



An Exelon Company

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

Direct Dial: 215.841.6841

March 10, 2016

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

RE: Peyton Holmes v. PECO Energy Company
PUC Docket No.: C-2015-2478698

Dear Ms. Chiavetta:

Enclosed for filing with the Commission is *Respondent, PECO Energy Company's Motion to File Reply Exceptions Nunc Pro Tunc* 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, sweeping underline.

Shawane Lee
Counsel for PECO Energy Company

cc: Certificate of Service

SL/alb
Enclosure

6. 52 Pa. Code § 1.1 et seq. governs the rules of administrative practice and procedure before the Public Utility Commission.

7. 52 Pa. Code § 1.2 states that the procedural rules of Title 52 shall be liberally construed to secure the just, speedy and inexpensive determination of every action or proceeding to which it is applicable. The section further states that the "presiding officer at any stage of an action or proceeding may disregard an error or defect of procedure which does not affect the substantive rights of the parties."

8. Furthermore, the Pennsylvania Commonwealth Court has held that the PUC has authority to waive procedural defects when they do not affect the substantive rights of the parties. Info. Connections, Inc. v. Pennsylvania Public Utility Commission, 630 A.2d 498 (Pa. Cmwlth. 1993).

9. PECO Energy respectfully submits that the late filing of its reply exceptions was due to an administrative oversight.

10. More importantly, the acceptance of its reply exceptions *nunc pro tunc* does not affect the substantive rights of the Complainant in this matter. The Response does not contain any information that was not already expressed to the Complainant, nor does PECO Energy's response contain any new allegations that require a response from the Complainant.

11. Further, the Complainant's exceptions have not been reviewed; therefore, there is no delay in the adjudication of this case.

12. Accordingly, PECO Energy respectfully requests that PECO's Reply Exceptions be accepted for filing *nunc pro tunc* so that this matter can be decided on the merits.

WHEREFORE, PECO Energy Company respectfully requests that PECO's
Reply Exceptions be accepted for filing *nunc pro tunc*.

Respectfully Submitted,



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

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

| | | |
|-----------------------------|---|----------------------------------|
| PEYTON HOLMES | : | |
| | : | |
| COMPLAINANT | : | |
| | : | |
| v. | : | Docket No. C-2015-2478698 |
| | : | |
| PECO ENERGY COMPANY, | : | |
| | : | |
| RESPONDENT | : | |
| | : | |

CERTIFICATE OF SERVICE

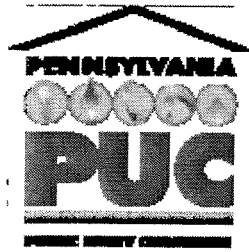
I, Shawane L. Lee, hereby certify that I have this day served a copy of PECO Energy Company's Motion to File Reply Exceptions *Nunc Pro Tunc* in the above matter upon all interested parties by mailing a copy, properly addressed and postage prepaid to:

**Peyton Holmes
4036 North Franklin Street
Philadelphia, PA 19140**

Dated at Philadelphia, Pennsylvania, March 10, 2016



Shawane L. Lee
Counsel for PECO Energy Company
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PENNSYLVANIA
PUBLIC UTILITY COMMISSION

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*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.***

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| Docket Number: | C-2015-2478698 |
| Description: | Peyton Holmes - PECO Energy Company Reply Exceptions Nunc Pro Tunc |
| Transmission Date: | 3/10/2016 8:33:31 AM |
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| Peyton Holmes - Reply Exceptions Nunc Pro Tunc.pdf | Decision | Exception - Reply |



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March 10, 2016

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

RE: Peyton Holmes v. PECO Energy Company
PUC Docket No.: C-2015-2478698

Dear Ms. Chiavetta:

Enclosed for filing with the Commission is *Reply Exceptions of PECO Energy Company filed Nunc Pro Tunc* 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/ab

REPLY EXCEPTIONS

PECO Energy Company (“PECO Energy”) hereby replies *nunc pro tunc* to the Exceptions filed by Peyton Holmes (“Complainant”) in the above-referenced matter on December 26, 2015. On April 20, 2015, Complainant filed a formal complaint against PECO Energy. In her formal complaint, Complainant claims that PECO Energy transferred a balance to her current PECO account from a closed account at 102 West Wyoming Avenue which she claims was fraudulently opened in her name by her friend Yvette Rodriguez. Respondent, PECO Energy filed an Answer on May 11, 2015, stating that the Complainant had admitted to PECO that she gave Ms. Rodriguez permission to put the account in her name. Accordingly, the Complainant was responsible for the charges. A hearing was held before Administrative Law Cynthia Williams Fordham on August 13, 2015. ALJ Fordham issued an Initial Decision on December 15, 2015, wherein she held inter alia:

Based on the evidence in the record, the undersigned concludes that the Complainant either established service for Ms. Rodriguez or gave Ms. Rodriguez permission to establish service in the Complainant’s name.

The Complainant did not present evidence in the form of documents, such as a police report.....to support the testimony regarding the Wyoming Avenue account.

See ALJ Fordham, Initial Decision, dated 12/15/15, attached hereto as Exhibit “1”.

In her Exceptions, the Complainant now attempts to submit evidence to support her contention that her friend Ms. Rodriguez fraudulently placed service in her name. At the hearing, the Complainant did not present evidence of a police report and did not submit the report as a late filed exhibit. The record reflects that PECO investigated this matter and requested a police report from the Complainant. During the entire dispute process, the

Complainant failed to submit a police report and only submitted a blank Philadelphia Police Department incident report with no details. See PECO Exhibit “8”. Therefore, it is prejudicial to PECO for the report to be considered at this stage in the case. Further, PECO’s business records show that the Complainant admitted she allowed Ms. Rodriguez to put service in her name. PECO Exhibit “8” is a contact history showing a visit the Complainant made to PECO on November 19, 2012. During that visit, she told the customer service representative that she gave someone permission to put service in her name and they were supposed to put it into their own name but they did not. See PECO Exhibit “8”. In addition, the Company Utility Report at PECO Exhibit 8 shows that the Complainant had a conversation with a PECO representative on June 20, 2013, where she told the representative that she applied for service for her friend Ms. Rodriguez at 102 West Wyoming Avenue. Ms. Rodriguez was supposed to pay the bill but she did not; therefore, the Complainant stated Ms. Rodriguez is responsible for the charges. See Utility Report at Exhibit “8”. Finally, PECO’s business records demonstrate that both Complainant and Ms. Rodriguez were reported as household members on the account financial statement for 102 West Wyoming Avenue. See Financial Statement at Exhibit “7”. The hearing record is complete with significant evidence that Complainant allowed Ms. Rodriguez to place service in her name; and therefore, Complainant is responsible for the unpaid charges incurred at 102 West Wyoming Avenue.

In her exceptions, the Complainant attaches court documents, which indicate that in December 2015 (after the August 13, 2015 PUC hearing), she took Ms. Rodriguez to the Philadelphia Municipal Small Claims Court and obtained a judgment against Ms. Rodriguez for the disputed balance. Now that Complainant has obtained the judgment, she has been made whole and can use the judgment money to pay the outstanding balance. Complainant’s

documents prove that this is a dispute between friends that has now been resolved in the civil courts. PECO should not be a party to this matter. PECO properly transferred a balance incurred in the Complainant's name for an account she permitted her friend to open. As ALJ Fordham noted in her Initial Decision "Complainant failed to prove that [PECO] violated the Public Utility Code or the Commission's regulations."

ALJ Fordham correctly concluded, that the Complainant has not met her burden of proof in this matter pursuant to 66 Pa. C.S. § 332(a). Accordingly, ALJ Fordham's decision to dismiss the Complainant's case against PECO Energy should be upheld.

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
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PEYTON HOLMES

COMPLAINANT

v.

PECO ENERGY COMPANY,

RESPONDENT

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Docket No. C-2015-2478698

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: March 10, 2016

Shawane L. Lee

