

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PLEASE DOCKET
2006-PR-14 11:10:18

Joseph Scheidly

v.

PECO Energy Company

:
:
:
:
:

C-20065789

ORDER CONTINUING HEARING

By Hearing Notice dated March 15, 2006, a hearing in this matter was scheduled for April 26, 2006 and the matter was assigned to me. On April 6, 2006, I received a Motion for Summary Judgment from complainant Joseph Scheidly. Although the Motion indicated that it had been served on counsel for respondent PECO Energy Company, it had not been filed with the Commission's Secretary. For the purpose of this Order, I am assuming that the Motion will be properly filed.¹

In order to allow PECO an opportunity to respond to the Motion, and the Motion to be considered by me (assuming proper filing), the hearing scheduled for April 26, 2006 will be continued.

THEREFORE,

DOCUMENT
FOLDER

DOCKETED
JAN 10 2007

IT IS ORDERED:

I. That the hearing scheduled for April 26, 2006 at Docket No. C-20065789 is continued pending consideration of the Motion.

Date: April 11, 2006

Maflane R. Chestnut

Maflane R. Chestnut
Administrative Law Judge

¹ If filing is not effectuated, then the Motion will be ignored.

BA

Legal Department

Exelon Business Services Company
2301 Market Street / S23 1
PO Box 8699
Philadelphia, PA 19101-8699

Telephone 215 841 5544
Fax 215 568 3389
www.exeloncorp.com

Business Services
Company

ORIGINAL

Direct Dial. 215 841 6841

May 9, 2006

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

Re: **Joseph M. Scheidly v. PECO Energy Company**
PUC Docket No. C-20065789

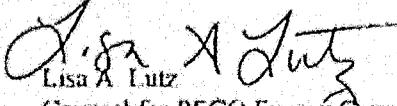
Dear Mr. McNulty:

Enclosed for filing with the Commission are the following documents and copies in the matter referenced above.

- Answer (original and 3 copies)
- Petition (original and 3 copies)
- Answer, New Matter and Motion to Dismiss (original and 3 copies)
- Motion to Dismiss (original and 3 copies)
- Reply to Motion for Summary Judgment/Petition (original and 3 copies)
- Exceptions (original and 9 copies)
- Reply Exceptions (original and 9 copies)
- Brief (original and 9 copies)
- Reply Brief (original and 9 copies)

Also enclosed is an extra copy of this letter, which I request that you date stamp and return to me in the envelope provided as proof of filing. I have enclosed a Certificate of Service showing that a copy of the above document was served on the interested parties.

Very truly yours,


Lisa A. Lutz
Counsel for PECO Energy Company

DOCUMENT FOLDER

LAL/zr

Enc.

cc: Administrative Law Judge Marlane R. Chestnut
Joseph M. Scheidly

68

ORIGINAL

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

JOSEPH M. SCHEIDLY

v.

PECO ENERGY COMPANY

:
:
:
:
:
:

DOCKET NO. C-20065789

PECO ENERGY COMPANY'S ANSWER TO
COMPLAINANT'S MOTION FOR SUMMARY JUDGMENT

PECO Energy Company ("PECO" or "PECO Energy"), pursuant to 52 Pa. Code §5.102(b), responds to the Complainant's Motion for Summary Judgment and states:

1. On or about January 16, 2006, Complainant filed a formal complaint with the Pennsylvania Public Utility Commission ("Commission") requesting certain relief and specifically disputing late charges and a credit deposit charged to Complainant's account.
2. On or about February 1, 2006, PECO Energy was served the above-mentioned formal Complaint.
3. On February 22, 2006 PECO Energy filed its Answer to the Complaint denying the material allegations of the Complaint.
4. On February 24, 2006, Complainant filed an Answer to PECO's Answer. This document was submitted to the Secretary of the Commission, with a copy served on PECO.
5. On March 15, 2006 a Hearing Notice in this matter was issued by the Commission setting a hearing on April 26, 2006, before Administrative Law Judge Marlane R. Chestnut ("ALJ Chestnut").

DOCUMENT
FOLDER

DOCKETED
NOV 01 2006

6. On or about April 6, 2006, the Complainant served a copy of a Motion for Summary Judgment on PECO and on ALJ Chestnut, but not properly filed with the Commission's Secretary.

7. On April 11, 2006, Administrative Law Judge Chestnut issued an Order Continuing the Hearing scheduled for April 26, 2006, in order to allow PECO an opportunity to Answer Complainant's Motion for Summary Judgment. In her Order, ALJ Chestnut also directed the Complainant to effectuate service by filing the Motion for Summary Judgment with the Commission's Secretary, and also serving a copy of the properly filed Motion to PECO.

8. On or about April 17, 2006, the Complainant then filed the Motion for Summary Judgment with the Commission's Office of Administration (sic) Law Judge at the Commission. The Complainant failed to file the Motion for Summary Judgment as directed by ALJ Chestnut. On May 2, 2006, PECO obtained a copy of the Motion for Summary Judgment submitted to the Office of Administrative Law Judge at the Commission.

9. In Complainant's Motion for Summary Judgment, Complainant states "PECO in their answer giving no genuine issue of material fact refused to answer complainants complaint or plead a defense." (sic., Complainant's Motion for Summary Judge, pg. 1).

10. PECO opposes the Complainant's Motion for Summary Judgment because Complainant errs in stating that PECO improperly/refused to answer the Complainant's Complaint. On the contrary, PECO specifically denied the material allegations of Complainant's Complaint in PECO's Answer that was properly filed on February 22, 2006, with service to Complainant.

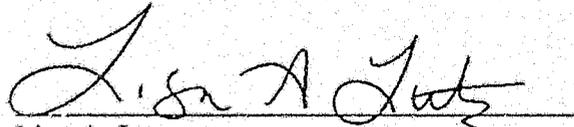
11. PECO Energy denies the Complainant's allegations that the charges complained about are not permissible under PA law. PECO Energy avers that (1) the late charges applied to Complainant's delinquent account, and (2) the credit deposit charged to his account due to his credit payment history on the account, are permissible under Pennsylvania law. The credit deposit is permitted pursuant to 52 Pa. Code § 56.41. Late charges are permitted pursuant to 52 Pa. Code § 56.22. Late charges and the credit deposit are also permitted pursuant to PECO Energy's Electric Service Tariff, Pa. P.U.C. No. 3 as filed with the Commission.

12. PECO's rates and charges have been approved by and are regulated by the Public Utility Commission and/or the Federal Energy Regulatory Commission. The charges are regulated by the Public Utility Commission ("PUC"); and they are contained within PECO Energy's Electric Service Tariff, Pa. P.U.C. No. 3, and Gas Service Tariff, Pa. P.U.C. No. 2 approved by and on file with the PUC. The Tariff provisions approved by the PUC are prima facie reasonable. 66 Pa. C.S.A. § 316 (1999); See also, Kossman v. Pennsylvania Public Utility Commission, 694 A.2d 1147 (Pa. Cmwlth. 1997). Moreover, tariffs that have been approved by the PUC have the full force and effect of law and are binding on both the utility and its customers. Brockway Glass Co. v. Pennsylvania Utility Commission, 437 A.2d 1067 (Pa. Cmwlth. 1981).

13. The Complaint filed by Complainant fails to set forth any violation by PECO Energy of either the Public Utility Code, the regulations of the PUC or PECO Energy's Electric Service Tariff as required by 52 Pa. Code §5.22(a)(4). West Penn Power Co. v. Pa. Public Utility Commission, 84 Pa. Cmwlth. Ct. 157, 478 A.2d 947 (1984).

WHEREFORE, PECO Energy Company respectfully requests that your
Honorable Commission deny the Complainant's Motion for Summary Judgment.

Respectfully Submitted,

A handwritten signature in cursive script, reading "Lisa A. Lutz", written over a horizontal line.

Lisa A. Lutz
Counsel for PECO Energy Company
2301 Market Street, S23-1
P.O. Box 8699
Philadelphia, PA 19101-8699
(215) 841-6841
lisa.lutz@exeloncorp.com

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

JOSEPH M. SCHEIDLY

v.

PECO ENERGY COMPANY

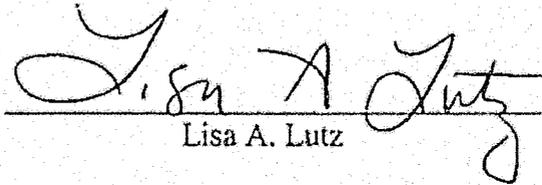
:
:
:
:
:

DOCKET NO. C-20065789

VERIFICATION

I, Lisa A. Lutz, 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: May 9, 2006



Lisa A. Lutz

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

JOSEPH M. SCHEIDLY

v.

PECO ENERGY COMPANY

:
:
:
:
:

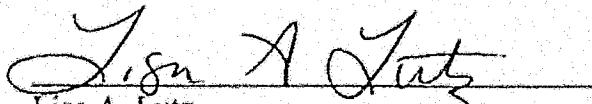
DOCKET NO. C-20065789

CERTIFICATE OF SERVICE

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

JOSEPH M. SCHEIDLY
606 Dutton Street
Aston, PA 19014

Dated at Philadelphia, Pennsylvania, May 9, 2006.



Lisa A. Lutz
Counsel for PECO Energy Company
2301 Market Street, S23-1
P.O. Box 8699
Philadelphia, PA 19101-8699
(215) 841-6841
lisa.lutz@exeloncorp.com

PLEASE DOCKET

Joseph M. Scheidly
606 Dutton Street
Aston, Pa. 19014
(610) 485 - 4274
May 12, 2006

Commonwealth of Pennsylvania
Pennsylvania Public Utility Commission
Office of Administration law Judge
P.O. BOX 3265
Harrisburg, Pa 17105 - 3255

RE : Joseph M. Scheidly v. Peco Energy Company
Docket No. C - 20065789

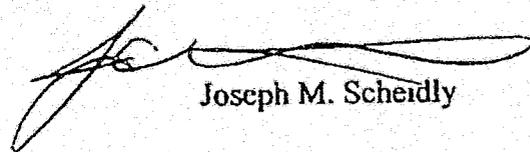
Enclosed for filing is the original and 3 copies of my motion for entry of judgment with attached proof of service and verification

Would you kindly time stamp one copy and return it in the provided self addressed stamped envelope .

Also find attached of my most recent correspondence with PECO'S regulatory assessor

**DOCUMENT
FOLDER**

Sincerely



Joseph M. Scheidly

cc: Lisa A. Iutz
Attorney for PECO
Representative Stephen Barrar
Willow Brook Shopping Center
Boothwyn, Pa 19061

The Governor of Pennsylvania
The Honorable Edward Rendel
225 Main Capitol Building
Harrisburg, Pa. 17120

BTL

RECEIVED
MAY 15 2006

12:21 PM

PECO Energy Company
2301 Market Street
PO Box 8699
Philadelphia, PA 19101-8699

www.exeloncorp.com



An Exelon Company

March 15, 2006

Joseph Scheidly
606 Dutton St.
Chester, Pa 19014
50-18-53-044516

Dear Mr. Scheidly,

My attempts to reach you have been unsuccessful. After further review of your account and taking in to consideration that you have been making regular payments I would like to offer to cancel the deposit of \$184.00 and credit any payments plus interest that you have made towards this amount. Hopefully this will satisfy your complaint.

Please contact me at 215-841-4087 to discuss this matter or if you have any additional questions.

Sincerely,

Louis E. DuBois
Louis E. DuBois
Regulatory Assessor

Dear Mr. Dubois:

I am returning your letter with the following reason.

I am sure you are aware the true matter of this letter does not represent creditability but a complaint of double late charges in violation to double jeopardy arising under Article 1 sec 10 of the Pennsylvania Constitution now pending as a formal complaint with the Pennsylvania Public Utility commission, I am not ready to accept your offer and betray every other person effected by your double late charges .In other words no thanks to your offer.

Joseph M. Scheidly
April 10, 2006

IN THE
COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
OFFICE OF THE ADMINISTRATION LAW JUDGE

JOSEPH M. SCHEIDL Y

v

PECO ENERGY COMPANY

:
:
:
:
:

DOCKET NO. C-20065789

MOTION FOR ENTRY OF JUDGMENT

The complainant Joseph M. Scheidly files this motion for entry of judgment in response to PECO Energy's answer to complaints motion for summary judgment (Copy attached here to)

Although I think Peco Energy's answer to the Motion for Summary Judgment should be barred by Estoppel because a complaint and answer has already been filed with the James McNulty secretary of Pennsylvania Public Utility Commission and now moved to the Office of the Administration Judge (subordinate to a court of law) and the one who called a hearing by letter of March 15, 2006

But to insure against any possible doubt I respond with the following.

The respondent PECO energy in their answer(copy attached) gives no genuine issue of fact and fails to answer the complainants allegation in his motion for Summary Judgment stating "Mr. Scheidly in a cause of action requests a hearing to address his rights against double jeopardy arising under Article 1 sec 10 of the Pennsylvania Constitution" accordingly the respondent is requesting judgment as a matter of law in his favor. See *Zearfoss v Frattaroli* 646 A.2d 1238 ,435 Pa. super. 565 ,*Super. 1994.*

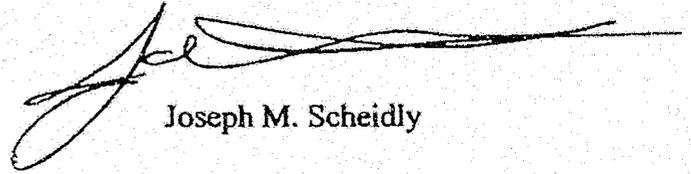
May I remind this administration the complainants Motion of Summary Judgment represents a cause of action and has to be answered under the United States Supreme Court law in the case of *Winsdor v. Mcveigh* 93 U.S.274 stating

DOCUMENT
FOLDER

DOCKETED
DEC 15 2006

*The Doctrine , that once a court has acquired jurisdiction
It has a right to decide every question which arises under
the cause , and it's judgment how ever erroneous , can
not be collaterally assailed , is only correct when the
court proceeds ,after acquiring jurisdiction of the cause
according to the established modes governing the class to
which the case belongs, and does not transcend ,in the
extent or characts of it's judgment , the law which is
applicable to it.*

Respectfully Submitted

A handwritten signature in black ink, appearing to read 'Joseph M. Scheidly', with a long horizontal flourish extending to the right.

Joseph M. Scheidly

Date May 12, 2006

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

JOSEPH M. SCHEIDLY

v.

PECO ENERGY COMPANY

:
:
:
:
:

DOCKET NO. C-20065789

PECO ENERGY COMPANY'S ANSWER TO
COMPLAINANT'S MOTION FOR SUMMARY JUDGMENT

PECO Energy Company ("PECO" or "PECO Energy"), pursuant to 52 Pa. Code §5.102(b), responds to the Complainant's Motion for Summary Judgment and states:

1. On or about January 16, 2006, Complainant filed a formal complaint with the Pennsylvania Public Utility Commission ("Commission") requesting certain relief and specifically disputing late charges and a credit deposit charged to Complainant's account.
2. On or about February 1, 2006, PECO Energy was served the above-mentioned formal Complaint.
3. On February 22, 2006 PECO Energy filed its Answer to the Complaint denying the material allegations of the Complaint.
4. On February 24, 2006, Complainant filed an Answer to PECO's Answer. This document was submitted to the Secretary of the Commission, with a copy served on PECO.
5. On March 15, 2006 a Hearing Notice in this matter was issued by the Commission setting a hearing on April 26, 2006, before Administrative Law Judge Marlane R. Chestnut ("ALJ Chestnut").

6. On or about April 6, 2006, the Complainant served a copy of a Motion for Summary Judgment on PECO and on ALJ Chestnut, but not properly filed with the Commission's Secretary.

7. On April 11, 2006, Administrative Law Judge Chestnut issued an Order Continuing the Hearing scheduled for April 26, 2006, in order to allow PECO an opportunity to Answer Complainant's Motion for Summary Judgment. In her Order, ALJ Chestnut also directed the Complainant to effectuate service by filing the Motion for Summary Judgment with the Commission's Secretary, and also serving a copy of the properly filed Motion to PECO.

8. On or about April 17, 2006, the Complainant then filed the Motion for Summary Judgment with the Commission's Office of Administration (sic) Law Judge at the Commission. The Complainant failed to file the Motion for Summary Judgment as directed by ALJ Chestnut. On May 2, 2006, PECO obtained a copy of the Motion for Summary Judgment submitted to the Office of Administrative Law Judge at the Commission.

9. In Complainant's Motion for Summary Judgment, Complainant states "PECO in their answer giving no genuine issue of material fact refused to answer complainants complaint or plead a defense." (sic., Complainant's Motion for Summary Judge, pg. 1).

10. PECO opposes the Complainant's Motion for Summary Judgment because Complainant errs in stating that PECO improperly/refused to answer the Complainant's Complaint. On the contrary, PECO specifically denied the material allegations of Complainant's Complaint in PECO's Answer that was properly filed on February 22, 2006, with service to Complainant.

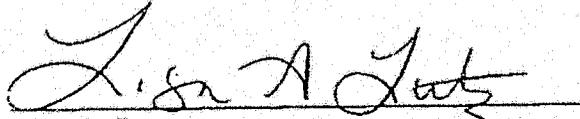
11. PECO Energy denies the Complainant's allegations that the charges complained about are not permissible under PA law. PECO Energy avers that (1) the late charges applied to Complainant's delinquent account, and (2) the credit deposit charged to his account due to his credit payment history on the account, are permissible under Pennsylvania law. The credit deposit is permitted pursuant to 52 Pa. Code § 56.41. Late charges are permitted pursuant to 52 Pa. Code § 56.22. Late charges and the credit deposit are also permitted pursuant to PECO Energy's Electric Service Tariff, Pa. P.U.C. No. 3 as filed with the Commission.

12. PECO's rates and charges have been approved by and are regulated by the Public Utility Commission and/or the Federal Energy Regulatory Commission. The charges are regulated by the Public Utility Commission ("PUC"); and they are contained within PECO Energy's Electric Service Tariff, Pa. P.U.C. No. 3, and Gas Service Tariff, Pa. P.U.C. No. 2 approved by and on file with the PUC. The Tariff provisions approved by the PUC are prima facie reasonable. 66 Pa. C.S.A. § 316 (1999); See also, Kossman v. Pennsylvania Public Utility Commission, 694 A.2d 1147 (Pa. Cmwlth. 1997). Moreover, tariffs that have been approved by the PUC have the full force and effect of law and are binding on both the utility and its customers. Brockway Glass Co. v. Pennsylvania Utility Commission, 437 A.2d 1067 (Pa. Cmwlth. 1981).

13. The Complaint filed by Complainant fails to set forth any violation by PECO Energy of either the Public Utility Code, the regulations of the PUC or PECO Energy's Electric Service Tariff as required by 52 Pa. Code §5.22(a)(4). West Penn Power Co. v. Pa. Public Utility Commission, 84 Pa. Cmwlth. Ct. 157, 478 A.2d 947 (1984).

WHEREFORE, PECO Energy Company respectfully requests that your
Honorable Commission deny the Complainant's Motion for Summary Judgment.

Respectfully Submitted,

A handwritten signature in cursive script, reading "Lisa A. Lutz", written over a horizontal line.

Lisa A. Lutz

Counsel for PECO Energy Company

2301 Market Street, S23-1

P.O. Box 8699

Philadelphia, PA 19101-8699

(215) 841-6841

lisa.lutz@exeloncorp.com

IN THE
COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
OFFICE OF THE ADMINISTRATIVE LAW JUDGE

JOSEPH M., SCHEIDL Y

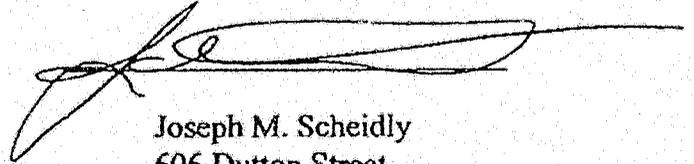
v.

DOCKET NO C - 2006579

PECO ENERGY COMPANY

CERTIFICATE OF SERVICE

I Joseph M. Scheidly (complainant) hereby certifies I have served on Peco Energy Company
VIA there attorney Lisa A. Lutz by first class mail a true and correct copy of my motion for
entry of judgment May12 , 2006



Joseph M. Scheidly
606 Dutton Street
Aston, Pa. 19014

Date executed May 12 , 2006

IN THE
COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
OFFICE OF THE ADMINISTRATION JUDGE

JOSEPH M. SCHEIDLY

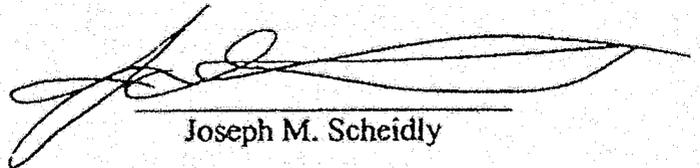
V

DOCKET NO. C- 20065789

PECO ENERGY COMPANY

VERIFICATION

I, Joseph M. Scheidly hereby under penalty of law state the facts set forth in my motion for entry of judgment are true to the best of my knowledge ,



Joseph M. Scheidly

Date May 12, 2006