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September 29, 2017

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

RE: K&J Pizza v. PECO Energy Company
PUC Docket No.: C-2015-2501838

Dear Ms. Chiavetta:

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

Very truly yours,

A handwritten signature in black ink, appearing to read "Shawane Lee", with a stylized, wavy underline.

Shawane Lee
Counsel for PECO Energy Company

cc: Certificate of Service

SL/ab
Enclosure

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

K & J PIZZA	:	
Complainant	:	
v.	:	DOCKET NO. C-2015-2501838
	:	
PECO ENERGY COMPANY	:	
Respondent	:	

REPLY EXCEPTIONS OF PECO ENERGY COMPANY

**Shawane L. Lee, Esquire
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Shawane.Lee@exeloncorp.com
Counsel for PECO Energy Company**

DATE: September 29, 2017

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

K & J PIZZA	:	
Complainant	:	
v.	:	DOCKET NO. C-2015-2501838
	:	
PECO ENERGY COMPANY	:	
Respondent	:	

REPLY EXCEPTIONS OF PECO ENERGY COMPANY

PECO Energy Company (“PECO”) hereby replies to the Exceptions filed by K & J Pizza (“Complainant”) in the above-referenced matter on September 19, 2017, and states the following:

I. INTRODUCTION

The Complainant, K & J Pizza operates a pizza establishment at 2601 Jenkintown Road in Glenside, Pennsylvania. Tr. 143. The Complainant connected gas and electric service with PECO at this service address. Tr. 208. When the Complainant established service at 2601 Jenkintown Road, it used tax payer identification number 233009930. Tr. 161; Tr. 184. The Complainant also connected service for Milano’s Pizzeria at 1333B Easton Road, Roslyn, PA using the same tax payer identification number 233009930. Tr. 184. The Complainant finalized service for Milano’s Pizzeria 1333B Easton Road on August 30, 2014, leaving an unpaid balance in the amount of \$1,018.62. PECO Ex. 1. This balance transferred to the Complainant’s open active account for service at 2601 Jenkintown Road at K & J Pizza. PECO Ex. 9.

The Complainant has alleged that it has high bills at 2601 Jenkintown Road. On November 3, 2011, PECO sent a high bill field investigator to the premises to investigate

the Complainant's high bill concerns. PECO Ex. 19; Tr. 286-289. The high bill field technician found multiple electric appliances in use, including at least five freezers, then refrigerators, a soda cooler and refrigeration preparation stations. PECO Ex. 19; Tr. 286-289. The technician determined that based on the appliances and the billed usage, the Complainant had the potential to use the service billed. PECO Ex. 19; Tr. 287-289.

Due to the implementation of PECO's AMI metering infrastructure, the Complainant was billed on estimated bills. Tr. 399-401. However, PECO revised the Complainant's estimated bills and re-billed it on actual readings. Tr. 403.

On July 6, 2017, Administrative Law Judge Eranda Vero ("ALJ Vero") issued an initial decision in the matter of *K& J Pizza v. PECO Energy. Co.*, C-2015-2501838 ("Initial Decision"). The Initial Decision ordered dismissal of the Complainant's claims of high billing; improper billing; improper holding of security deposit; and assessment of late payment charges. The Initial Decision is well-reasoned with ample support from the record. PECO Energy respectfully requests that the Exceptions be dismissed because the Initial Decision properly dismissed Complainant's billing claims.

II. LEGAL ARGUMENT

The Commission should sustain the Initial Decision of ALJ Salapa. Complainant does not allege ALJ Salapa 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 his decision. Pursuant to 52 Pa. Code §5.533(b), "[e]ach exception must . . . identify the finding of fact or conclusion of law to which exception is taken and cite relevant pages of the decision," and "[s]upporting reasons for the exceptions shall follow

each specific exception.” Complainant’s attempt to further litigation in this matter by simply disagreeing with the outcome of the Initial Decision without identifying any specific error of law or abuse of discretion fails to satisfy the requirements; is procedurally improper, and should be dismissed summarily.

A. PECO did not excessively bill, improperly bill or overbill K & J Pizza for electric service

The Complainant excepts to the Initial Decision because ALJ Vero did not “make a finding that PECO excessively billed, improperly billed or overbilled K & J Pizza for electric service to its business.” The evidence of record demonstrates that the Complainant was properly billed for the electric usage it consumed at the service address.

PECO’s high bill field technician, Margaret O’Donnell, testified that she saw five freezers and ten refrigerators of various sizes in use at the premises. Tr. 314. PECO’s high bill foreman, Thomas Lerro, also visited the premises and saw in use a commercial meat slicer, microwave oven, chest freezer, another double door freezer, side by side refrigerator, one double door four foot refrigerator, a soda box with a single door, a three foot chest freezer, a four foot refrigerated food preparation station, a six foot refrigerated food preparation station, a range hood with exhaust, three computers/cash registers, and LED lighting. Tr. 321.

The majority of the Complainant’s electric bills average at approximately \$600.00 per month. See PECO Ex. 9. It is difficult to conceive how PECO could have overbilled the Complainant with all of these appliances in use and the Complainant has an average \$600.00 bill. ALJ Vero reviewed the Complainant’s usage and billing and noted in her Initial Decision “all recorded usage is within the Complainant’s potential for electricity

usage as calculated by PECO.” ALJ Vero also noted that the Complainant “failed to show that his ...electricity bills from PECO were abnormally large.” The Complainant’s Exceptions claiming overbilling, excessive billing and improper billing should be dismissed.

B. K & J Pizza is not entitled to reimbursement

The Complainant requests that the Commission order PECO to reimburse it for alleged “overpayments, excessive payments or improper payments.” The Public Utility Commission does not have the jurisdiction to award the Complainant the reimbursement they request.

It is well settled that the PUC does not have the power or jurisdiction to award monetary damages for the actions of a utility company. Feingold v. Bell of Pennsylvania, 477 Pa. 1, 383 A.2d 791 (1977). The Commission lacks jurisdiction to award damages pursuant to 52 Pa. Code § 5.101(a)(1).

Preliminarily, the Complainant could not have overpaid PECO because they only sporadically make payments to the account. The Complainant is operating a for-profit pizza establishment but does not make consistent payments to cover the electric and gas usage charges at the property. For instance, PECO’s witness, Michael Begley, testified that the Complainant is not paying its bills in full. Tr. 505. Mr. Begley testified “the payments are sporadic” and the Complainant makes “partial payments and some missed payments.” Tr. 505. He testified that “when a payment comes in, its not paying the full amount due” and sometimes there are no payments in a month.” Tr. 505. PECO’s witness testified that the Complainant’s combined gas and electric usage to operate their

pizza place is approximately \$1,000 per month but they are only paying \$300 - \$700. Tr. 506.

Not only is the Complainant not entitled to a reimbursement because they barely make payments to their account, the Commission does not have the jurisdiction to award them the cash money reimbursement the Complainant is seeking. To the extent the Complainant is requesting a monetary award the Complainant is not entitled to relief under the law. Accordingly, the portion of the Complainant's exceptions should be denied pursuant to 52 Pa. Code § 5.101(a)(1).

C. Complainant's overbilling and overpayment claims are beyond the statute of limitations.

The Complainant's exceptions state that K & J Pizza met its "burden of proof establishing that it was excessively billed, improperly billed, over billed and made over payments" for the period September 2002 through the date of the hearing. The Complainant additionally states that K & J Pizza's "claim for overpayment should have been granted back to 9/1/12, three years before filing its formal complaint with the PUC." The Complainant states in its exceptions that "an informal complaint was filed with the PUC on 10/28/09 and therefore the complainant's complaint should have been granted retroactive to 10/28/06, three years before the informal complaint." The Complainant is incorrect.

The guideline for the statute of limitations is set forth at 66 Pa.C.S. § 3314(a).

Pursuant to section 3314(a):

(a) General Rule. —No action for the recovery of any penalties or forfeitures incurred under the provisions of this part, and **no prosecutions on account of any matter or thing mentioned in this part, shall be maintained unless**

brought within three years from the date at which the liability therefor arose, except as otherwise provided in this part. 66 Pa.C.S. § 3314.

Further, pursuant to 66 Pa.C.S. § 1312(a), the Complainant is barred from obtaining a refund for the disputed charges beyond four years. Section 1312(a) specifies:

(a) **General Rule.**-- If, in any proceeding involving rates, the Commission shall determine that any rate received by a public utility was unjust or unreasonable, or was in violation of any regulation or order of the Commission, or was in excess of the applicable rate contained in an existing and effective tariff of such public utility, the Commission shall have the power and the authority to make an order requiring the public utility to refund the amount of any excess paid by any patron, in consequence of such unlawful collection, **within four years prior to the date of the filing of the complaint**, together with interest at the legal rate from the date of each such excessive payment ...

(Emphasis added).

This section represents a special limitation fixing the scope of the commission's power to order refunds. Norman DiMatteo v. West Penn Power Co., 67 Pa. PUC 444 (1988). See also, Joseph E. Goss v. UGI Corporation, 1994 WL 843007 (Pa. P.U.C.) In Norman DiMatteo, the West Penn Power Co. improperly charged Complainant a commercial rate, rather than the appropriate residential rate, over a seven-year period. Norman DiMatteo, 67 Pa. PUC at 444. The Court ruled that Complainant could only receive a refund for the excessive charges paid during the last four of the seven years before the date of the filing of the complaint, due to the existence of the four-year statute of limitations established in 66 Pa. C.S. § 1312. Id.

Administrative Law Judge Cynthia Williams Fordham ("ALJ Fordham") reached a similar conclusion in the matter Darryl Hicks v. Philadelphia Gas Works, Docket No. C-2010-2207800 (Initial Decision entered, July 12, 2012). In that case, the Complainant

disputed charges on his bill from May 2005 and a meter exchange that took place in 2005. Philadelphia Gas Works (“PGW”) argued that the Complainant was barred from contesting his bill due to the three year statute of limitations. *Id.* PGW also pointed out that pursuant to 66 Pa.C.S. § 1312(a), the Complainant could only seek a refund up to four years after the improper bill was discovered. *Id.* ALJ Fordham dismissed the Complainant’s case and the Complainant filed Exceptions. *Id.* The Commission agreed with ALJ Fordham, dismissed the Complainant’s Exceptions and adopted ALJ Fordham’s Initial Decision as follows:

We find that the ALJ properly concluded that the Complainant is barred from contesting the May 2005 bill. Sections 3314(a) and 1312(a) preclude the Complainant from filing a Complaint in 2010 regarding the May 2005 meter exchange or the May 2005 bill. Accordingly, the ALJ correctly concluded that the Complainant has not met his burden of proof, pursuant to Section 332(a), *supra*, on the matter of the Company's alleged incorrect billing.

Darryl Hicks v. Philadelphia Gas Works, Docket No. C-2010-2207800 (Opinion and Order entered, February 14, 2013).

In this case, the Complainant states that it wants the Commission to consider billing claims dating back to 2002. ALJ Vero properly addressed this issue during the hearing. She stated:

So the statute of limitations for any case brought before this commission is three years with a special statute of limitations for four years in terms of refunds for any overcharges found. So extending that or tolling that to a total of thirteen years it's a huge leap, one that I will not -- I refuse to make easily, so I will need some evidence on the record.

Tr. 71. At the July 20, 2016, hearing, ALJ Vero took testimony on this issue and determined:

After considering Mr. Mostafa's testimony, I found that none of the events or statements listed warranted the tolling of the statute of limitations for any of the Complainant's claims. Tr. 141. The Complainant failed to make a *prima facie* case that PECO engaged in fraud or concealment causing the Complainant to deviate from its right of inquiry into the facts.

See K & J Pizza vs. PECO Energy Company, Docket No. C-2015-2501838 (Initial Decision entered July 6, 2017).

The Complainant would like the Commission to consider the October 28, 2009, Bureau of Consumer Services informal complaint filed at case number 002612569 as the complaint that tolled the statute of limitations. PECO Ex. 5. However, this complaint cannot be considered to toll the statute as the informal complaint lists the account number and service address for Milano's Pizzeria and only raises a deposit dispute – there are no billing claims. PECO Ex. 5. The Complainant's current billing and estimated billing claims arise from the service address 2601 Jenkintown Road for K & J Pizza.

The Complainant's claims should be dismissed because the billing period goes beyond the three year statute of limitations enumerated in section 3314. Further, pursuant to section 1312(a), the Commission cannot award the complaint a reimbursement or billing adjustment beyond a four year period. Consistent with 66 Pa.C.S. § 3314 and 66 Pa.C.S. § 1312(a), the Complainant is expressly barred from recovering for billing claims dating back to 2002 by the Statute of Limitations set forth in

Section 1312 of the Public Utility Code. Accordingly, the Complainant's Exceptions requesting that the Commission consider their claims back to 2002 should be dismissed.

D. PECO proved that the Complainant had no high bill.

The Complainant claims in its exceptions that it "has established that a high bill has been demonstrated for its premises." The Complainant states that "the electricity usage of the complainant's business decreased substantially after the new meters were installed." The Complainant also excepts to the Initial Decision claiming that "the PUC did not consider attempts by complainant to reduce or minimize his electric bill such as not installing air condition prior to 2015 or installing LED lighting." The fact is – the Complainant failed to meet its burden of proof regarding its high bill and meter concerns. Complainant presented no evidence there were problems with the meter installed at the pizza establishments. In contrast, PECO presented High Bill Foreman, Thomas Lerro, who testified that the meter at the Complainant's pizza shop had been tested and the meter was operating within Company and Commission guidelines. Tr. 325; 328-329. Additionally, there had been two high bill field investigations performed on November 3, 2011 and December 15, 2015, at the Complainant's establishment and an appliance analysis and instrument meter test were performed. Tr. 324; Tr. 327-328. The field investigations demonstrated that Complainant has the potential to use the electric for which it was billed and there is nothing that caused the high balance other than non-payment over several years.

Complainant contends it "established that a high bill has been demonstrated for its premises." To the contrary, PECO tested the meter on February 22, 2016, through an instrument meter test and the meter tested on full load as 100.03 accurate and on light

load as 100.05 accurate. Tr. 328. Further, prior to the meter being installed at the premises, the company tested the meter on November 16, 2013. The meter tested 100.03 percent accurate on the first test and 100.1 percent accurate on the second test. Tr. 329. Yet, the Complainant in its exceptions states (with no objective evidence) that “a high bill has been demonstrated.” The fact is -- there was nothing wrong with the Complainant’s meter, which was tested and found working accurately. The Complainant simply fails to pay its electric bills and has to date run up \$10,422.39 in unpaid electric bills consuming electricity to run a pizza establishment at the expense of PECO’s ratepayers. As ALJ Vero correctly stated in her Initial Decision:

After carefully considering all of the evidence collected with regard to the Complainant’s high bill dispute, I find that the Complainant has failed to show that his gas and/or electricity bills from PECO were abnormally large. Complainant failed to show that one or more of its bills were abnormally high as compared to the rest – as I mentioned above the Complainant did not single out any bills or billing period for comparison purposes – nor did the Complainant show that its bills were higher than those of comparative businesses – as alleged in the Amended Complainant.

See Initial Decision, p 32.

The evidence demonstrates that the Complainant’s high bill and meter concerns were properly investigated and addressed and there is nothing to indicate that the Complainant has a “high bill” or was billed incorrectly. The Complainant’s exceptions have no merit and are simply being filed to avoid paying its \$10,422.39 electric bill. Accordingly, ALJ Vero’s decision should be upheld and the Complainant’s exceptions dismissed.

E. Complainant is not entitled to a return of the security deposit.

The Complainant states in its exceptions that it is “entitled to a return in full of its security deposit.” PECO properly charged the Complainant a security deposit because the Complainant does not make timely payments to its account.

The deposit regulations enumerated at 66 Pa.C.S. 1404(a), state:

In addition to the right to collect a deposit under any commission regulation or order, the commission shall not prohibit a public utility, prior to or as a condition of providing utility service, from requiring a cash deposit in an amount that is equal to one-sixth of the applicant's estimated annual bill, at the time the public utility determines a deposit is required.

Additionally, PECO Energy’s Commission approved tariff provides in relevant part:

5.3 GUARANTEE OF PAYMENTS. The Company may charge a security deposit before it will render service to an applicant or before the Company will continue to render service to a customer for whom the Company provides Consolidated EDC Billing or Separate EDC Billing. The Company may charge deposits to applicants and customers if they have bad credit, lack creditworthiness or as otherwise permitted by Commission statutes, rules, regulations, and as required by Federal Bankruptcy Law. The applicant or customer may be required to provide a cash deposit, letter of credit, surety bond, or other guarantee, satisfactory to the Company. The Company will hold the deposit as security for the payment of final bills and in compliance with the Company's Rules and Regulations. ...

5.4 AMOUNT OF DEPOSIT. For residential customers the deposit will be equal to one-sixth of the applicant’s or customer’s estimated annual bill for Company charges, based on applicable rates. A deposit from a residential customer shall conform to the requirements of 66 Pa. C.S. 1404(c) and applicable Pennsylvania Public Utility Commission regulations. ...

5.5 RETURN OF DEPOSIT. Deposits secured from a residential customer shall either be applied with interest to the customer’s account or returned to the customer with interest in accordance with 66 Pa. C.S.§1404(C) and applicable Pennsylvania Public Utility Commission regulations. In cases of discontinuance or termination of service, deposits will be

returned with accrued interest upon payment of all service charges and guarantees or with deduction of unpaid accounts. ...

In this case, PECO assessed a \$3,469.00 security deposit to the Complainant's account. PECO Ex. 9; Tr. 216. PECO's witness, Teresa Ferrier testified that PECO is holding the security deposit because the Complainant is not "credit worthy." Tr. 218. To become creditworthy, the account has to be current and there must be twenty-four months of payments paid in full and on time. Tr. 218. The record reflects that the Complainant's account is not current and it has not made consistent payments over twenty-four months in full and on time. PECO Ex. 9. Accordingly, based on the Complainant's poor payment history, which includes not paying the bill in full by the due date, and credit risk assessment, PECO is properly holding a security deposit on the Complainant's account.

F. Complainant is responsible for the \$1,018.62 bill transferred from Milano's Pizzeria because the Complainant owned this business

The Complainant claims in its exceptions that it was "billed for charges related to other businesses unrelated to complainant's business, including Milano's Pizzeria, which is a business unrelated to its business." The Complainant claims that a "\$1,018.62 bill from the former business Account No. 8356-31019 should not have been transferred to the new Account, No. 05254-00306." By denying responsibility for this balance or affiliation with the business from which the balance came, the Complainant is attempting to commit a fraud against PECO and its ratepayers.

There are two pizza establishments at issue. Milano's Pizzeria and K & J Pizza. The Complainant admits that it owns K & J Pizza. However, the Complainant denies any

affiliation with Milano's Pizzeria. Tr. 147; Tr. 158. However, the unmitigated facts demonstrate this is untrue. The Complainant established electric service for Milano's Pizzeria on Easton Road with tax payer identification number 23-3009930. Tr. 184. The Complainant also established electric service for K & J Pizza on Jenkintown Road under the same tax payer identification 23-3009930. Tr. 184. The Complainant testified that Nesma Mohammad is his wife. Tr. 178. Nesma Mohammad is listed as a principal of Milano's Pizzeria on a Pennsylvania Department of State Corporation document. Tr. 176. The Complainant testified that 404 Willard Road, Hatboro, PA is his home address. Tr. 178. The Pennsylvania Department of State Corporation document for Milano's Pizzeria lists the Complainant's home address (404 Willard Road) as the registered address for Milano's Pizzeria. Tr. 178. PECO's witness, Teresa Ferrier, presented cancelled checks showing that Milano's Pizzeria paid for electric service charges for K & J Pizzeria and vice versa. Tr. 190. Ms. Ferrier also testified that the Complainant's K & J Pizza bank account number was used to make electronic payments for Milano's Pizzeria electric bills. Tr. 195-196.

In effect, the Complainant used the tax payer identification number for Milano's Pizzeria to open an account for service at K & J Pizza. Milano's Pizzeria is registered with the Department of State at the Complainant's home address under his wife's name. The Complainant interchangeably used checks and bank accounts to make payments for service for both Milano's Pizzeria and K & J Pizzeria. Tr. 190-191. The Complainant testified that he is called "Tony" – "Tony is me". Tr. 171. Then, the Complainant "Tony" initiates an informal complaint with the Bureau of Consumer Services on October 28, 2009 for a deposit dispute. Tr. 187-188; PECO Ex. 5. The informal complaint is for

the account number 08356-31019 for service at 1333 Easton Road – the same address that services Milano’s Pizzeria. PECO Ex. 5. This is the same account that Complainant claims he has no responsibility for the final balance. Tony states in his informal complaint that the deposit is “ridiculous when he has a business with PECO at another address in good standing.” PECO Ex. 5. The Complainant has a website that states “K & J & Milano’s” with website: www.kjmilanospizzeria.com. PECO Ex. 3. The website states that “Milano’s and its friendly staff have merged shops with K & J Pizza located at 2601 Jenkintown Rd, in Glenside.” PECO Ex. 3; Tr. 157-158. PECO’s High Bill Field Foreman, Thomas Lerro testified that when he went to K & J Pizza for a field visit he “found a sign outside that states Milano Pizzeria and Family Restaurant. Owner stated the sign was from another store a couple of blocks away that was closed.” Tr. 324.

In this case, the identical tax payer identifications, the Complainant’s home address registered to Milano’s Pizzeria; his wife listed as an owner of Milano’s Pizzeria; the shared websites; the Milano’s Pizzeria sign at K & J Pizza; the payments made interchangeably on banking accounts and checks for both Milano’s Pizzeria and K & J Pizza is not a coincidence. The evidence of record demonstrates that the Complainant opened an account for service at Milano’s Pizzeria under account number 08356-31019. PECO Ex. 9. The Complainant closed this business and merged with K & J Pizza. Tr. 157-158. The Complainant brought over Milano’s Pizzeria’s ovens, the sign and the website. Tr. 154-156. But the Complainant left an unpaid \$1,018.62 bill at Milano’s Pizzeria. Through PECO’s internal matching system, it matched the tax payer identification number the Complainant used to open Milano’s Pizzeria’s service and found an open active account for K & J Pizza. Tr. 184-185. PECO then properly

transferred the \$1,018.62 balance to the K & J Pizza account. Tr. 531. The Complainant's debt followed him and he cannot now avoid this debt by claiming he has no affiliation with Milano's Pizzeria or the service address. The evidence of record suggests otherwise. Accordingly, the Complainant's exceptions should be denied.

G. PECO properly rebilled the Complainant's estimated readings and the bills are correct.

In its exceptions, the Complainant claims that "the estimated readings of complainant's PECO bills are in excess of the actual electric usage by his business."

PECO's witness testified that while PECO did issue estimated bills, the company cancelled these bills and rebilled the Complainant based on actual meter readings. Tr.

372-374. PECO's Billing Manager testified:

Q. Now, using the actual reads that you obtained, were you able to revise Mr. Mostafa's bills –

A. Yes.

Q. to get -- based on the actual reading?

A. Yes.

Q. All right. So let's take a look at Exhibit 9.

A. Okay.

Q. And that's the account activity statement. Can you show us where PECO canceled the estimated billing and then rebilled Mr. Mostafa? That's the –

A. They all –

Q. What's the first one?

A. -- start -- Exhibit 9, if you go to page –

Q. Page 7?

- A. Page 7 you'll see that right down at the bottom we canceled back to March 2015 where we started canceling the estimated bills, so we went into the dataraker system to get those actual reads to validate whether the -- the bills were, you know, in line. And for any one that wasn't, we canceled rebilled to make sure that whatever rates we had available at that time that we used.

Tr. 372-373.

In addition, PECO High Bill Field Technician, Margaret O'Donnell, testified that she visited the Complainant's business and performed an analysis of the appliances at the property to determine if the Complainant had the potential to use the billed amounts. Ms. O'Donnell testified:

Well, I captured the appliance load and verified the meters of record were the meters that were there. I did the subtraction to see if the usage was in line with what we've -- we've been billing and all of that agreed. And, uh, I explained to the manager based on what I see that they easily have the potential to use what they're being billed and he understood.

Tr. 286-287.

Based on the high bill field visit and the re-billing of the estimated bills, ALJ Vero correctly concluded that the Complainant failed to carry its burden of proof that PECO incorrectly billed it for gas and electric service.

H. PECO properly charged late payment charges to the Complainant as they fail to pay their bills in full and on time.

In its exceptions, Complainant states that "late payment and interest charges on the account should be deducted and stricken from the account." PECO properly imposed late payment charges on the Complainant's account because it failed to make timely payments.

PECO's Commission approved tariff provides, in relevant part:

17.5 LATE FEES AND COLLECTION COSTS. If payment is made at a Company office or authorized payment agency after the due date shown on the bill, a late fee will be added to the unpaid balance until the entire bill is paid. If payment is made by mail, the late fee will be added if the payment is received by the Company more than five days after the due date shown on the bill. For Rates R, R-H, RS-2, OP, POL and GS this late fee will be 1-1/2 % per month; for all other rates the late fee will be 2% per month.

Payments are due 20-25 days after the issuance of a monthly bill. If the entire balance is not paid by the due date, PECO can assess late fees.

PECO's witness, Teresa Ferrier testified that PECO imposes late payment charges if a customer does not make a payment "in full by at least five days after the due date."

Tr. 209. Because of the Complainant's poor payment history, there were several late fee charges assessed to the account. Tr. 209. Ms. Ferrier testified that PECO charged the Complainant \$1,883.30 in late payment charges but credited \$770.31 in late payment charges to the account. Tr. 209. There were no late payment charges assessed to the account after November 2015. Tr. 210.

The evidence of record reflects that the Complainant frequently misses payments, does not pay the entire billed amount by the bill due date. PECO Ex. 9. Accordingly, PECO properly assessed late payment fees to the Complainant's account. The Complainant's Exceptions requesting a waiver of late payment fees should be dismissed.

III. CONCLUSION

ALJ Vero correctly articulated in her Initial Decision that Complainant failed to present evidence to justify its high bill, improper billing, deposit or late payment charge allegations. While the Complainant may have a dispute that PECO estimated its bills, this does not form the basis that there is incorrect billing. While PECO was in violation of the regulations for rendering too many estimated bills, the company properly re-billed the Complainant based on actual usage taken from the meter. Additionally, the Complainant's high bill and meter concerns were properly investigated and addressed over two field visits and an instrument meter test. There is nothing to indicate that the Complainant was billed incorrectly. Accordingly, ALJ Vero's decision, dismissing the Complainant's billing claims should be upheld.

Respectfully submitted,



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(215) 841-6841
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Dated: September 29, 2017

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

K & J PIZZA	:	
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PECO ENERGY COMPANY	:	
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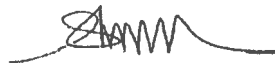
CERTIFICATE OF SERVICE

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

K & J Pizza
2601 Jenkintown Road
Glenside, PA 19038

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Shawane L. Lee, Esquire

DATED: September 29, 2017