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November 21, 2018

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

RE: D'Anne Wilson v. PECO Energy Company
PUC Docket No.: F-2017-2633420

Dear Ms. Chiavetta:

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

Very truly yours,



Shawane Lee
Counsel for PECO Energy Company

SL/ab
Enclosure

cc: Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

D. ANNE WILSON	:	
Complainant	:	
	:	
v.	:	DOCKET NO. F-2017-2633420
	:	
PECO ENERGY COMPANY	:	
Respondent	:	

REPLY EXCEPTIONS OF PECO ENERGY COMPANY

**Shawane L. Lee, Esquire
2301 Market Street
Philadelphia, PA 19103
215.841.6841
shawane.lee@exeloncorp.com
Counsel for PECO Energy Company**

DATE: November 21, 2018

REPLY EXCEPTIONS

PECO Energy Company (“PECO”) hereby replies to the Exceptions filed by D. Anne Wilson (“Complainant”) in the above-referenced matter. The Commission served PECO with the Exceptions on November 19, 2018.

On November 9, 2017, Complainant filed a formal complaint against PECO. In her formal complaint, Complainant alleged that PECO was threatening to terminate her service. The Complainant additionally alleged there are incorrect charges on her bill arising from bills for the billing periods November 3, 2016 through April 2017. The Complainant stated in her complaint that the amounts PECO charged are too high according to the usage for one person in the home with limited supplies. The Complainant stated that her home was being rehabilitated and under construction for repairs and the home was occupied by one person. The Complainant stated that she had few appliances in the home and the appliances are energy efficient. Accordingly, the Complainant alleged, her bills are too excessive.

PECO filed an Answer to the Complaint on November 29, 2017. In the Answer, PECO stated that the company had investigated the Complainant’s high bill concerns during a March 31, 2017 and May 10, 2017, field investigation and based on these investigations, the Complainant’s bills are correct.

A telephonic hearing was held before Administrative Law Judge Eranda Vero (“ALJ Vero”) on June 4, 2018. ALJ Vero issued an Initial Decision on September 25, 2018, wherein she dismissed Complainant’s formal complaint, stating that she had not met her burden of proof that PECO had billed her incorrectly. The Commission should sustain the Initial Decision of ALJ Vero. Complainant excepts to the decision issued by ALJ Vero because she simply

disagrees with her decision and raises new issues not plead in the complaint. Specifically in her exceptions, Complainant states the following:

1. **Complainant did so comply with Administrative Law Judge Vero's request and complainant's [late filed] documents were duly filed on time by the due date of June 19th 2018.**
2. **Complainant received a "Remaining Excessive Credit" amount that was issued to the complainant's PECO account of \$2,179.66 in October 2015. However, only \$934.25 was applied and credited to the complainant's account. This remaining credit that was issued was to be applied monthly for the amount of \$2,179.66.**

I. Exception One – Late-Filed Exhibits

The Complainant alleges in her first Exception that she timely submitted late filed exhibits that support her case. On June 18, 2018, PECO received a copy of the Complainant's late-filed Exhibits marked A through C. Exhibit A included PECO billing statements, dated October 20, 2015 through June 7, 2016. Exhibit B included hand-written notes calculating what the Complainant alleges is "PECO's Excessive Credit Balance" and what she believes should be the "Correct Excessive Credit Balance." Exhibit C includes PECO bill inserts of Electric Rate Changes beginning January 1, 2017, March 1, 2017, April 1, 2017, and December 1, 2017.

First, the billing statements provided in the Complainant's late-filed exhibits dated October 20, 2015 through June 7, 2016, were included in PECO's Exhibit "1" Account Activity Statement. PECO's witnesses testified to the billing during that period. Accordingly, the Complainant's late-filed Exhibit "A" was considered and included during the hearing. Second, the Complainant's Exhibit "B" raises an "Excessive Credit Balance" argument that was never alleged in the Complainant's formal complaint or raised at the hearing. Put simply, the handwritten notes in Complainant's late-filed Exhibit "B" are beyond the scope of her complaint

and not relevant to the high bill issues she raised in her complaint and at the hearing. Finally, the PECO bill inserts in late filed Exhibit “C” showing the rate are also not relevant to the Complainant’s formal complaint as she did not raise a dispute with her rate. The Complainant alleged in her complaint that based on her usage for a one person occupied property under construction with energy efficient appliances, her bills are too high. At the hearing, the Complainant never disputed the rates she is being charged and did not testify regarding the rates. Accordingly, the Complainant’s Exceptions disputing the admission of her late-filed exhibits should be denied.

II. Exception Two – Calculation of “Remaining Excessive Credit”

The Complainant alleges in her Exceptions that PECO incorrectly applied an excessive credit. This is the first time the Complainant has raised this issue. She does not plead this issue in her complaint and there is nothing in the record or in Administrative Law Judge Vero’s Findings of Fact or Initial Decision that addresses it. In her exceptions, the Complainant cannot now raise additional issues that she did not plead in the formal complaint or discuss at the hearing. In the case Justin L. Herp v. Respond Power, LLC, C-2014-2413756 (Opinion and Order entered January 28, 2016), the Commission addressed this due process issue as follows:

It is improper for a party to raise an issue for the first time in Exceptions. Pursuant to 52 Pa. Code § 5.533(c), statements of reasons supporting exceptions must incorporate by reference and citation relevant portions of the record and passages in previously filed briefs.... We have previously held that “new arguments may not be raised at the exception stage of a proceeding, as it deprives parties of the opportunity to respond.” *Wilson v. Columbia Gas of Pennsylvania, Inc.*, 2013 WL 6835138 (Pa.P.U.C.) at *5, citing *Application of PPL Electric Utilities Corporation*, Docket No. A-

2011-2267349 (Order entered July 16, 2013). *See also Payne v. Philadelphia Gas Works*, Docket No. C-2011-2247124 (Order entered February 6, 2012) (An issue not raised in a complaint is improperly raised in exceptions, and even if it had been, would not have changed the disposition.).


Based on the fact the Complainant has raised the “Excessive Credit” issue argument for the first time in her Exceptions, this issue has been waived. Accordingly, the Complainant’s Exception in this regard should be denied.

III. Conclusion:

The record evidence demonstrates that the Complainant’s high bill and meter concerns were properly investigated and addressed over two field visits and there is nothing to indicate that the Complainant was billed incorrectly. Accordingly, ALJ Vero’s decision, dismissing the Complainant’s formal complaint should be upheld.

For the reasons set forth above, PECO respectfully requests that the Commission deny the Exceptions and issue an Order upholding the Initial Decision in its entirety.

Respectfully submitted,



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**BEFORE THE
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Complainant

v.

PECO ENERGY COMPANY

Respondent

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DOCKET NO. F-2017-2633420

VERIFICATION

I, Shawane L. Lee, hereby declare that I am counsel for PECO Energy Company; that as such I am authorized to make this verification on its behalf; that the facts set forth in the foregoing Pleading are true to the best of my knowledge, information and belief, and that I make this verification subject to the penalties of 18 Pa. C.S. § 4904 pertaining to false statements to authorities.

Date: November 21, 2018



Shawane L. Lee

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CERTIFICATE OF SERVICE

I, Shawane L. Lee, 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).

**D. Anne Wilson
111 Washington Street
Parkesburg, PA 19365**

Dated at Philadelphia, Pennsylvania, November 21, 2018.



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