

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

| | | |
|---------------------|---|----------------|
| Deree J. Norman | : | |
| | : | |
| v. | : | F-2018-2640713 |
| | : | |
| PECO Energy Company | : | |

ORDER

AND NOW, this _____ day of _____, 2018 upon consideration of Complainant’s Motion to Compel and Sanction PECO Energy Co. for failure to restore service as required by 52 Pa. §56.115, and any responses thereto, it is hereby **ORDERED, ADJUDGED AND DECREED** that said Motion to Compel and Sanction PECO Energy Co is **GRANTED**.

It is further **ORDERED** that:

- 1) PECO with restore Complainant’s electric service within twenty-four (24) hours of the issuance of this Order.
- 2) PECO shall make payment to the Complaint in the amount of \$1000.00 incurred as a result of repeated attempts to resolve this dispute, compliance with the aforesaid rule and drafting multiple request, including the present, to that effect. Said payment shall be made within five (5) days by check or money order payable to Deree J. Norman and delivered to 5367 Thomas Ave, Philadelphia, PA 19143.

BY THE COURT:

J.

To: Respondent
You are hereby notified to plead to the enclosed Motion within twenty (20) days of service hereof or a default judgement may be entered against you.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Deree J. Norman :
 :
 v. : F-2018-2640713
 :
 PECO Energy Company :

**COMPLAINANT DERE J. NORMAN'S MOTION TO COMPEL AND SANCTION
RESPONDENT PECO ENEGRY COMPANY**

Complainant Deree J. Norman, respectfully moves this Honorable Commission to grant his Motion to Compel and Sanction PECO Energy Co. for failure to restore service as required by 52 Pa. §56.115. Complainant incorporates herein by reference, the attached Memorandum of Law in Support of Complainant's Motion to Compel and Sanction PECO Energy Co. for failure to restore service as required by 52 Pa. §56.115.

Date: March 5, 2018

Respectfully Submitted,

By: /s/ Deree J. Norman
Deree J. Norman

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

| | | |
|---------------------|---|----------------|
| Deree J. Norman | : | |
| | : | |
| v. | : | F-2018-2640713 |
| | : | |
| PECO Energy Company | : | |

**COMPLAINANT DERE J. NORMAN’S MEMORANDUM OF LAW IN SUPPORT
OF COMPLAINANT’S MOTION TO COMPEL AND SANCTION
RESPONDENT PECO ENERGY COMPANY**

I. INTRODUCTION

Complainant Deree J. Norman, respectfully moves this Honorable Commission to grant his Motion to Compel and Sanction PECO Energy Co. for failure to restore service as required by 52 Pa. §56.115, 52 Pa. §56.94(1), 52 Pa. §56.96 and 66 Pa. §1406(C)(2).

II. PROCEEDURAL HISTORY

1. In or around February 2011 Complainant was diagnosed with a sever chronic sleep disorder among other medical deficiencies and forced to go on public assistance.
2. In 2014 Complainant was approved to receive Social Security Disability in the amount \$1500 monthly.
3. On or around February 20, 2015 Complainant filed an informal complaint with the PUC.
4. On or around February 25, 2015 Complainant received a shut off notice from PECO.
5. Complainant’s new Income and residential occupancy of (one at that time) rendered him ineligible for assistance equal to that he previously qualified for through LIHEAP when his income was \$200 cash and \$200 food stamps monthly.

6. On February 26, 2015 PECO forwarded a medical Certification Application to Complainant's doctor, Jennifer Zallen, which was completed and returned to PECO within 5 days.
7. On or around March 16, 2015 Complainant filed a formal complaint with the Public Utility Commission (See: Docket # C-2015-2472605) which was assigned to ALJ Mary D. Long.
8. On May 14, 2015, by hearing notice, ALJ Mary D. Long scheduled an evidentiary hearing on Monday, June 29, 2015.
9. On May 22, 2015, PECO filed a motion for a continuance, stating that neither Mary McQuilken nor Thomas Lerro were available to testify on that date regarding the high bill investigation.
 - a. No documentation of any kind was filed with the motion to support PECO's alleged scheduling conflicts.
10. On May 28, 2015, the Complainant filed a written response objecting to the continuance unless PECO presented "a legitimate business and or legal reason" to support the request.
11. On June 1, 2015, by Interim Order, PECO's request for a continuance was granted because of the because of the unproven, undocumented unavailability of two witness despite Complainant's request for an Offer of Proof.
 - a. The telephonic hearing was rescheduled for September 3, 2015.
12. On or around July 31, 2015 PECO demanded entrance into the Complainant's home to change his meter to an upgraded 2nd generation smart meter.
13. On or around July 31, 2015, in light of the fact that Complainant's 1st generation smart meter was the primary instrument involved to support his averments of improper usage being reported by PECO, Complainant denied PECO access to his property.
14. On Friday August 21, 2015 Complainant received a 10-day shut off notice from PECO.
15. On Monday August 24, 2015, the Complainant informed the ALJ that PECO had sent a 10-day shut off notice because the Complainant had not permitted access to his meter.
 - a. PECO was copied on the correspondence sent to the ALJ on August 24, 2015.

16. On or around September 2, 2015 PECO contacted the Complainant by phone and suggested a joint continuance be requested to allow time for someone from PECO to come and inspect the Complainant's smart meter not replace it.

17. On or around September 2, 2015, during the aforesaid phone call, Complainant requested that PECO provide him with their policies and procedures for an impartial third-party's inspection of the Complainant's smart meter.

a. PECO informed the Complainant that the information would be forwarded to his attention forthwith.

18. On or around September 2, 2015, Complainant drafted a letter, which was faxed to the ALJ and e-mailed to PECO, informing her of the mutual request for a continuance.

(Exhibit 1 and Exhibit 2)

a. In ALJ Mary Longs Initial decision on this matter she intentionally misrepresented the fact of the September 2, 2015 notification. (See: Initial Decision pg. 2 ¶ 4 which states "The day before the September 3, 2015 hearing I received correspondence by fax from the Complainant stating that he wished to work with PECO toward a possible resolution of the complaint and he requested that the September 3, 2015 hearing be continued.")

19. On September 3, 2015 the telephonic hearing convened as scheduled.

a. Complainant's emphatic requirement to have his 1st generation smart meter inspected by an impartial third party seemed to confuse both PECO and the ALJ.

i. PECO was ultimately instructed to provide the requirements of Complainant's request and a meter test was scheduled.

b. The ALJ unprincipledly accepted PECO explanation that the 10-day shut off notice was not an intimidation tactic but was a mere departmental oversight.

c. The telephonic hearing was rescheduled for October 29, 2015

20. On October 29, 2015 the telephonic hearing convened as scheduled.

a. Complainant submitted exhibits for the hearing to PECO and the ALJ via certified mail well in advance of the telephonic hearing.

b. PECO submitted exhibits for the hearing to Complainant and the ALJ a few days before the telephonic hearing.

c. Six exhibits were admitted into the record for the Complainant. However, the Complainant was prevented from presenting the testimony of Mary McQuilken, a PECO high bill field technician, and Thomas Lerro, a field foreman for the high bill investigation group because PECO had not provided these witnesses with copies of the any of the Complainant's exhibits. PECO presented the testimony of one witness, Ms. McQuilken. Five exhibits were admitted into the record on behalf of PECO.

d. Mary McQuilken and Thomas Lerro were both supplied with all of PECO's exhibits

i. Mary McQuilken and Thomas Lerro were the two employees that were the subject of PECO's May 22, 2015 request for a continuance.

e. Complainant was instructed to present his case without the ability of questioning any witness on any exhibits he submitted that was entered into the record.

i. No witness could refute any evidence submitted by Complainant in light of the fact that no witness ever saw any of Complainant's evidence.

21. On June 17, 2016 ALJ long entered an Initial Decision dismissing the complaint and closing the docket.

a. The Initial Decision was docketed on July 8, 2016

22. Complainant filed Exceptions.

23. Docket # C-2015-2472605 was closed on July 12, 2017 with a final Opinion and Order.

24. On July 19, 2017 Complainant contacted PUC to inquire about and appeal as that no documentation identifying Complainant's options was provided with decision.

25. On July 19, 2017 Complainant received a call from PUC Chief Administrative Law Judge Charles E. Rainey Jr., and was informed that the matter was closed, and the PUC would take no further action

26. On July 19, 2017 Complainant received a second call, respectively from PUC Mediation Attorney Tiffany Hunt who reaffirmed that the matter was closed, and the PUC would take no further action.

27. On or around July 19, 2017 Complainant contacted PECO regarding the shut-off notice.

- a. PECO requested a payment of \$1,959.94 to avoid termination of service.
 - b. PECO stated that they did not have a medical certificate on file
 - c. Complaint requested a new medical certificate.
28. On July 24, 2017 Complainant was unable to obtain assistance from the Office Attorney General (OAG).
29. On August 1st Mrs. Hunt referred Complainant to the Commonwealth Court.
30. Complainant submitted a Petition for Review to the Commonwealth Court on August 2, 2017, with service effectuated on PUC, OAG and PECO.
31. On August 11, 2017, Complainant received a 10-day shut-off notice requesting payment in the amount of \$1,760.56.
32. PECO claimed to have mailed a medical certificate Complainant.
- a. No Medical Certificate was ever received at the home of Complainant.
33. On August 17, 2017 Complainant received a 72-hour shut off notice dated August 15, 2017 requesting payment in the amount of \$1,886.90 which stated service would be terminated on August 21, 2017.
34. On August 17, 2017 Complainant contacted PECO and requested that a Medical Certification be faxed to his Physician.
35. Complainant contacted PECO legal department, Shawane L. Lee; Assistant General Counsel, to ensure there would be no interruption of service while the above caption matter remained pending and unresolved.
36. On August 21, 2017, despite the Petition for Review filed with the Commonwealth Court of PA as well as the filing of an Application for Stay both of which were effectuated on the PUC, the OAG and PECO, PECO terminated Complainant's electric service.
37. Complainant, with no means of operating his life sustaining medical equipment, was forced to stay in a hotel on August 21st and 22nd.
38. Complainant purchased a gas generator to operate his medical equipment.
39. On August 22, 2017 Mrs. Hunt further explained that given the fact that there was no rule in Pennsylvania that would prohibit or permit a utility company's termination of service during the appeal process, the PUC would take no further action. (Phone records not yet available)

40. On August 29 Complainant once again reached out to PUC Mediation Attorney Tiffany Hunt who then referred Complainant to Bureau of Consumer Affairs (BCA)
41. Complainant was instructed by intake representative to file a BCA complaint.
42. On September 15, 2017, pursuant to Pa. Rule 1781(a), Complainant's Application for Stay was filed with and accepted by the PUC and severed on all interested parties.
43. On September 18, 2017 Complainant received a bill from PECO with a billing date of September 12, 2017 that encompassed 08/09/2017 to 09/07/2017 seventeen (17) days after services had been terminated on 08/21/2017. The bill requires a payment of \$2,043.92
 - a. Subsequently an additional complaint to that effect was filed with the BCS, Case No. 3558059.
44. On November 9, 2017, after receiving no response to his Application for Stay, Complainant filed an Application for Stay with the Commonwealth Court of Pa.
45. On November 27, 2017 the PUC filed an Answer to Complainant's Application for Stay.
46. On December 1, 2017 the Commonwealth Court issued an Order directing the PUC to enter a ruling on Complainant's application for Stay.
47. On December 7, 2017 the PUC entered an Order denying Complainant's Application for Stay.
48. On December 13, 2017 the Commonwealth Court denied, without prejudice, Complainant's Application for Stay. The Order also included instruction for Complainant to adhere to 52 Pa. Code §56.111 - §56.118.
49. Complainant submitted the medical letter, as required by 52 Pa. Code §56.111 to PECO's counsel on December 15, 2017.
50. On January 18, 2018 Complainant received an answer from PECO via the PUC's electronic system to his BCS complaint, attached as PECO EXHIBIT "5" was a bill dated September 29, 2017 that encompassed 08/09/2017 to 08/21/2017 and required a payment of \$1,909.33.
 - a. Complainant has never received this bill prior to PECO's answer submitted on January 18, 2018.

III. LEGAL ARGUMENT

Considering PECO's refusal to acknowledge that a completed medical certification was in their possession since 2014, In addition to false assertions that a new medical certification was mailed on July 19, 2017 to the Complainant and faxed to Ronald C. Anafi, his physician, on August 31, 2017 are both absolute misrepresentations of facts and thereby tantamount to fraud.

However, despite the fraudulent concealment and fraudulent misrepresentation, upon receipt of a new Medical Certification submitted on December 15, 2017 PECO had a legal requirement to restore the Complainant's electric service within twenty-four (24) hours. PECO has willfully ignored the Medical Certification thereby ignoring 52 Pa. §56.115. Prior to ignoring 52 Pa. §56.115, PECO has also failed to comply with 52 Pa. §56.94(1), 52 Pa. §56.96 and 66 Pa. §1406(C)(2).

Moreover, PECO has not submitted a response to Complainant's Petition for Restoration or cited any justifiable reason or rule for its willful refusal to comply with the rules.

IV. CONCLUSION

Considering PECO's repeated and willful disregard to the rules as established by 52 Pa. §56.115, 52 Pa. §56.94(1), 52 Pa. §56.96 and 66 Pa. §1406(C)(2) this Honorable Commission should issue an immediate order instructing and/or requiring PECO to restore the Complainant's electric service in accordance with the aforesaid rule.

V. RELIEF

WHEREFORE, Complaint respectfully request that this Honorable Commission enter an Order in the form attached hereto.

Date: March 5, 2018

Respectfully Submitted,

By: /s/ Deree J. Norman
Deree J. Norman
5367 Thomas Ave
Philadelphia, PA 19143
(267) 304-2162
dereenorman@yahoo.com

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

| | | |
|---------------------|---|----------------|
| Deree J. Norman | : | |
| | : | |
| v. | : | F-2018-2640713 |
| | : | |
| PECO Energy Company | : | |

VERIFICATION

I, Deree J. Norman, hereby declare that the facts set forth in the foregoing Motion to Compel and Sanction PECO are true to the best of my knowledge, information and belief. I make this verification subject to the penalties of 18 Pa. C.S. §4904 pertaining to false statements to authorities.


Deree J. Norman

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

| | | |
|---------------------|---|----------------|
| Deree J. Norman | : | |
| | : | |
| v. | : | F-2018-2640713 |
| | : | |
| PECO Energy Company | : | |

AFFIDAVIT OF SERVICES

I, Deree J. Norman, do hereby certify that on this 5th day of March 2018 I served a true and correct copy of the Complainant’s Motion to Compel and Sanction PECO Energy Co. for failure to restore service as required by 52 Pa. §56.115 in the above manner on the following via the PUC’s electronic filing system.

MARTA GUHL
ADMINISTRATIVE LAW JUDGE
801 MARKET STREET, SUITE 4063
PHILADELPHIA, PA 19107

SHAWANE L LEE ESQUIRE
EXELON BUSINESS SERVICES
LEGAL DEPT S23-1
2301 MARKET STREET
PHILADELPHIA PA 19101

Subject: Deree Norman v. PECO (C-2015-2472605)

From: Deree Norman (dereenorman@yahoo.com)

To: shawane.lee@exeloncorp.com;

Cc: teresa.ferrier@peco-energy.com;

Date: Wednesday, September 2, 2015 12:24 PM

Good afternoon Mrs. Lee,

Attached please find the letter to Judge Long requesting the need for the mutually agreed upon continuance that we discussed this morning.

Also, please note that I have yet to receive the tariff and section information you spoke of in our phone conversation this morning.

Please contact me ASAP with Judge Long's response to our request.

Thank you.

Deree J. Norman
(267) 257-5108

Attachments

- motion for continuance.doc (26.00KB)

Honorable Mary D. Long
Administrative Judge for the Pa. Public Utility Commission
Pa. Public Utility Commission
Piatt Place, Suite 220
301 5th Ave
Pittsburgh, PA 15222

September 2, 2015

Re: Deree Norman v. PECO (C-2015-2472605)

Dear Judge Long,

As per a phone conversation this morning with Mrs. Lee, in an effort to negotiate a resolution to the above-matter, both parties mutually agreed that a continuance is needed and should be requested.

It is my deepest hope that you concur with our finding and grant the aforesaid continuance on behalf of both parties.

Thank you for your most expeditious attention to this matter.

Sincerely,

/s/ Deree J. Norman
Deree J. Norman
5367 Thomas Ave
Philadelphia, PA 19143
(267) 257-5108
dereenorman@yahoo.com

CC: Shawane L. Lee Esquire