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April 22, 2020

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

**RE: Caiqin Yu v. PECO Energy Company
PUC Docket No. F-2019-3012278**

Dear Ms. Chiavetta:

Enclosed for filing with the Commission are *PECO Energy's Reply Exceptions*.

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.

Very truly yours,



Khadijah Scott, Esquire
Assistant General Counsel, Exelon BSC
Encl.

Cc: Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**CAIQIN YU
COMPLAINANT**

v.

**PECO ENERGY COMPANY,
RESPONDENT**

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Docket No. F-2019-3012278

REPLY EXCEPTIONS OF PECO ENERGY COMPANY

I. Background and Procedural History

PECO Energy Company (“PECO Energy”) hereby replies to the Exceptions filed by Caiqin Yu (“Complainant”) on April 15, 2020. On August 5, 2019, Complainant filed a formal complaint against PECO Energy. In her formal complaint, Complainant states that she owns a multi-unit rental property located at 4712 Oxford Avenue, Philadelphia, PA. There are two apartments on the second floor, one apartment on the third floor and a church utilizing the space on the first floor. The Complainant’s tenant, T. Patrick Hodynski, had service on the 2nd floor and 3rd floor, of the property under account numbers 13470-27311 and 41470-13174. Her tenant finalized service on the second floor leaving a \$1,642.78 balance that transferred to his third-floor account number 41470-13174. On February 14, 2019, her tenant contacted PECO to complain of high bills and said that he suspected foreign wiring. On April 21, 2019, a PECO technician investigated. The high bill technician, Aaron Saunders, found three hall lights wired to the third-floor unit controlled by a switch on the third floor. PECO established service in the Complainant’s name at 4712 Oxford Avenue, 3rd Floor, Philadelphia, PA, effective April 21, 2019 under account number 41470-13183.

PECO transferred \$986.91 from the tenant's account, 41470-13174, for usage charges accrued at 4712 Oxford Avenue, 3rd Floor only to the Complainant's new account.

In her Formal Complaint, the Complainant disputes that she is liable for the \$986.91 that was transferred to her account, as she believes that this amount also encompasses usage from the tenant's stay on the 2nd floor, prior to the foreign wiring issue. She also disputes that the foreign wiring test was properly performed, as she does not believe that the PECO technician dropped the load as he stated.

On September 24, 2019, Respondent, PECO Energy, filed an Answer stating that the Complainant's formal complaint should be dismissed pursuant to 66 Pa.C.S. §1529.1 and Ace Check Cashing, Inc. vs. Phila. Gas Works, Docket No. C-2008-2056428 (Final Order entered May 21, 2010). On November 7, 2019, a telephonic hearing was conducted wherein, the Complainant testified on her behalf and admitted seven (7) exhibits into evidence. PECO Energy high bill technician, Aaron Saunders, testified on the company's behalf and nine (9) exhibits were admitted into evidence.

On March 27, 2020 Administrative Law Judge Darlene Heep issued an Initial Decision in the matter of Caiqin Yu v. PECO Energy. Co., F-2019-3012278 ("Initial Decision"). The Initial Decision denied the claims made by the Complainant and ordered dismissal of the formal complaint.

II. Legal Argument

ALJ Heep's Initial Decision is well-reasoned with ample support from the record. As detailed in the Initial Decision, the complaint does not set forth that PECO Energy violated any regulation, statute or order. In the case at bar, PECO Energy properly transferred the utility account

of the tenant including arrearages, to the Complainant's name. Consistent with 66 Pa. C.S. § 1529.1, if foreign wiring is found at a property owner's premises, PECO Energy is required to transfer the service and the balance into the property owner's name until the condition is corrected. Accordingly, the Complainant's exceptions must be dismissed. The Initial Decision of ALJ Heep must be affirmed.

In her Exceptions, the Complainant argues that the \$968.91 that was transferred to her account was improper and should be reallocated to her tenant. She states that the charges also encompass billing fees for when the tenant resided on the 2nd floor, and not the 3rd floor, where the foreign wiring existed. This argument is without merit.

On February 14, 2020, the Complainant's tenant contacted PECO to complain about suspected foreign wiring. On February 21, 2020, an inspection was conducted by high bill technician, Aaron Saunders. He found that the common hall lighting for the first and 2nd floor was connected to the meter on the third floor. This is foreign wiring. As a result, the tenant's bill from the 3rd floor, was properly transferred to the Complainant's name.

PECO Energy's actions are consistent with Pennsylvania law. The record clearly demonstrates that the issue of foreign wiring and the balance transfer at the Complainant's property has been properly decided and dismissed. As ALJ Heep has determined, when a utility finds foreign load, the utility is required to transfer the tenant's account, including any arrearages, into the landlord's name. See 66 Pa.C.S.A. § 1529.1.

The Complainant also states that the foreign wiring inspection performed by PECO Energy was improperly conducted, because there was not foreign wiring at her home. Specifically, the Complainant contends that there was no foreign wiring on the first and second

floors and that the technician did not drop the load during the inspection. This argument is without merit. In this case, ALJ Heep correctly articulated in her Initial Decision:

The testimony and contemporaneous notes of Inspector Saunders were detailed and specific. He testified that he confirmed that there was foreign load during the inspection by identifying that there is actual power to what is the suspected foreign wiring. He then dropped the load, or shut the main breaker off, to the meter to which it was suspected the foreign load was connected, in this case the 3rd floor apartment. He then checked to see whether the suspected load was affected by shutting off the power to the particular apartment. (Tr. 39).

When Inspector Saunders turned the power off to the 3rd floor meter, he confirmed that the hallway lights were affected, which established foreign wiring. (Tr. 41). Specifically, hallway lights on the 1st and 2nd floors were turned off when the power to the 3rd floor apartment was shut off. (Tr. 41-42). He also found that a switch on the 3rd floor controlled two lights on the 2nd floor hallway and one light in the 1st floor hallway. (Tr. 43, 47).

Caiqin Yu v. PECO Energy Company, F-2019-3012278 (Initial Decision entered, March 27, 2020, at 9).

Moreover, on March 18, 2019, the Complainant, herself, contacted PECO and advised that she had corrected the foreign wiring condition. On March 22, 2019, a high bill field technician went to the premises and confirmed that the foreign wiring condition had been corrected. The fact that the foreign wiring was corrected by the Complainant, makes her argument that foreign wiring did not initially exist a moot argument. Thus, the Commission should sustain the Initial Decision of ALJ Heep. The Complainant does not allege that the ALJ made an error of law or abused her discretion in any manner. Instead, Complainant excepts to the decision issued by ALJ Heep because she simply disagrees with the ALJ's decision and with the foreign wiring amount that was transferred into her name.

Consistent with 1-A Realty v. PPL Electric Utilities Corp., Docket Nos. F-2010-2166554 and F-2010-2166976 (Order entered April 12, 2012), the landlord shall be responsible for payment for the utility services rendered to the rental property when in a foreign load is found. More recently, the Commission reached the same result in the matter Phong Hoang v. PECO Energy Company, Docket No. F-2013-2379929 (Final Order entered, February 27, 2014).

In Phong Hoang, the Complainant argued that he should not be responsible for his tenant's balance and requested that the PUC order PECO to transfer the tenant's balance back to the tenant. Administrative Law Judge Mary D. Long granted PECO Energy's Preliminary Objection and dismissed Mr. Hoang's formal complaint in a well-reasoned opinion wherein she stated the Complainant property owner "simply states that he does not feel that is "fair" that he is responsible for the tenant's arrearages even though a foreign load was found in the rental property." ALJ Long opined that "while it may seem that it is a harsh result where arrearages may be large and the foreign load may be small, the fact remains that Section 1529.1 mandates that the entire account balance be transferred to the landlord."

Through her exceptions, the Complainant cannot attempt to revise current statutes and case law on the issue of 66 Pa.C.S. § 1529.1 and raise what is essentially a landlord tenant dispute, regarding the foreign wiring balance that should be attributable to her as opposed to the amount attributable to her tenant. That is a matter to be resolved in the Court of Common Pleas as it is outside the Commission's jurisdiction. ALJ Heep correctly concluded that the Complainant's case should be dismissed because PECO Energy acted according to the law by transferring the arrearages and account to the Complainant. Accordingly, ALJ Heep' decision to dismiss the Complainant's case against PECO Energy should be upheld.

III. Conclusion

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,



Khadijah Scott
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Docket No. F-2019-3012278

VERIFICATION

I, Khadijah Scott, 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: April 21, 2020



Khadijah Scott

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Docket No. F-2019-3012278

CERTIFICATE OF SERVICE

I, Khadijah Scott, hereby certify that I have this day served a copy of PECO Energy Company's Reply Exceptions in the above matter upon all interested parties by emailing an electronic copy to:

**Caiqin Yu
4712 Oxford Ave.
Philadelphia PA19124
Email: *carol99cq@gmail.com***

Dated: April 21, 2020



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