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March 1, 2019

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2nd Floor  
Harrisburg, PA 17120

**Re: Nira & Robert Eckstein v. PECO Energy Company**  
**Docket No. F-2017-2601990**

Dear Secretary Chiavetta:

A copy of PECO's *Petition for Limited Remand* is attached for filing. A certificate of service evidencing that service is attached for filing.

Very truly yours,



Ward L. Smith  
Counsel for PECO Energy Company

WS/adz  
Enclosures

c: Honorable Darlene D. Heep, ALJ  
Certificate of Service

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Nira and Robert Eckstein :  
 :  
 v. : Docket No. F-2017-2601990  
 :  
 :  
 PECO Energy Company :

NOTICE TO PLEAD

To: Nira and Robert Eckstein

If you wish to answer this Petition then, pursuant to 52 Pa. Code §5.61, you must do so within twenty (20) days – in this case, by March 21, 2019. Please note that the Commission or the Administrative Law Judge have the authority to set a different period to answer. If you do not file an answer, this Petition may be decided without further input from you. Any answer must be in writing and filed with:

File with:


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

With a copy to:

Administrative Law Judge Darlene Heep  
Pennsylvania Public Utility Commission  
801 Market Street  
Philadelphia, PA 19107  
[dheep@pa.gov](mailto:dheep@pa.gov)

Ward L. Smith, Esq.  
PECO Energy Company  
2301 Market Street, S-23  
Philadelphia, PA 19103  
[ward.smith@exeloncorp.com](mailto:ward.smith@exeloncorp.com)

Dated at Philadelphia, PA, March 1, 2019

  
\_\_\_\_\_  
Ward L. Smith

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

<b>Nira and Robert Eckstein</b>	:	
	:	
v.	:	<b>F-2017-2601990</b>
	:	
<b>PECO Energy Company</b>	:	

**PECO Energy Company's  
Petition for Limited Remand**

PECO makes this Petition, pursuant to 52 Pa. Code §5.572, to remand this matter to the Office of Administrative Law Judge for the limited purpose of addressing the *pro hac vice* admission of Thomas Carl Watson, Esquire in this matter. In support of this Petition, PECO states as follows:

1. On February 28, 2019, the Commission remanded the case of *Branagh v PECO*, C-2016-2576738, for the limited purpose of addressing the *pro hac vice* admission of Mr. Watson in that proceeding. After reviewing that Order, PECO believes that this Petition for Limited Remand is warranted in the instant proceeding.
2. From early 2016 to late 2018, PECO litigated a series of cases before the PUC addressing claimed health effects of PECO's AMI meters. In its defense of those matters, PECO retained the assistance of Thomas Carl Watson, Esquire, who specializes in such litigation and resides in Washington, D.C. Mr. Watson is not a member of the Pennsylvania bar.

3. At the outset of the evidentiary hearings, PECO made Motions in all open dockets to admit Mr. Watson *pro hac vice*. These early Motions were all granted, typically without objection.
4. Later in the series of hearings, through inadvertence and oversight, PECO counsel did not file *pro hac vice* Motions in some of the later-litigated cases.
5. In late June 2018 PECO became aware of its oversight.<sup>1</sup> At that time, PECO did an inventory of all cases that were then pending before the Office of Administrative Law Judge and, if it had not yet filed a *pro hac vice* Motion in such a proceeding, it filed one at that time for decision by the ALJ. All of those Motions were granted, some without objection and some over objection.
6. At the time that PECO did its inventory, the Initial Decision had been entered in the instant proceeding and the docket had been marked closed. PECO therefore could not file a Motion to put the question to the presiding officer. In addition, Complainants did not file Exceptions in this proceeding or otherwise raise any issues related to PECO's representation by outside counsel.
7. That is similar to the situation in *Branagh*. When PECO did its inventory, the *Branagh* Initial Decision had been entered and the docket had been marked closed; Ms. Branagh filed Exceptions, but did not raise any issues related to PECO's representation by outside counsel.

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<sup>1</sup> A complainant raised *pro hac vice* issues in a Petition for Remand in June 2018, triggering PECO's review of its records. See *Mary Paul v PECO*, C-2015-2475355.

8. Because the Commission raised the *pro hac vice* issue *sua sponte* in *Branagh*, PECO anticipates that the Commission may conduct a similar inventory and similarly remand any similarly-situated cases.
9. To assist the Commission in that effort, PECO reviewed all of its AMI cases that are pending before the Commission. Other than *Branagh*, PECO identified two cases in which it inadvertently did not file *pro hac vice* motions and in which the Initial Decision had already been issued and the docket marked closed when PECO conducted its June/July 2018 inventory – *Eckstein v PECO*, F-2017-2601990 and *Gavin v PECO*, 2017-2616249. PECO is filing Petitions for Limited Remand and *pro hac vice* Motions in both dockets today. PECO is also filing a *pro hac vice* Motion in *Branagh*.
10. PECO has twelve AMI cases pending before the Commission. With today’s filings, the *pro hac* status of the full inventory of PECO’s AMI cases is:
  - *Laura Sunstein Murphy v. PECO*, C-2015-2475726 (admission granted without objection on April 4, 2016)
  - *Maria Povacz v. PECO*, C-2015-2475053 (admission granted without objection on April 6, 2016)
  - *Mary Paul v. PECO*, C-2015-2475355 (admission granted without objection on June 21, 2016)
  - *Cynthia Randall and Paul Albrecht v. PECO*, C-2016-2537666 (admission granted without objection on May 18, 2016)
  - *Arthur Larson v PECO*, C-2017-2615206 (hearing occurred on February 20, 2018, outside counsel did not appear)
  - *Patti Lynn Caesar v PECO*, C-2015-2475355 (admission granted over objection on August 15, 2018)

- *Alexia and Lawrence McKnight v PECO*, C-2017-2621057 (admission granted over objection on August 17, 2018)<sup>2</sup>
- *James and Teresa Mendez-Quigley v PECO*, C-2017-2617558 (admission granted over objection on August 17, 2018)
- *Nancy and James Colbert v PECO*, C-2016-2561993 (admission granted without objection on November 20, 2018, but hearing was cancelled and outside counsel thus did not appear on PECO's behalf)
- *Janice Denito Branagh v PECO*, C-2016-2576738 (*pro hac vice* Motion filed on March 1, 2019)
- *Nira and Robert Eckstein v PECO*, F-2017-2601990 (Petition for Limited Remand and *pro hac vice* Motion filed March 1, 2019)
- *Teresa Gavin v PECO*, C-2017-2616249 (Petition for Limited Remand and *pro hac vice* Motion filed March 1, 2019)

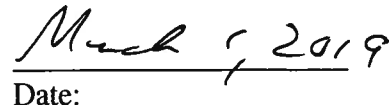
11. Remanding the instant proceeding now, rather than waiting for a future remand Order issued by the Commission *sua sponte*, will more efficiently address this issue.

PECO therefore respectfully requests that its Petition for Limited Remand be granted.

Respectfully submitted,



Ward Smith  
 Assistant General Counsel  
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[ward.smith@exeloncorp.com](mailto:ward.smith@exeloncorp.com)



Date:

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<sup>2</sup> Mr. Smith also sponsored Mr. Watson's partner, Mr. Curtis Renner, in the *McKnight* case. That Motion was also granted on August 17, 2018.

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION


Nira & Robert Eckstein :  
: Docket No. F-2017-2601990  
:  
PECO Energy Company :

CERTIFICATE OF SERVICE

I, Ward L. Smith hereby certify that I served a copy of PECO Energy Company's  
*Petition for Limited Remand* upon all interested parties via email and overnight delivery mail to:

*Nira & Robert Eckstein*  
*1419 Greywall Lane*  
*Wynnewood, PA 19096*  
[Nira613@msn.com](mailto:Nira613@msn.com)

Dated: March 1, 2019

  
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