent	:	
	:	

ANSWER OF RESPONDENT,
PECO ENERGY COMPANY

On December 7, 2015, PECO Energy Company ("PECO Energy") was served with a formal complaint filed by Kevin D. Smith, Jr. (hereafter "Complainant") in the above captioned docket. Pursuant to 52 Pa. Code § 5.61, PECO responds to the Complaint and states:

1. Admitted.
2. Admitted.
3. Admitted.
4. Unless specifically admitted herein, PECO Energy denies all material allegations of fact and conclusions of law in the instant Complaint.

In his Complaint, Complainant requests to be placed on an affordable payment agreement. PECO Energy avers that the Complainant's complaint should be dismissed pursuant to 66 Pa.C.S. § 1405(c).

PECO Energy's records indicate that the Complainant established electric service at 87 South State Road, Apartment B13, Upper Darby, PA under account number 46406-81101 on November 19, 2015. See Account Activity Statement, attached hereto as Exhibit "1". The

Complainant initially enrolled in PECO's Customer Assistance Program ("CAP") under Tier D1 on February 28, 2013 at his previous service address. The Complainant's CAP status transferred to a second address on May 22, 2014. The Complainant recertified in the program on March 11, 2015 under Tier D1. The Complainant's CAP status transferred to his current address at 87 South State Road, Apartment B13. The Complainant is scheduled to recertify in the program on March 11, 2017. The Complainant is actively enrolled in CAP. The Complainant's entire balance is comprised of CAP arrears.

On October 14, 2015, the Complainant's service was terminated for a past due balance of \$1,550.48 at his previous service address. On October 16, 2015, the Complainant filed an informal complaint with the Bureau of Consumer Services ("BCS") at case number 003392883, requesting a payment agreement to have his service restored. On October 16, 2015, the BCS issued a Decision report dismissing the Complainant's case pursuant to 66 Pa.C.S. § 1405(c). See BCS Decision Report #003392883, attached hereto as Exhibit "2". The Complainant applied for service at 87 South State Road, B-13 and service was connected on December 3, 2015. The Complainant's service is currently on.

The Complainant's balance is \$1,075.85. See Exhibit "1". The Complainant is not entitled to a payment agreement on his balance pursuant to 66 Pa.C.S. § 1405(c) as the entire balance is comprised of CAP arrears.

5. Denied.
6. Admitted
7. Admitted.

8. PECO Energy neither admits nor denies the allegations in paragraph 8. PECO is without knowledge or information sufficient to form a belief as to the truth of this averment and, therefore, such allegation is deemed denied.

9. Paragraph 9 is a Verification and Signature to which no response is required.

10. Paragraph 10 contains information regarding Filing, to which no response is required.

NEW MATTER OF RESPONDENT, PECO ENERGY COMPANY

PECO Energy Company ("PECO Energy"), pursuant to 52 Pa. Code § 5.62(b), further responds to the Complaint and states:

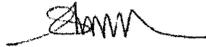
1. The Complainant initially enrolled in PECO's Customer Assistance Program ("CAP") under Tier D1 on February 28, 2013 at his previous service address.
2. The Complainant's CAP status transferred to his new service address on May 22, 2014.
3. The Complainant recertified in the program on March 11, 2015 under Tier D1.
4. The Complainant's CAP status transferred to his current address at 87 S. State Road, Apartment B-13.
5. The Complainant is scheduled to recertify in the program on March 11, 2017.
6. The Complainant is actively enrolled in CAP.
7. The Complainant's entire balance is comprised of CAP arrears.
8. 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."

9. Consequently, pursuant to 66 Pa.C.S. § 1405(c), the PUC has no jurisdiction to give the Complainant a payment agreement.

10. PECO Energy avers that the Complainant's complaint should be dismissed pursuant to 66 Pa. C.S. §1405(c).

WHEREFORE, PECO Energy Company respectfully requests that your Honorable Commission dismiss the instant Complaint.

Respectfully Submitted,



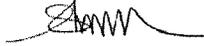
Shawane L. Lee
Counsel for PECO Energy Company
2301 Market Street, S23-1
Philadelphia, PA 19101-8699
(215) 841-6841
Fax: 215.568.3389

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

KEVIN D. SMITH, JR.	:	
Complainant	:	
	:	
v.	:	DOCKET NO. C-2015-2516676
	:	
PECO ENERGY COMPANY	:	
Respondent	:	

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: December 17, 2015

Shawane L. Lee

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

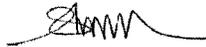
KEVIN D. SMITH, JR.	:	
Complainant	:	
	:	
v.	:	DOCKET NO. C-2015-2516676
	:	
PECO ENERGY COMPANY	:	
Respondent	:	

CERTIFICATE OF SERVICE

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

Kevin D. Smith, Jr.
87 South State Road, B-13
Upper Darby, PA 19082

Dated at Philadelphia, Pennsylvania, December 17, 2015



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EXHIBIT “1”

Account Number: 4640681101
 Account Name: KEVIN SMITH JR
 Account Status: ACTIVE
 Meter Bill Group: 5

Service Address:
 87 S STATE RD B-13
 UPPER DARBBY, PA 19082

Mail To:
 KEVIN SMITH JR
 87 S STATE RD APT B13
 UPPER DARBBY, PA 19082
 (610) 638-9221 ext:

Current Bill: \$10.74
 Billed Prior: \$0.00
 Balance Due: \$10.74

Credit Amount: \$0.00
 Deposit Requested: \$0.00
 Deposit On-hand: \$0.00
 Cap Pre-program Arrears: \$0.00
 Payment Agreement Balance: \$0.00

Account Balance: \$1,075.85

Rates:
 CAP OPT D1 ELECTRIC RESIDENTIAL SERVICE

Account Transaction Activity

Transaction Dt	Product Type	Credit Source	Billing Period	Read	Reading Type	Meter Equip Cd	KWH	KV	CCF	Transaction Amount	Balance Forward	Current Charges	Am't Due	Bill Due Dt	Total Balance	Heating Degree Days
Nov 2015	End of Month Balance														\$6.00	
12/03/2015	CONNECTION CHARGE - STANDARD									\$6.00	\$0.00	\$10.74	\$10.74	12/28/2015	\$10.74	
12/03/2015	ELECTRIC SERVICE		11/19/2015 - 12/03/2015	8003	ACTUAL	119067647	67	0		\$4.74	\$0.00	\$10.74	\$10.74		\$10.74	222
12/09/2015	LATE PAYMENT CHARGE - BAL									\$183.32						
12/09/2015	TRANSFER DEBIT									\$855.79						

PAID 12/15/15
 EXHIBIT

EXHIBIT "2"

December 17, 2015

BCS Decision Report

BCS Case #: 003392883 Open Date: 2015-10-14
Customer Name: KEVIN SMITH
Service Address: 87 S STATE ROAD
 APT B13
 UPPER DARBY, PA 19082
BCS Bill Account #: 4640681094 Previous Case #:
Violation Type: NO Chapter Type:
Decision Type: W Section / Rule:
Investigator Name: GRANT GESZVAIN

Decision Issued Date: 2015-10-16
Case Closed Date: 2015-10-15

Letter Description:
NO GOOD FAITH, UPHOLD CO POSITION FOR RECONNECT.

Total Balance:	\$1635.06	Balance Date:	2015-10-15
Amount to Restore Service:	\$0.00	Amount to Continue Service:	\$1550.48
Date Payment Due:		Regular Budget Amount:	\$17.00
Special Budget Payment:	\$0.00	Final Bill Monthly Payment:	\$0.00
Plus Arrears Payment:	\$0.00	End of Month Payment:	\$0.00
Current Monthly Payment:	\$0.00		

Payment Terms:

PAR Description:

Resolution Description:
CASE DISMISSED. THE CUSTOMER SHOULD COMPLY WITH THE COMPANY'S
REQUEST FOR \$1570.48 TO RESTORE SERVICE (\$1550.48 DELINQUENT CAP
PAYMENTS + \$20.00 RECONNECTION FEE). THE COMPANY REPORTS THAT THE
CUSTOMER HAS DEFAULTED ON TWO OR MORE PAYMENT ARRANGEMENTS. 52
PA. CODE ?? 56.191 (C)(2)(I) ALLOWS THE COMPANY TO REQUEST FULL PAYMENT
OF THE OUTSTANDING BALANCE PLUS A RECONNECTION FEE IF THE CUSTOMER
HAS DEFAULTED ON TWO OR MORE PAYMENT ARRANGEMENTS. THE CUSTOMER
IS ENROLLED IN CAP. THEREFORE, THE CUSTOMER IS NOT ELIGIBLE FOR A PUC
PAYMENT ARRANGEMENT PER 1405 (C).