PECO
An Exelon Company

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

Direct Dial: 215-841-6863

Email:Ward.Smith@exeloncorp.com

July 24, 2017

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

RE: Mary Paul v. PECO Energy Company
Docket No. C-2015-2475355

Dear Ms. Chiavetta:

Enclosed for filing are the Reply Exceptions of PECO Energy Company.

Very truly yours,

Ward L. Smith
Counsel for PECO Energy Company

WS/ab
Enclosure

cc: Darlene D. Heep, ALJ
Mary Paul

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Mary Paul	:	
	:	Docket No. C-2015-2475355
v.	:	
	:	
PECO Energy Company	:	

CERTIFICATE OF SERVICE

I, Ward L. Smith, hereby certify that I have this day served a copy of the Reply Exceptions of PECO Energy Company in the above matter upon all interested parties via e-mail to:

Mary Paul
239 Honey Locust Drive
Avondale, PA 19311
mpaul15@verizon.net

Dated at Philadelphia, Pennsylvania, July 24, 2017

Ward L. Smith
Counsel for PECO Energy Company
2301 Market Street, S23-1
Philadelphia, PA 19101-8699
(215) 841-6863
Fax: 215.568.3389
Ward. Smith@exeloncorp.com

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Mary Paul	:	
	:	
v.	:	**C-2015-2475355**
	:	
PECO Energy Company	:	

PECO Energy Company's Reply to the Exceptions of Mary Paul

Contents

PECO Energy Company's
Reply Exceptions

I. Introduction

On June 23, 2017, the Commission issued the Initial Decision of Administrative Law Judge Darlene Heep in this matter. On July 13, 2017, Complainant Mary Paul filed and served her Exceptions, which are comprised of four numbered and headed exceptions. PECO hereby files its Reply to Ms. Paul's Exceptions. In this Reply, PECO answers the individual exceptions in the order presented and demonstrates that the Initial Decision is correct and should be adopted by the Commission.

II. Reply to Exceptions

1. The ALJs properly struck the First Amended Complaint

Ms. Paul's First Exception (pp. 2-4) is that the ALJs[1] were incorrect in striking her First Amended Complaint.

The case chronology is important to understanding why it was appropriate to strike the First Amended Complaint. On April 1, 2015, Ms. Paul filed her initial formal Complaint in this matter. On March 17, 2016 the Commission issued an Order setting the case for evidentiary hearing. After several continuances were granted, in late September Ms. Paul asked for an additional six-week continuance. In a September 30, 2016 Order, ALJs Heep and Pell granted that request and scheduled the hearings for November 15-16, 2016. In the September 30 Order,

[1] At the time the First Amended Complaint was stricken, both ALJ Heep and ALJ Pell were presiding, and the September 30, 2016 Order that struck the First Amended Complaint was signed by both officers.

the ALJs recounted the lengthy history of the proceeding and stated (p. 8): "The parties are advised that we cannot have an endless cycle of rescheduled hearing dates and continuances."

Late on the afternoon of November 9, 2016 – over 19 months after the proceeding was first initiated and five calendar days (two business days) before the hearings were scheduled to begin -- Ms. Paul filed a First Amended Complaint in which she attempted to materially increase both the scope of her claims and her requested relief.

On November 11, 2016, PECO filed its Motion to Strike the First Amended Complaint. A copy of PECO's Motion is attached to this Reply as Exhibit 1 and incorporated by reference. In that Motion, PECO demonstrated that the First Amended Complaint, if allowed, would have materially changed the scope of the proceeding. In particular, Ms. Paul's original Complaint claimed that she had been made sick beginning about August 2014 by AMI meters installed at her neighbors' homes; for relief she requested that she not be required to have an AMI meter installed at her home. In the First Amended Complaint she claimed that she had been made sick beginning in about 2002 by PECO's AMR meter at her home, HVAC control technology at her home, and by AMI meters installed at her neighbors' homes; for relief she requested that PECO be required to shut down its entire AMI system throughout its service territory and replace it with a fiber optic system and that PECO be required to remove her existing AMR meter and provide service to her residence via a non-transmitting analog meter. This was a material expansion of both issues and relief.

In its Motion, PECO also demonstrated that allowing the First Amended Complaint, with that greatly expanded scope, to become a part of this proceeding over a year-and-a-half into the proceeding -- but only a few days before hearing -- would have prejudiced PECO's due process rights.

On November 13, 2016, Ms. Paul replied by brief email, a copy of which is appended as Exhibit 2. The email stated that all Ms. Paul had done was clarify her Complaint, that she did not intend to prejudice PECO, and that if PECO needed more time to prepare to respond to the First Amended Complaint "that is its prerogative."

On November 14, 2016, ALJs Heep and Pell issued an 11-page Interim Order Granting PECO's Motion to Strike. In that Interim Order, the ALJs concluded that allowing the late-filed Amended Complaint would be prejudicial to PECO's due process rights and struck the First Amended Complaint.

In her First Exception (pp. 2-4), Ms. Paul argues that the ALJs were incorrect in striking the First Amended Complaint. She makes the following arguments:

1. That the First Amended Complaint was timely filed;
2. That she actually did mention AMR meters in her original Complaint and her Answer to New Matter, and therefore the First Amended Complaint was not an expansion of the matters set forth in the initial Complaint;
3. That her rights were violated because, if the First Amended Complaint had been allowed, she would have put on a much more extensive case;
4. She believes that her November 13, 2016 email reply was not given full consideration; and
5. The Initial Decision does not accurately state why she wanted the six-week continuance from October to November.

PECO replies as follows:

1. The claim that her filing was timely: PECO addressed this issue throughout its November 11 Motion to Strike and demonstrated that, when viewed against the history of the

case and PECO's due process rights, the First Amended Complaint was impermissibly broad and late. The ALJs November 14 Order directly addressed the timeliness issue (p. 10), stating that the procedures that allow amendments to pleadings, 52 Pa. Code §§ 1.81 and 5.91, "are not without boundary . . . . [T]he timing of the Complainant's filing of her amended complaint this late in the proceeding is clearly prejudicial to PECO. . . . More than seven months have passed since this matter was remanded by the Commission. The Complainant clearly had more than enough time to file an amended Complaint that would have allowed PECO adequate time to respond." In her Exceptions, Ms. Paul has simply re-asserted her claim of timeliness without providing any reason to believe that the ALJs' analysis of timing is incorrect.

2. The claim that she mentioned AMR in the original complaint and Answer to New Matter and therefore the First Amended Complaint was not an expansion of the scope of the proceeding: This assertion was addressed in PECO's Motion to Strike, pp. 1-2, where it demonstrated that Ms. Paul's initial Complaint was limited to her claim that her neighbors' AMIs had harmed her beginning in August 2014 and that she therefore did not want an AMI meter installed at her home. That document in no way put PECO on notice that it would be required to defend a claim that its AMR system had allegedly harmed Ms. Paul beginning in 2002, or that it would need to defend against a request for relief that it should be required to shut down its entire AMI system and replace it with a fiber optic system or that it should be required to remove Ms. Paul's AMR meter. The ALJs properly reached this conclusion at page 11 of their November 14 Order.

The only new argument that Ms. Paul brings to the table at this time is her claim that, in her June 23, 2015 Answer to New Matter, she put PECO on notice that she was upset with its AMR technology – and that it therefore had been informed, in an early pleading, that she intended to challenge the AMR system. That is not the case. Ms. Paul's Reply to New Matter

does not have page numbers, but in the portion that Ms. Paul labelled as her "New Matter," numbered Paragraph 2 states: "Because of the fires and my EHS, PECO should accommodate my keeping the current AMR meter. PECO and the PUC have the responsibility to provide safe and reliable utility service." There is no way that Ms. Paul's June 23, 2015 *request to keep the AMR meter* put PECO on notice that in November 2017 Ms. Paul would want to challenge her AMR meter and put on an evidentiary case against it. The ALJs were correct to disallow her last minute attempt, nearly 19 months later after this case began, to pivot the case a few days before hearing to become an anti-AMR case.

3. The claim that her rights were violated because if the First Amended Complaint was allowed she would have put on a more extensive case: First: This argument, in and of itself, proves PECO's contention that there was a material difference in scope between the original Complaint and the First Amended Complaint. Each issue that Ms. Paul claims she would have explored, but could not explore, is part of the materially expanded scope that warranted striking the First Amended Complaint. Second: Ms. Paul's rights were not violated by striking the First Amended Complaint because, as the ALJs correctly noted (November 14 Order, p. 10): "More than seven months have passed since this matter was remanded to the Commission. The Complainant clearly had more than enough time to file an amended Complaint that would have allowed PECO adequate time to respond." Ms. Paul's rights were not violated; she waited too long to exercise them.

4. The claim that her email reply was not given full consideration: As noted above, in her November 13 email, Ms. Paul claimed that all she had done was clarify her Complaint, that she did not intend to prejudice PECO, and that if PECO needed more time "that is its prerogative." As PECO has demonstrated, Ms. Paul's First Amended Complaint did far more than simply

clarify her original Complaint; she was altering the scope of the proceeding in a very substantial way. The ALJs fully considered that issue and spoke directly to it in their Interim Order.[2] Moreover, it makes no difference whether Ms. Paul *intended* to prejudice PECO because her actions in fact did prejudice PECO – as the ALJs specifically held in the Interim Order.[3] As to it being "PECO's prerogative" to take more time, the ALJs had already preemptively ruled against that argument when they advised the parties, in their September 30, 2016 Order Granting Continuance, that further hearing delays would not be allowed. All of the issues raised in Ms. Paul's email reply thus were given full consideration by the ALJs.

5. The claim that the Initial Decision does not accurately state why Ms. Paul wanted the six-week continuance from October to November. It is not clear how this argument is related to the question of whether the First Amended Complaint should have been stricken. It appears that Ms. Paul is arguing that she first became aware of her AMR claims just before the final six-week continuance because around that time she experienced many symptoms even though she did not have an AMI installed. She states (Exceptions, p. 4) that her belief that her symptoms were caused by her AMR was further informed because her physician, Dr. Talmor, said that there were "high readings" (of radiofrequency fields) "in the vicinity of the AMR meter." Ms. Paul claims that the Initial Decision is inaccurate in its discussion of this issue, but the Initial Decision

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[2] November 14 Interim Order at 11: "Ms. Paul contends in her email reply to PECO's Motion that she did nothing more than exercise her right to amend her Complaint in order to clarify it. If that were the case, the First Amended Complaint would be allowed. However, the pleading as filed goes far beyond simple clarification. The subject of the Complaint at issue is the installation of the smart meter, or AMI meter, at Complainant's home. The proceedings cannot be expanded at this late date to encompass all smart meters, the entire AMI meter platform, an HVAC meter or an AMR meter that Complainant has had at her home since 2002."

[3] November 14 Interim Order at 10: "Second, as noted by PECO, the timing of the Complainant's filing of her amended complaint this late in the proceeding is clearly prejudicial to PECO. . . Allowing such an amendment at this stage of the proceeding would be prejudicial against PECO."

states (p. 4) the same rationale as Ms. Paul: that the Complainant sought the six-week delay "on the grounds that she was suffering from the ill effects of the AMR meter currently located at her residence. . . ." There is no mismatch between the information now being described by Ms. Paul and the Initial Decision.

Perhaps more importantly, the timing described by Ms. Paul underscores that she knew about her concerns with PECO's AMR meter more than six weeks before the scheduled November hearing, but still did not take steps to amend her complaint to include those claims *until the eve of hearing*. The ALJs were correct not to allow that last-minute amendment.

2. The Initial Decision correctly did not admit the testimony of Dr. Marino

Ms. Paul's Second Exception (pp. 4-14) is that she should be allowed to admit into the record in her proceeding what she calls the "generic" testimony of Dr. Andrew Marino, who appeared as a witness and testified on September 15-16, 2016 and on January 25, 2017 in *Maria Povacz v PECO*, C-2015-2475023; *Laura Sunstein Murphy v. PECO*, C-2015-2475726; and *Cynthia Randall and Paul Albrecht v. PECO*, C-2016-2537666. All three complainants are represented by the same attorneys and Dr. Marino's testimony is a part of the record of each action.[4]

Ms. Paul first made a request to admit Dr. Marino's testimony during the November 15-16, 2016 evidentiary hearing in her proceeding. *See* Tr. 89-94. PECO objected and the ALJ sustained PECO's objection, but stated that Ms. Paul could brief the issue. Ms. Paul subsequently briefed the issue, writing a few pages (pp. 27-29) in her March 6, 2017 Main Brief.

[4] By agreement, for transcription purposes Dr. Marino's testimony was designated as part of the *Povacz* evidentiary record.

Normally, PECO would have responded to those arguments in its Reply Brief, which was due on March 27, 2017. However, by email order of March 9, 2017, ALJ Heep ordered PECO to separately file its reply to the Marino request on an accelerated schedule, by March 20, 2017. On that date, PECO filed a seven-page Reply of PECO Energy Company to Complainant's Request to Admit the Transcript of the Testimony of Dr. Marino Into the Record In This Proceeding. A copy of PECO's Reply is attached as Exhibit 3 and incorporated by reference. Ms. Paul then requested, and was granted leave, to file a Reply to PECO's Reply, which she did by filing a separate seven-page reply on March 27, 2017. Most of Ms. Paul's March 27, 2017 Reply is set out verbatim in her Second Exception.

In PECO's March 20, 2017 filing, it established that Ms. Paul was effectively asking that Dr. Marino be allowed to "appear" on her behalf as an expert witness; that the deadline for identifying experts had long passed when she first requested that his testimony be allowed; and that it would violate PECO's due process rights to allow the testimony of Dr. Marino to be admitted at the time and in the manner requested by Ms. Paul. The Initial Decision (p. 13) ruled in PECO's favor on this issue and held that the testimony of Dr. Marino would not be admitted into the record in this proceeding.

In her Second Exception, Ms. Paul refers repeatedly to Dr. Marino's "testimony," but she is in fact actually referring to two distinct artifacts. As noted, Dr. Marino appeared as an expert witness in the *Povacz, Murphy*, and *Randall-Albrecht* cases on September 15-16, 2016 and January 25, 2017. The request that Ms. Paul made at her November hearing was to admit the transcript of Dr. Marino's oral testimony from September. (During the briefing period, Ms. Paul expanded this claim to include a request to introduce the January 25 testimony. An email sent to

the ALJ and PECO a few days after she filed her Main Brief, to which she attached the transcript pages for which she sought admission, is attached as Exhibit 4.)

Throughout her Second Exception, however, Ms. Paul quotes at length from a completely different document: Dr. Marino's *expert report* from the *Povacz/Murphy/Randall-Albrecht* proceedings. *See especially*, pp. 6-8 of her Exceptions. It should be noted that, even in the *Povacz/Murphy/Randall-Albrecht* proceedings, Dr. Marino's expert report was not admitted into the record. In fact, it was never even offered into evidence in those proceedings.[5]

It appears that, after the hearing, Dr. Marino posted his expert report online at his personal website, characterizing it as his Pennsylvania "testimony." But that characterization is simply not true. His expert report was never admitted into evidence in any Commission proceeding.

PECO will thus focus this reply on Ms. Paul's request to admit the transcript of testimony, but all of the arguments apply with even greater force to the non-evidentiary expert report that Ms. Paul also discusses at length.

In her Second Exception, Ms. Paul makes the following arguments:

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[5] *See* Transcript in *Povacz v PECO*, C-2015-2475023, September 15, 2016 at 562. Complainants' counsel Mr. Harvey, in discussing matters preliminary to Dr. Marino's oral testimony, identified the exhibits that would be discussed during Dr. Marino's testimony and stated: "Your Honor, for the record, we have five demonstrative exhibits and then the sixth exhibit is *the report of Dr. Marino with its own two exhibits. Expert testimony – expert reports don't go into evidence.* It's merely in the record for purposes of identification and I know that Mr. Watson is going to refer to it today, so we're identifying it for the record." This position was reiterated at the end of Dr. Marino's testimony the next day, *Povacz* Tr. 871-874. Counsel was having a discussion about how best to create a clear record, and Mr. Harvey proposed to include a list of citations from Dr. Marino's report but "*not the entire Marino report.* Tr. 873. Even the limited request to admit a list of citations was withdrawn after further discussion among counsel.

1. That she should be allowed to use Dr. Marino's testimony in *Povacz, et al.* because, when the deadline passed for designating witnesses in her own case, she had never heard of Dr. Marino and thus could not have timely designated him as an expert;
2. The Marino testimony should be admitted because Ms. Paul is *pro se* and does not have the resources to hire an expert witness;
3. That Dr. Marino's testimony is generic in nature and that, since PECO deposed and cross-examined Dr. Marino, in the *Povacz, et al.* proceedings, its due process rights were not violated;

PECO replies as follows:

1. The claim that the Marino testimony should be admitted because Ms. Paul did not know about Dr. Marino at the deadline to identify witnesses in her case: This argument was addressed in PECO's Reply, pp. 2-3. The deadline for identifying expert witnesses was August 2, 2016 – sixteen months after Ms. Paul filed her Complaint. During those sixteen months, she had an obligation to prepare her case and choose expert witnesses, if any, and identify them on the date set for such identification. Moreover, Dr. Marino testified in *Povacz et al.* on September 15-16 and on September 30, when Ms. Paul requested a continuance of her hearing until November, she took no steps to amend her witness identification or to put PECO on notice so that it could prepare to rebut Dr. Marino in this proceeding. Instead, as with her First Amended Complaint, she waited until the last minute – in this case, until the actual day of hearing -- to raise the issue. She should not be allowed to wait until the last minute and then effectively identify a new expert to "appear" on the day of hearing.

2. The claim that the Marino testimony should be admitted because Ms. Paul is *pro se*. The Commission often gives latitude to *pro se* complainants, but there are limits to that

latitude. Certainly it is appropriate, for example, to allow a *pro se* complainant to not properly follow all of the forms in filing briefs and other documents. In the instant case, ALJ Heep recognized that Ms. Paul was unrepresented and so asked her a series of questions that gave structure to Ms. Paul's direct testimony – another form of latitude. But that *pro se* latitude must end where other parties' rights begin and, as discussed below, it would violate PECO's due process rights to allow the Marino testimony to be admitted in this proceeding.

3. The claim that the Marino testimony should be admitted because his testimony is generic in nature and that PECO had the opportunity to depose and cross-examine Dr. Marino in *Povacz et al.*:

This was addressed at pages 3-16 of PECO's Reply. In a nutshell, PECO notes that the proffered testimony from Dr. Marino is technical, scientific testimony. Preparation to respond to such testimony requires PECO to undertake multiple tasks, which at a minimum include:

> (1) Discovery of the expert regarding the basis for the expert's general opinion
>
> (2) Cross-examination of the expert regarding the basis for the expert's general opinion
>
> (3) Discovery of the expert regarding the expert's knowledge of the Complainant's individual situation, and how his general opinion relates to her specific situation
>
> (4) Cross-examination of the expert regarding his knowledge of the Complainant's individual situation, and how his general opinion relates to her specific situation
>
> (5) Discovery and cross-examination of other witnesses, including the Complainant, regarding the interplay between their testimony and Dr. Marino's expressed opinions
>
> (6) Responsive testimony from PECO' s experts on both the general and specific testimony.

The deposition and cross-examination in *Povacz. et al.* only allowed PECO to perform tasks (1) and (2). The last minute request at the evidentiary hearing to admit the Marino testimony made it impossible for PECO to do tasks (3)-(6). For a case of this complexity and

importance, undercutting that much of PECO's trial preparation opportunity is a violation of due process.

In her Second Exception, Ms. Paul argues at length that all of Dr. Marino's testimony was generic and that there is nothing specific about her claim. This was addressed at pp. 4-5 of PECO's Reply, where it stated:

> It is noteworthy that, in her Main Brief (p. 28), Ms. Paul asserts, with no record evidence, that her claimed symptoms makes her medically similarly-situated to Ms. Kreider, Ms. Povacz, and Ms. Murphy. That statement is simply not true on its face. Ms. Kreider claimed that she had vaccine injury; Ms. Povacz claimed hypothyroidism; Mr. Murphy claimed Ehler-Danlos and lipedema. Each of them claimed that these illnesses caused them to be a unique case that required special treatment. Ms. Paul's unproven assertion that she is the same as all of the other complainants, notwithstanding that she doesn't claim to have any of those conditions, is simply that-an unproven assertion. It should not be allowed as a basis for admitting Dr. Marino's testimony; to the contrary, that is exactly the sort of issue that could have been the fair focus of discovery and cross-examination.

Ms. Paul argues this issue again in her Second Exception, but again she has no record evidence to support her assertion – which is essentially a medical/scientific opinion – that technical scientific testimony regarding one witness can be wholesale transferred to apply to another witness. Her only putative support for this position is quotes from Dr. Marino's expert report – but as noted, that expert report was not even record evidence in *Povacz, et al.*, much less in the instant proceeding, so it also does not constitute record evidence in support of her assertion.

3. The Initial Decision correctly concluded that installation of a smart meter would not be unsafe or unreasonable

The Initial Decision concluded (p. 16) that: "The record evidence supports a finding that installation of a smart meter would not be unsafe or unreasonable." Ms. Paul's Third Exception challenges that finding, claiming (p. 14) that:

> 3. The Court erred in not giving full weight of the evidence in Dr. Talmor's testimony as to my EHS, which could not have been successfully rebutted by Dr. Mark Israel, a pediatric oncologist who had never met me.
>
> The court erred in believing Dr. Mark Israel, a pediatric oncologist who had never met me and never treated a single EHS patient, over my expert witness, Dr. Hanoch Talmor. Dr. Talmor has had over 16 years' experience treating EHS patients.

These two introductory paragraphs to the Third Exception are the only time that Ms. Paul discusses the comparative weight of the evidence; the remainder of the Third Exception is a recitation of Dr. Talmor's testimony.

PECO's Main Brief, pp. 21-33, contains its extensive discussion of the medical and scientific evidence in this case, and it will not be repeated here, but in summary the evidence from Dr. Israel, Dr. Davis, and Mr. Pritchard clearly support the finding of the Initial Decision that installation of a smart meter would not be unsafe or unreasonable.

On the specific issue of whether it is meaningful that Dr. Israel had not met Ms. Paul, Dr. Israel testified at length (Tr. 334-340) regarding the methodology that he used to evaluate Ms. Paul's claims, and he stated that he used the same methodology that he uses to evaluate medical claims in his regular work as a medical doctor, researcher, and teacher. *See* PECO's Main Brief, pp. 30-31, for a summary of Dr. Israel's impressive credentials and experience and more detail

on his evaluation methodology. The fact that he had not previously met Ms. Paul does not undercut that methodology.[6]

4. The herbicide case of *Mattu v West Penn* does not suggest that the Initial Decision is incorrect.

Ms. Paul's Fourth Exception is comprised of an argument heading and a single paragraph that addresses a recent Commission decision related to herbicides. The Fourth Exception, in its entirety, states:

> 4. The Court erred in not considering how, even if legal, the addition of an AMI meter onto my property would case me grievous bodily harm just as the Commission ruled in case # C-2016-2547322, Robert J. Mattu.
>
> I am not asking for a blanket exception from the AMI meters for everyone- just for me based upon my need to avoid all wireless ...due to my EHS. The Commission ruled that these issues have to be decided on a case-by-case basis, and just because the utility followed all the rules, does not mean that a practice is safe for every single customer.

This argument is simply an "opt out" argument dressed in new clothes. The Commission has ruled repeatedly that Act 129 does not allow customers to opt out of the installation of AMI

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[6] One other point should be made. In Ms. Paul's Second Exception (p. 10), she argued in favor of admitting the "generic" testimony of Dr. Marino – who is not a medical doctor – even though he had never met her, stating that:

> Dr. Marino testified that he never met any of the Complainants, never talked to any of them, and only knew what he knew about the complainants what their lawyer told him. If I had been able to afford a lawyer, my lawyer would have told Dr. Marino that I was EHS and I have doctors' medical records to that effect. That is all the information that Dr. Marino would have gotten about me if I could have afforded a lawyer and if I could have afforded to hire Dr. Marino as a second expert witness in my complaint.

But now in her Third Exception, she is suggesting that Dr. Israel's testimony cannot be believed because he had not met her. She cannot have the argument both ways.

meters. Ms. Paul is suggesting that the *Mattu* herbicide case should be read as indirectly creating an Act 129 opt out.

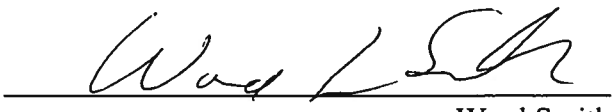
The *Mattu* case does not address Act 129 or AMI meters, and cannot be read as creating an Act 129 opt out. It states that, while a utility must meet its obligation to keep transmission line corridors free of trees and vegetation, in some circumstances it must make accommodations by decreasing or eliminating use of herbicides on certain properties. The most that *Mattu* suggests in the AMI context is that a utility, in meeting its obligation to install AMI meters at all locations, must be reasonable by, for example, offering to relocate the AMI meter at a distance from the residence. (Even Ms. Paul's medical witness, Dr. Talmor, "acknowledged that moving the meter away from the home may help and that the only way to tell would be to try it." I.D., pp. 16-17.) The record is also clear that PECO offered to work with Ms. Paul to relocate her meter to a distance from her house – but she turned down that accommodation because she felt it would decrease her property value. As the Initial Decision stated (pp. 19-20): "To address Ms. Paul's concerns about having an AMI meter installed at her home, PECO broached with Ms. Paul the idea of moving her meter board and location to a remote spot away from her home. She informed PECO at that time and testified at hearing that moving the meter was not acceptable because her homeowner's association might not approve it because it would reduce property values."

PECO also notes that *Mattu* was just decided, is limited to its specific facts and circumstances, and the Commission does not yet have any experience as to how the *Mattu* ruling will affect utility vegetation management operations. Given those limitations, *Mattu* clearly should not be expanded and applied to an entirely different aspect of utility operations.

III. Conclusion

PECO respectfully submits that the Commission should deny the Exceptions of Complainant Mary Paul and issue an Opinion and Order adopting the Initial Decision in this matter.

Respectfully submitted,



Ward Smith
Shawane Lee
Assistant General Counsel
Romulo L. Diaz, Jr.
Vice-President and General Counsel
PECO Energy Company
Ward.smith@exeloncorp.com
Shawane.lee@exeloncorp.com
Romulo.diaz@exeloncorp.com
215-841-6863

Tom Watson
Watson & Renner
tw@w-r.com
202-258-6577
Counsel to PECO Energy Company

July 24, 2017

Exhibit 1

PECO's November 11, 2016 Motion to Strike the First Amended Complaint

PECO
An Exelon Company

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

Direct Dial: 215-841-6863

November 11, 2016

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

RE: Mary Paul v. PECO Energy Company
Docket No. C-2015-2475355

Dear Ms. Chiavetta:

Enclosed for filing is PECO Energy Company's Motion to Strike the First Amended Complaint.

Very truly yours,

Ward L. Smith
Counsel for PECO Energy Company

WS/ab
Enclosure

cc: Christopher P. Pell, ALJ
Darlene D. Heep, ALJ
Certificate of Service

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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v.	:	
	:	
PECO Energy Company	:	

NOTICE TO PLEAD

Pursuant to 53 Pa. Code §5.61, you are hereby notified that you have the opportunity to Answer this Motion. Normally, you would have 20 days to respond unless the presiding officers order a different period for your response. Please be aware that PECO has raised arguments that it believes must be resolved at or before the scheduled November 15 hearing in this matter, and that the presiding officers may therefore accelerate the time for your Answer. You may therefore wish to prepare your position with respect to this Motion in such a time and manner that you are able to fully present that position at the beginning of the scheduled November 15 hearing. If you do prepare a written Answer, you must provide a full copy to counsel for PECO, the Commission and the Administrative Law Judges.

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

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

Dated at Philadelphia, PA, November 11, 2016

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

BEFORE THE
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PECO Energy Company's Motion to Strike
the
First Amended Complaint

On Wednesday, November 9, 2016, PECO was served with a "First Amended Complaint" in this proceeding. As described below, the First Amended Complaint seeks to materially expand the scope of this proceeding. Moreover, this material expansion is being requested only a few days before the scheduled hearing. This combination – material expansion of scope a few days before hearing – is prejudicial to PECO's rights in this proceeding. PECO therefore objects to the First Amended Complaint, and moves that it be stricken.

I. Standard of Review

In its Introduction paragraph, the First Amended Complaint cites to two provisions of the Commission's rules: 52 Pa. Code §§ 1.81 and 5.91. Section 1.81 generally states that an amendment to a pleading may be tendered at any time; Section 5.91 generally states that no amendment to a pleading may be filed within five days of hearing, absent permission from the presiding officer. Ms. Paul apparently has read these two rules as giving her an opportunity to

file an Amended Complaint up until five days before hearing, and served this Amended Complaint two hours before that deadline.[1]

These two rules, however, must be read and applied in the larger context of the Commission's obligation to ensure that all parties' due process rights are protected, which includes the right to meaningfully respond to the new claims. *See.,e.g., Enrico Partners v Blue Pilot Energy*, 2015 WL 1291631 (PaPUC Docket No. C-2014-2432979) (2015) (Amendment of complaint during hearing disallowed because, on the circumstances in that case, allowing such amendment "would deprive Blue Pilot of notice and opportunity to be heard."); *Pennsylvania Public Utility Commission, Bureau of Transportation and Safety v. USA Express Moving and Storage*, 2010 WL 1458129 (PaPUC Docket No. A-00117215C071 (2010) ("[W]hile our regulations allow for amendments to complaints to conform to evidence at hearing, the regulations contemplate some form of notice, *as well as the chance to respond*, will be provided to affected parties." (emphasis added). When viewed against that broader obligation, the First Amended Complaint is impermissibly broad and late.

II. The Amended Complaint materially changes the scope of this proceeding.

The First Amended Complaint materially changes the scope of this proceeding in two important ways.

First, it materially changes the health claims being made by Ms. Paul, both as to the time period during which Ms. Paul claims to have been made ill by PECO's facilities, and the

[1] In fact, because the intervening days included a federal holiday (Veterans' Day), a Saturday, and a Sunday, Ms. Paul filed the First Amended Complaint only two business days before the hearing.

facilities that she claims made her ill. In the original Complaint, which was filed on March 30, 2015, Ms. Paul made the following health claim:

> I have spent the better part of the last seven months researching the wealth of information regarding these meters. Simultaneously, I began to suffer physical symptoms that corresponded to known biological effects associated with this kind of technology.

According to this initially-pled chronology, therefore, Ms. Paul began to suffer symptoms no earlier than August 31, 2014 – seven months prior to filing her original Complaint. In context of the original Complaint, she was clearly complaining about PECO's AMI meters.

The First Amended Complaint now contends (¶18, 21, 30) that she was harmed and began to suffer symptoms as long ago as 2002, with those symptoms caused by PECO's AMR meter; that she suffered symptoms as early as 2011 from a an HVAC control technology not associated with PECO's AMI meter (and which her husband requested to have installed) (¶9), and that she began to suffer symptoms in 2012 from AMI meters and technology installed at other customers' residences in her neighborhood. (¶12, 13). This is a material expansion of the harm she claims to have suffered.

Second, the First Amended Complaint seeks a material expansion of the legal issues and relief beyond what was requested in the original Complaint. In her original Complaint, she asked only that a series of questions be answered and, by implication only and not by specific request, that she not be required to have an AMI meter installed at her home. In the First Amended Complaint, she seeks relief under the Rehabilitation Act of 1973 ¶¶ 14, 17, 24, 27, 40); the Americans with Disabilities Act (¶¶ 16, 17, 24, 27, 40); that PECO "cease and desist all activity of wireless transmissions to or from PECO's Tower Gateway Basestations and to or from *all of PECO's smart meters*") (¶¶ 24, 44) – that is, to essentially shut down the entire AMI

system; that her AMR be removed and replaced with an analog meter (¶¶ 25, 42(1)); and that PECO be required to install a fiber optic system (¶ 42(2)). Again, this is a very material expansion of the relief previously requested.

III. The Expanded Scope Requested in the First Amended Complaint, If Allowed, Would Prejudice PECO's Due Process Rights

In discussing the prejudicial effect of the First Amended Complaint, it is first necessary to briefly review the procedural posture of this matter. As noted above, the First Amended Complaint was served and filed on Wednesday, Nov. 9, 2016. Hearings in this matter are scheduled for November 15-16, 2016.

This matter was initiated by formal complaint approximately 19 months ago, on April 1, 2015. It was originally set for hearing by Commission Order approximately eight months ago, on March 17, 2016. The current hearing dates, which were set based on a continuance request by Complainant, were set approximately six weeks ago, on September 30, 2016. That continuance was granted over PECO's objection, with said objection being largely based on PECO's view that it is necessary and in the public interest to bring this case and the other pending PECO AMI cases to closure without additional delay.

With that background, we can now review the First Amended Complaint's requested expansion of health claims. As noted, the First Amended Complaint seeks to include health claims from 2002-2014, putatively caused by HVAC technology, AMR technology, and transmissions from other AMI meters in the neighborhood. Of course, PECO is prepared to and will present testimony in its case-in-chief that none of the radiofrequency transmissions associated with its equipment have been demonstrated to cause adverse health effects. But the requested expansion of these claims is nonetheless prejudicial to PECO because it has not had

the opportunity to conduct discovery as to these new claims, and in particular discovery as to medical records.

This prejudice is significant. PECO sought and obtained discovery on Ms. Paul's medical records with respect to her more recent health claims and expects to use those records in its cross-examination of Ms. Paul. We are now faced with a Complainant who, a few days before hearing, claims that she was actually sick for over a decade longer than she originally claimed. She apparently did not deem that prior decade-long illness to be worth mentioning in her original Complaint. PECO frankly views such a late-breaking claim with extreme skepticism, and would definitely not consider its preparation complete until it had sought and obtained all available information regarding Ms. Paul's medical record history during that decade. The late filing of the First Amended Complaint makes it impossible for PECO to meaningfully seek those medical records, and thus makes it impossible for PECO to have a meaningful chance to fully respond to the new health claims.

PECO recognizes that, in some situations, prejudice of this sort can be cured by delaying the hearing to allow the opportunity for discovery to occur. PECO respectfully submits that this cure option should not be used in this proceeding. The hearings in this matter have already been continued twice, most recently at Complainant's request and over PECO's objection. As PECO stated in its September 28, 2016 Answer to Complainant's Motion for Continuance (¶5):

> Granting this continuance would be disruptive to the orderly disposition of this case and the other AMI/health cases currently pending before the Commission. . . . . Granting this continuance thus would run the very real risk of pushing the hearing for this matter into 2017.

In Your Honors' September 30 Order Granting Continuance (p. 8) , you specifically noted that further procedural delays would not be allowed, stating: *"The parties are advised that we cannot have an endless cycle of rescheduled hearing dates and continuances."* The "cure" of delaying this proceeding to allow PECO to conduct discovery thus prejudices PECO in another way – it delays the prompt resolution of this and related AMI matters.[2] Put bluntly, it allows Ms. Paul to grant herself another continuance because of the need to cure her dilatory filing. This should not be allowed.

As to the requested expansion of relief, it appears largely to be comprised of matters that are outside of the Commission's jurisdiction (Americans with Disabilities Act; Federal Rehabilitation Act); or impermissible collateral attacks on prior Commission orders (the request that PECO not be allowed to operate the AMI system that the Commission previously approved). If these requests for relief had been contained in the original Complaint, PECO would have had twenty calendar days to analyze and respond to those requests, and would have had the opportunity to develop and file a Preliminary Objection stating its jurisdictional arguments. Ms. Paul would then have had ten days to respond to that Preliminary Objection, and Your Honors would have had time to research, evaluate, and respond to both pleadings – which would have allowed Your Honors to issue a Prehearing Order describing the allowable scope of argument and testimony.

By choosing to file the First Amended Complaint only a few days before hearing, Ms. Paul effectively has guaranteed that this orderly process and evaluation cannot occur. This

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[2] At this time, PECO continues to operate both its AMR and AMI systems in order to collect AMR billing information from the handful of customers whose AMI meters have not been installed. This is an expensive dual system and cannot be allowed to continue indefinitely.

particularly prejudices PECO because it cannot simultaneously write an accelerated version of a Preliminary Objection and prepare for next week's hearings without giving short shrift to both.

PECO also notes that Ms. Paul appears to have purposefully waited until what she thought was the last minute to make this filing. If, as appears to be the case, Ms. Paul was reading 52 Pa. Code §5.91 as giving her an opportunity to file an amended complaint up to five days prior to hearing, it is noteworthy that she served the First Amended Complaint at 2:30 p.m. on Wednesday, Nov. 9 – less than 2 hours before the moment she believed that her deadline would expire (and only two business days before the hearing begins). Given the procedural background of this case, this dilatory choice should not be allowed. The Commission Order sending this matter to hearing was issued eight months ago, and Ms. Paul was recently given a six week continuance to allow her to further prepare her case. If she was going to attempt to alter the scope of this case, she should have used that time wisely to request that expansion at a time and in a way that would have allowed PECO a full opportunity to develop its responsive case. She should not be allowed to wait until a few days before hearing and materially change the scope of both her claimed harm and of the relief requested.

IV. Conclusion

PECO therefore moves to strike the First Amended Complaint in its entirety.

Respectfully submitted,

Ward Smith

Assistant General Counsel
PECO Energy Company
2301 Market Street, S23-1
Philadelphia, PA 19103
215-841-6863
ward.smith@exeloncorp.com

November 11, 2016

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Mary Paul	:	
	:	Docket No. C-2015-2475355
v.	:	
	:	
PECO Energy Company	:	

CERTIFICATE OF SERVICE

I, Ward L. Smith, hereby certify that I have this day served a copy of PECO Energy Company's Motion to Strike the First Amended Complaint in the above matter upon all interested parties via e-mail to:

Via Electronic Mail
Mary Paul
239 Honey Locust Drive
Avondale, PA 19311

Dated at Philadelphia, Pennsylvania, November 11, 2016

Ward L. Smith
Counsel for PECO Energy Company
2301 Market Street, S23-1
Philadelphia, PA 19101-8699
(215) 841-6863
Fax: 215.568.3389
Ward. Smith@exeloncorp.com

Exhibit 2

Ms. Paul's November 13, 2016 Reply Email

PECO
An Exelon Company

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

Direct Dial: 215-841-6863

Email:Ward.Smith@exeloncorp.com

March 21, 2017

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

RE: Mary Paul v. PECO Energy Company
Docket No. C-2015-2475355

Dear Ms. Chiavetta:

Enclosed for filing is the Reply of PECO Energy Company to Complainant's Request to Admit the Transcript of the Testimony of Dr. Marino into the Record in this Proceeding.

This document was served on Complainant and the presiding officers on March 20, 2017.

Very truly yours,

Ward L. Smith
Counsel for PECO Energy Company

WS/ab
Enclosure

cc: Christopher P. Pell, ALJ
Darlene D. Heep, ALJ
Certificate of Service

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Mary Paul	:	
	:	Docket No. C-2015-2475355
v.	:	
	:	
PECO Energy Company	:	

CERTIFICATE OF SERVICE

I, Ward L. Smith, hereby certify that I have this day served a copy of the Reply of PECO Energy Company to Complainant's Request to Admit the Transcript of the Testimony of Dr. Marino into the Record in this Proceeding in the above matter upon all interested parties via e-mail to:

Mary Paul
239 Honey Locust Drive
Avondale, PA 19311
mpaul15@verizon.net

Dated at Philadelphia, Pennsylvania, March 20, 2017

Ward L. Smith
Counsel for PECO Energy Company
2301 Market Street, S23-1
Philadelphia, PA 19101-8699
(215) 841-6863
Fax: 215.568.3389
Ward. Smith@exeloncorp.com

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Mary Paul	:	
	:	
v.	:	**C-2015-2475355**
	:	
PECO Energy Company	:	

Reply of PECO Energy Company
To Complainant's Request to Admit the Transcript of the Testimony of Dr. Marino into the Record In This Proceeding

Contents

Introduction and Summary of Argument

In her Main Brief in this matter, filed on or about March 6, 2017, Complainant Mary Paul requested (pp. 27-29) that "the expert testimony of Andrew Marino, Ph.D., in the *Povacz, Randall/Albrecht,* and *Murphy* complaints should also be admitted into [the instant] Complaint testimony." Complainant first made this request at evidentiary hearing on November 15-16, 2016, at which time her request was denied. She was given leave to brief her request, and did so.

Reply Briefs are due on March 27, 2017. However, by email order of March 9, 2017, Administrative Law Judge Heep ordered PECO to file its reply to the Marino request by March 20, 2017.

PECO opposes Complainant's request. Ms. Paul is essentially requesting that Dr. Marino be allowed to appear as an expert witness on her behalf. The deadline for designating expert witnesses was long passed by the time Ms. Paul made this request at the November hearings. Granting her request in November would have violated PECO's due process rights because the untimely nature of that request made it impossible for PECO to properly prepare to rebut Dr. Marino's testimony as it applies to Ms. Paul. Granting the request now, four months after the hearing record was completed, would compound that prejudice.

Argument

I. Ms. Paul's request is effectively that Dr. Marino be allowed to appear on her behalf as an expert witness.

Ms. Paul has requested that the transcript of Dr. Marino's testimony be admitted into evidence in this proceeding. Moreover, she specifically requests (p. 27) that Dr. Marino's testimony be allowed as expert testimony, stating: "The expert testimony of Andrew Marino, Ph.D. . . . should be admitted." She underscores the expert nature of the role by noting (p. 28) that she did not have money to hire expert witnesses, and that she thus requests that the transcript of Dr. Marino's testimony be admitted to fill that role.

PECO therefore respectfully submits that this request should be evaluated on the same basis as if Ms. Paul had waited until the day of hearing and then attempted to introduce the testimony of a previously non-identified expert. For the reasons set forth below, that would not be allowed, and her parallel request should not be granted.

II. The deadline for designating expert witnesses had long passed when Ms. Paul first requested that Dr. Marino's testimony be admitted into evidence in this proceeding.

This case was originally set for hearing on August 16, 2016. For that hearing date, the deadline for designating expert witnesses was June 16, 2016. *See* April 22, 2016 Prehearing Order. PECO identified its expert witnesses on that date.

The hearing was later continued, at PECO's request, until Oct. 4-5. For that hearing date, the deadline for designating expert witnesses was August 2, 2016. *See* June 23, 2016 Prehearing Order. On August 2, 2016, PECO re-identified its experts. On that same date, Ms. Paul

identified her expert witness – Dr. Hanoch Talmor. No mention was made of Dr. Marino appearing on Ms. Paul's behalf, or of his testimony in other cases being admitted into this proceeding.

Dr. Marino testified in the *Povacz, Randall/Albrecht* and *Murphy* cases on September 15-16, 2016.

On September 27, Ms. Paul requested that her October hearing dates be continued until November. Although Dr. Marino had already testified, in the September 27 request Ms. Paul again made no mention of utilizing Dr. Marino's testimony. Your Honors ultimately granted the requested continuance until Nov. 15-16. *See* September 30, 2016 Order Granting Continuance.

There was a six-week period between Your Honors' grant of Ms. Paul's continuance request and the actual evidentiary hearings. At no time during those six weeks did Ms. Paul mention or request that she be allowed to incorporate the testimony of Dr. Marino into the record in this proceeding. The first such request occurred during the November hearings.

III. It would violate PECO's due process rights to allow the testimony of Dr. Marino to be admitted in the manner requested by Ms. Paul.

The proffered testimony from Dr. Marino is technical, scientific testimony. Preparation to respond to such testimony requires PECO to undertake multiple tasks, which at a minimum include:

(1) Discovery of the expert regarding the basis for the expert's general opinion

(2) Cross-examination of the expert regarding the basis for the expert's general opinion

(3) Discovery of the expert regarding the expert's knowledge of the Complainant's individual situation, and how his general opinion relates to her specific situation

(4) Cross-examination of the expert regarding his knowledge of the Complainant's individual situation, and how his general opinion relates to her specific situation

(5) Discovery and cross-examination of other witnesses, including the Complainant, regarding the interplay between their testimony and Dr. Marino's expressed opinions

(6) Responsive testimony from PECO's experts

In her Main Brief, Ms. Paul correctly notes that PECO had the opportunity to conduct extensive discover and cross-examination of Dr. Marino in *Povacz* and the other "omnibus" cases. PECO notes, however, that its discovery and cross-examination of Dr. Marino in the other complaint proceedings was limited to the basis for Dr. Marino's general opinion – that is, to the matters set forth in items (1) and (2), above.

In the omnibus cases, Dr. Marino also testified about how his general opinion applied to the situation of Ms. Povacz, Ms. Randall, Mr. Albrecht, and Ms. Murphy – that is the parallel of Issues 3 and 4 above – and PECO had the opportunity to prepare for, cross-examine on, and rebut those statements. But PECO has never had the opportunity to conduct discovery as to how Dr. Marino's general conclusions relate to Ms. Paul (Issues 3 and 4 above).

It is noteworthy that, in her Main Brief (p. 28), Ms. Paul asserts, with no record evidence, that her claimed symptoms makes her medically similarly-situated to Ms. Kreider, Ms. Povacz, and Ms. Murphy. That statement is simply not true on its face. Ms. Kreider that claimed that she had vaccine injury; Ms. Povacz claimed hypothyroidism; Mr. Murphy claimed Ehler-Danlos and lipedema. Each of them claimed that these illnesses caused them to be a unique case that required special treatment. Ms. Paul's unproven assertion that she is the same as all of the other complainants, notwithstanding that she doesn't claim to have any of those conditions, is simply

that – an unproven assertion. It should not be allowed as a basis for admitting Dr. Marino's testimony; to the contrary, that is exactly the sort of issue that could have been the fair focus of discovery and cross-examination.

Because PECO did not have notice and opportunity to prepare for Dr. Marino's testimony being a part of the record in this proceeding, it also did not have the opportunity to conduct discovery or cross-examination of Dr. Talmor or Ms. Paul in the context of Dr. Marino's testimony (Issue 5 above).

Finally, and critically, in the *Povacz, Randall/Albrecht* and *Murphy* dockets, PECO had extensive expert testimony that was specifically responsive to Dr. Marino's testimony (Issue 6 above). None of that responsive testimony was elicited in the instant docket – and Ms. Paul made no request to create a balanced record by also requesting to admit PECO's responsive testimony. Granting Ms. Paul's request to admit Dr. Marino's testimony would thus prejudice PECO because, pursuant to that request, PECO has been stripped of its entire opportunity to respond to Dr. Marino's testimony.

PECO also notes that proper evaluation of Dr. Marino's testimony would have required the parties to fully parse the testimony as Proposed Findings of Fact in their Main Briefs. Admitting the testimony at this point in the process would thus guarantee that it receives a very different, short-shrifted level of evaluation compared to the properly admitted record evidence in this proceeding.

PECO recognizes that the Commission's regulations, 52 Pa. Code §5.407, allow the records of other proceedings to be "offered in evidence." But such offerings of evidence, like any offer of evidence, must comply with due process and with the procedure set forth in the

instant proceeding. Indeed, because of the unusual nature of the evidentiary request, it should perhaps be held to an even more stringent standard, similar to requests for injunctive relief or summary judgment. That is, Ms. Paul should be required to show a clear right to relief. And, given the prejudice to PECO that would result from granting her request, she should be required to show that she had no other alternative procedure that she could have pursued that would have protected PECO's due process rights.

She cannot do that. In this proceeding, the rulings were clear that expert witnesses must be identified well before hearing so that the other party could properly prepare for that witness. If Ms. Paul had made this request at the time designated to identify expert witnesses, it would have accomplished her goal, and perhaps would have been permissible. PECO could at least have evaluated methods to pursue all six of the issues listed above. But by choosing to wait until hearing to make the request – even after being granted a six-week extension specifically to prepare for hearing -- Ms. Paul effectively guaranteed that PECO could not utilize all of the responsive tools that are its due right. Rule 5.407 does not allow testimony to be admitted when, as here, doing so would violate the procedural schedule and due process.

It may be possible to use Rule 5.407 to admit certain testimony from Drs. Pall, Marino, Davis, and Israel, and Mr. Pritchard, in some future proceeding. If such a request is made during the prehearing process, so that PECO has the ability to prepare its full case in the light of such a request, then PECO will evaluate to and respond to such a request at that time. But because Ms. Paul's request was made for the first time at hearing, long after the deadline to identify expert witnesses, admitting that testimony would prejudice PECO's due process rights.

Conclusion

For the reasons set forth above, PECO opposes Ms. Paul's request to admit the transcript of Dr. Marino's testimony as evidence in her proceeding. To do so would violate the procedural schedule and this proceeding, violate PECO's due process rights, and prejudice the fair presentation of PECO's case.

Respectfully submitted,

Ward Smith
Shawane Lee
Assistant General Counsel
PECO Energy Company
Ward.smith@exeloncorp.com
Shawane.lee@exeloncorp.com
215-841-6863

Tom Watson
Watson & Renner
tw@w-r.com
202-258-6577
Counsel to PECO Energy Company

March 20, 2017

Exhibit 3

PECO's March 20, 2017 Reply to Complainant's Request to Admit the Testimony of Dr. Marino Into the Record In This Proceeding

Smith, Ward L:(PECO)

From:	mpaul15@verizon.net
Sent:	Sunday, November 13, 2016 2:18 PM
To:	dheep@pa.gov; cpell@pa.gov
Cc:	Smith, Ward L:(PECO); Lee, Shawane L.:(PECO); tw@w-r.com
Subject:	[EXTERNAL] Re: First Amended Complaint

Re: Mary Paul v. PECO Energy Company
Docket No. C-2015-2475355

Your Honors,

Regarding my First Amended Complaint:

I did nothing more than exercise my right to amend my Complaint in order to clarify it.

It was not my intention to delay the hearing or to create prejudice against PECO.

If PECO believes that they need more time that is its prerogative. PECO does have numerous lawyers on staff and paid external council working on this case.

I am *pro se*.

Respectfully,

Mary Paul

Exhibit 4

Ms. Paul's email expanding request to include Dr. Marino's January 2017 testimony

Smith, Ward L:(PECO)

From:	mpaul15@verizon.net
Sent:	Thursday, March 09, 2017 12:44 PM
To:	dheep@pa.gov; cpell@pa.gov; Smith, Ward L:(PECO)
Subject:	[EXTERNAL] Testimony of Dr. Andrew Marino
Attachments:	marino sept 15 2016 pages 554 thru 761.pdf; marino day two testimony sept 16 2016.pdf

Your Honors and Mr. Smith,

I apologize that I had forgotten to send Dr. Andrew Marino's testimony with my Brief. This email contains Day 1 (09/15/16) and Day 2 (09/16/16). I will include his testimony on January 25, 2017 in a separate email to follow. Please let me know if you require hard copies.

Respectfully,

Mary Paul