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November 18, 2019

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

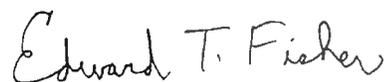
RE: Myesha Brown v. PECO Energy Company
PUC Docket No. C-2019-3009486

Dear Ms. Chiavetta:

Enclosed for filing with the Commission is *Reply Exceptions of PECO Energy Company* with regard to the matter referenced above.

I have enclosed a Certificate of Service showing that a copy of the above document was served on the interested parties. Thank you for your time and attention on this matter.

Sincerely Yours,



Edward T. Fisher

EF/

Cc: Certificate of Service

REPLY EXCEPTIONS OF PECO ENERGY COMPANY

PECO Energy Company (“PECO”) hereby replies to the Exceptions filed by Myesha Brown (“Complainant”) in the above-referenced matter on October 31, 2019.

On April 26, 2019, the Complainant filed a formal complaint against PECO. In her formal complaint, Complainant ticked the box “The utility is threatening to shut off my service or has already shut off my service.” The Complainant requested a payment agreement. On May 1, 2019, PECO filed an Answer to the formal complaint, denying all material allegations in the complaint.

On May 8, 2019, ALJ Eranda Vero (“ALJ Vero”) issued a Prehearing Order, scheduling a hearing on June 4, 2019 at 1:30 PM. On May 28, 2019, ALJ Vero issued a Hearing Notice, which reiterated the date and time of the hearing. On June 4, 2019, the hearing proceeded as scheduled. On June 4, 2019, PECO and Complainant reached a repayment agreement to the mutual satisfaction of both parties. Following this repayment agreement, at the hearing, Complainant made an on-the-record request for leave to withdraw her Complaint. PECO did not object to this on-the-record request.

On October 2, 2019, ALJ Vero issued an initial decision in the matter of *Myesha Brown v. PECO Energy Co.*, C-2019-3009486 (“Initial Decision”). The Initial Decision granted Complainant’s request to withdraw the complaint. The Initial Decision is well-reasoned with ample support from the record. As detailed in the Initial Decision, ALJ Vero reached the decision after weighing Complainant’s unopposed request to withdraw her complaint and the public interest in accordance with 52 Pa.Code § 5.94.

Complainant's Exception to the Initial Decision

Administrative agencies of the Commonwealth of Pennsylvania, such as the Public Utility Commission (“PUC”), are required to provide due process to the parties appearing before them.¹ The due process requirement is satisfied when the parties are provided notice and the opportunity to appear and be heard.²

Once the PUC meets its due process requirement, the burden falls upon the parties to appear and participate in the hearing.³ Here, Complainant not only appeared, but fully participated in the June 4, 2019 hearing. In the October 2, 2019 Initial Decision, ALJ Vero granted Complainant’s request to withdraw her Complaint. On June 4, 2019, the parties desired to and did engage in settlement discussions, during which time the hearing was recessed, and they were able to resolve all the issues raised in the Complaint. The parties entered into a new payment arrangement. When the hearing reconvened, Complainant on the record requested permission to withdraw her complaint, PECO did not object and the request was granted. Complainant’s October 31, 2019 exceptions do not even allege PECO failed to enter into or honor this new payment agreement.

The Complainant may request, and the Court may grant, a withdrawal of the Complaint at the hearing.⁴ In the present case, Complainant’s on-the-record request to withdraw her Complaint was treated as a petition for leave to withdraw her complaint. *See* 52 Pa. Code § 1.2.

¹ *See Brown v. PECO Energy Co.*, no. C-2008-2060121, Initial Decision at 7 (Pa. P.U.C. May 18, 2009) (Chestnut, J.) (citing *Schneider v. Pa. P.U.C.*, 479 A.2d 10 (Pa. Cmwlth. 1984)).

² *See id.*

³ *See, e.g., Mumma v. PPL Elec. Util. Corp.*, No. C-00014869 (Jan. 24, 2002) (“It is well-established law that once timely notice of a hearing and the opportunity to be heard have been provided, it is the responsibility of the parties to be present and participate in the hearing.”).

⁴ *See* 52 Pa. Code § 5.94; *Adam Kessler v. PECO Energy Company*, 2019 Pa. PUC LEXIS 25 (Pa. P.U.C. January 17, 2019).

Complainant wanted to withdraw her Complaint after entering into a new payment arrangement with PECO. She stated that she intended to apply for various grants and to make a lump sum payment towards her account in order to reduce her outstanding balance and achieve more affordable terms of a new payment arrangement with the company. PECO did not object to this request, and ALJ Vero granted the request.

Complainant cannot establish that a reopening of the proceeding would not prejudice the public's or PECO's interests. PECO should not be prejudiced by having to expend an inordinate amount of its resources to prepare for hearings in which the Complainant's request was granted, and she later seeks an alternate outcome. Nor should the public be prejudiced by the Complainant's wasteful use of the PUC's and utility company's resources.

Clearly, here, the Complainant is delaying this matter to avoid paying her electric bill and is using the formal complaint process and PUC appeals process to prevent paying the bill. Clearly, the public and PECO would be prejudiced by reopening this case again. Accordingly, the Initial Decision properly granted Complainant's request to withdraw her Complaint.

WHEREFORE, 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,

Edward T. Fisher

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

MYESHA BROWN

COMPLAINANT

v.

PECO ENERGY COMPANY,

RESPONDENT

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Docket No. C-2019-3009486

CERTIFICATE OF SERVICE

I, Edward T Fisher, 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).

**Myesha Brown
3008 Wharton Street
Philadelphia, PA 19146**

Dated at Philadelphia, Pennsylvania, November 18, 2019

Edward T. Fisher

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