



An Exelon Company

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

Direct Dial: 215.841.6841

December 8, 2016

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

RE: Christine McSorley v. PECO Energy Company
PUC Docket No.: C-2016-2565864

Dear Ms. Chiavetta:

Enclosed for filing with the Commission is *Reply Exceptions of PECO Energy Company* 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
Enclosure

REPLY EXCEPTIONS

PECO Energy Company ("PECO Energy") hereby replies to the Exceptions filed by Christine McSorley ("Complainant") in the above-referenced matter on November 30, 2016. The exceptions were served on PECO on December 5, 2016.

On September 9, 2016, Complainant filed a formal complaint against PECO Energy. In her formal complaint, Complainant states that she owns a rental property located at 3037 Tyson Avenue, Philadelphia, PA. The Complainant alleges that she entered into an agreement with her tenant where she lowered the rent to cover for two common area light bulbs connected to her tenant's meter. On May 4, 2016, PECO found the common area basement and stairway lights connected to the Complainant's tenant's meter. PECO connected service in the Complainant's name and transferred the tenant's balance and advised the Complainant she would need to correct the condition in order to return the service to her tenant. The Complainant states that PECO's demand for her to do electrical rewiring does not make economic sense. The Complainant requests that PECO transfer the balance back to her tenant.

Respondent, PECO Energy filed an Answer on September 26, 2016, stating that the Complainant's formal complaint should be dismissed pursuant to 66 Pa.C.S. §1529.1 and Acc Check Cashing, Inc. vs. Phila. Gas Works, Docket No. C-2008-2056428 (Final Order entered May 21, 2010). PECO Energy filed a Preliminary Objection on September 26, 2016, requesting dismissal of the informal complaint as the company's actions were consistent with the law.

On November 4, 2016, Administrative Law Judge David A. Salapa issued an Initial Decision in the matter of Christine McSorley v. PECO Energy Company, C-2016-2565864 ("Initial Decision"). The Initial Decision sustained PECO's Preliminary Objection and ordered dismissal of the formal complaint for failure to state a claim upon which relief can be granted.

ALJ Salapa's Initial Decision is well-reasoned with ample support from the foreign wiring statute and case law. As detailed in the Initial Decision, the complaint does not set forth that PECO Energy violated any regulation, statute or order. Consistent with 66 Pa. C.S. § 1529.1, if foreign wiring is found at a property owner's premises, PECO Energy is required to transfer the service and the balance into the property owner's name until the condition is corrected.

The Commission should sustain the Initial Decision of ALJ Salapa. The Complainant does not allege that the ALJ made an error of law or abused his discretion in any manner. Instead, Complainant excepts to the decision issued by ALJ Salapa because she simply disagrees with the ALJ's decision and the foreign wiring law. In her Exceptions, the Complainant argues that there is no disagreement between her and her tenant regarding the responsibility for the electric use in dispute. The Complainant argues that her first floor tenant has agreed to accept and take responsibility for the basement lighting and incidental common area lighting at issue, pursuant to an addendum in the tenant's Lease Agreement. The Complainant attaches the addendum to her Exceptions and states:

My point here is that there is NO disagreement between this tenant and the landlord as to whom the utility bill should be assigned. It should not, then, be for the Utility company to inject itself into this agreement between landlord and tenant when the two principal parties (Landlord & Tenant) have no disagreement. Attached is the Addendum stating such responsibility and compensation. Henceforth, all future leases/tenants will have similar agreements and financial accommodation regarding this issue.

In her formal complaint, the Complainant admits that she owns the rental property and there was a foreign wiring condition found. The Complainant believes she should be permitted to assign responsibility for the foreign wiring to her tenant through an Addendum to her Lease Agreement and circumvent 66 Pa. C.S. § 1529.1. However, consistent with 1-A Realty v. PPL Electric Utilities Corp., Docket Nos. F-2010-2166554 and F-2010-2166976 (Order entered April

12, 2012), this is not permissible. The landlord shall be responsible for payment for the utility services rendered to the rental property when in a foreign load is found.

The Commission reached the same conclusion in the matter George Kopf v. PECO Energy Company, Docket No. C-2012-2332993 (Initial Decision entered November 29, 2012). In George Kopf, the Complainant argued that he should not be responsible for his tenant Ms. DelRaso's balance and requested that the PUC order PECO to transfer the tenant's balance back to the tenant. Mr. Kopf argued in his formal complaint that his tenant, Ms. DelRaso agreed to pay for all utilities in the common areas pursuant to her lease agreement. ALJ Salapa granted PECO Energy's Preliminary Objection and dismissed Mr. Kopf's formal complaint in a well-reasoned opinion wherein he stated:

The Public Utility Code at 66 Pa.C.S. § 1529.1, requires that a public utility "shall forthwith list the account for the premises in question in the name of the owner" when a residential building contains one or more dwelling units not individually metered. 66 Pa. Pa.C.S. § 1529.1(b); Ace Check Cashing, Inc. v. Philadelphia Gas Works, Docket No. C-2008-2056428 (Order entered May 21, 2010).

The Complainant apparently believes that the statute at 66 Pa.C.s. § 1529.1 does not apply to this case. The Complainant asserts that he has a lease with Ms. DelRaso that requires her to pay for the electricity used in the common areas and Ms. DelRaso has agreed to continue paying for the electricity used in the common areas. The Complainant argues that, since Ms. DelRaso agreed to pay for the electricity used in the common area, the Respondent improperly transferred her account to him and improperly refused to transfer the account back to Ms. Del Raso..... The Complainant is incorrect for two reasons.

First, the Public Utility Code does not authorize the Respondent to collect load charges from a tenant. In Santos the Commission held that "the utility must...place the account in the landlord's name upon discovery of the foreign load and collect unpaid bills only from the landlord." (emphasis added) Santos at 14.Second, the Complainant's lease with Ms. DelRaso,

where she agreed to pay for the electricity used in the common areas, cannot supersede the provisions of 66 Pa.C.S. § 1529.1.

Mr. Kopf filed Exceptions to ALJ Salapa's Initial Decision. The Commission reviewed and adopted ALJ Salapa's Initial Decision based on the Commonwealth Court decision 1-A Realty v. PPL Electric Utilities Corp. The Commission determined that:

Under Section 1529.1 of the Code, the Commission's rulings related to it, and the Commonwealth Court's decision in *1-A Realty*, it is clear that tenants are not permitted to consent to having foreign load charges attributed to them. In this case, Ms. DelRaso could not accept utility service that was not exclusive to her rented apartment.

George Kopf v. PECO Energy Company, Docket Number C-2012 (Opinion and Order entered, June 13, 2013).

In the case at bar, as ALJ Salapa stated, and the Commission agreed in George Kopf, the Public Utility Code does not permit PECO to collect foreign load charges from the Complainant's tenant. 66 Pa.C.S.A. § 1529.1. When PECO finds foreign load, the company is required to transfer the tenant's account, including any arrearages, into the landlord's name. See 66 Pa.C.S.A. § 1529.1. Second, the Complainant's Addendum to the Lease Agreement where the tenant agrees to accept responsibility for the "incidental" common area lighting and the basement lighting cannot supersede the provisions of 66 Pa.C.S.A. § 1529.1.

PECO Energy properly transferred the utility account of the tenant including arrearages, to the Complainant's name. PECO Energy's actions are consistent with Pennsylvania law. The record clearly demonstrates that the issue of foreign wiring and the balance transfer at the Complainant's rental property has been properly decided and dismissed. Through her exceptions, the Complainant cannot attempt to revise current statutes and case law on the issue of 66 Pa.C.S. § 1529.1. ALJ Salapa correctly concluded that the Complainant's case should be

dismissed as the complaint fails to state a claim upon which relief can be granted. Accordingly, ALJ Salapa'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
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

