

Direct Dial: 215.841.6841
khadijah.scott@exeloncorp.com

December 18, 2020

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

RE: Rashid El Malik v. PECO Energy Company
PUC Docket No. F-2020-3018838

Dear Ms. Chiavetta:

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

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: Rashid El Malik (via email)

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

RASHID EL MALIK	:	
	:	
Mr. El Malik	:	
	:	
v.	:	Docket No. F-2020-3018838
	:	
PECO ENERGY COMPANY and	:	
RELIANT ENERGY NORTHEAST LLC	:	
d/b/a NRG RESIDENTIAL SOLUTIONS	:	
	:	
Respondents	:	

**EXCEPTIONS OF
OF PECO ENERGY COMPANY**

Pursuant to 52 Pa Code § 5.533, PECO Energy Company (“PECO”) hereby files its Exceptions to the Initial Decision (“I.D.”) of Administrative Law Judge Conrad A. Johnson (“ALJ Conrad”) issued on December 1, 2020, in the above-referenced matter and states the following:

I. Introduction

The Complainant in this proceeding, Rashid El Malik, has a residential account for electric and gas services at 249 Haverford Rd., Wynnewood, PA 19096. *Tr.* 86-86. On January 21, 2019, PECO received a supplier switch request from NRG Retail Solutions effective January 28, 2019 for the electric and February 4, 2019 for the gas service. *Tr.* 67-69. On January 23, 2019, PECO sent an enrollment notification letter to Mr. El Malik. *Id.* On January 31, 2019, Mr. El Malik called to dispute the enrollment with NRG Retail Solutions and requested to be returned to PECO. *Id.* PECO sent Mr. El Malik a drop supplier notification letter. *Id.* Mr. El

Malik's electric service was returned to PECO effective February 6, 2019 and the gas service was returned to PECO effective March 5, 2019. *Tr. 69; 81-82.*

The *El Malik* I.D. holds that PECO's January 23, 2019, confirmation letter switching Mr. El Malik's natural gas supplier from PECO to NRG Home, complied with PECO's Commission-approved Tariff that requires a 5-day waiting period, but is violation of the regulation because it does not comply with 52 Pa.Code § 59.93(2), which requires 10 days. I.D. at 9. The January 23, 2019, confirmation letter switching Mr. El Malik's natural gas supplier from PECO to NRG Home provided for 6 days from the date on the letter for Mr. El Malik to contact PECO if the information contained therein was incorrect. *Id.* The I.D. holds that PECO's Commission approved Tariff should comply with the applicable regulation and PECO's Tariff should require a 10-day waiting period in confirmation letters to customers advising of a natural gas supplier switch from PECO to an NGS. *Id.*

As set forth below, PECO respectfully submits that the *El Malik* I.D. is inconsistent with the provisions set forth in the Public Utility Commission Final Order, Interim Guidelines Regarding Standards For Changing a Customer's Electricity Generation Supplier, entered on October 25, 2012, under docket number M-2011-2270442 ("PUC Final Order"). The PUC Final Order waived the applicability of 52 Pa.Code § 59.93(2), which requires a 10 day notification, and shortened the notification time span to five (5) days, which it found to be "sufficient notice for customers and time to act to prevent an unauthorized switch." PUC Final Order at 45; 48-49. PECO complied with all of the requirements of the PUC Final Order. PECO's notification letter stated that if the information was incorrect, Mr. El Malik had six (6) days from the date of the confirmation letter in which to contact PECO. I.D. at 9. PECO therefore respectfully requests

that the Commission overturn the holding in the *El Malik* I.D. that PECO is in violation of 52 Pa.Code § 59.93(2).

II. Argument

A. PECO is exempt from the ten (10) day notification requirement of 52 Pa.

Code §59.93

The I.D. (pp. 8-10) discusses PECO's violation of the ten (10) day waiting period requirement of 52 Pa. Code §59.93. The ID states:

Concerning the natural gas supplier switch that is at issue in this proceeding, when a customer Contacts a NGS to request a new NGS, the newly selected NGS must notify the natural gas distribution company (NGDC) of the customers new selection by the end of the next business day following completion of the application process. 52 PA Code §59.93(1). Upon receipt of this notification the NGDC must send the NGCD ratepayer of record a confirmation letter noting that proposed change of NGS. 52 PA Code §59.932. This letter must include notice of a 10 day waiting period in which the order may be cancelled before the change of the NGS takes place. *Id.* The notice shall include the date service with the new NGS will begin unless the customer contacts the NGDC to cancel the change. *Id.* The 10-day waiting period shall begin on the day the letter is mailed. *Id.* The letter shall be mailed by the end of the next business day following the receipt of the notification of the customer's selection of an NGS. *Id.*

...

PECO's Commission-approved Tariff differs from section 59.93(2) in that it provides for only 5 days from the date of the confirmation letter to cancel the natural gas supplier switch. Pursuant to PECO's Tariff, the Company will send a confirmation notice to all customers who have made a NGS selection by the next business day after receiving the request from the NGS. Included in this notice shall be notification of a five-day waiting period in which the customer may cancel its selection of an NGS. The waiting period shall begin on the day the notice is mailed to the customer. PECO Energy Company-Gas Choice Supplier Coordination Tariff-Tariff Gas Pa. PUC No. 2S, Original Page No. 19, NGS Selection Procedures 6.3.1f.

The January 23, 2019, confirmation letter switching Mr. El Malik's natural gas supplier from PECO to NRG Home provided for 6 days from the date on the letter for Mr. El Malik to contact PECO if the information contained

therein was incorrect. Mr. El Malik's Exhibit 8. This letter complies with PECO's Commission-approved Tariff that requires a 5-day waiting period, but it does not comply with 52 Pa.Code § 59.93(2) which requires 10 days. PECO's Commission approved Tariff should comply with the applicable regulation and PECO's Tariff should require a 10-day waiting period in confirmation letters to customers advising of a natural gas supplier switch from PECO to an NGS.

I.D. at 8-10. (*emphasis added*)

While ALJ Conrad properly held that 52 Pa.Code §59.93(2) requires a 10 day waiting period in confirmation letters to customers advising of a natural gas supplier switch from PECO to an NGS, this issue was not broached by Mr. El Malik during the Formal Complaint hearing. Had Mr. El Malik raised the issue at the hearing, PECO would have had the opportunity to explain to the court that pursuant to the PUC Final Order, PECO is exempt from the ten (10) day waiting period requirement of 52 Pa.Code §59.93(2). PUC Final Order at 45; 48-49. That requirement has been waived. *Id.*

PECO does not dispute that 52 Pa.Code §59.93(2) requires a 10-day waiting period.

Pursuant to 52 Pa.Code § 59.93 – Customer Contacts with NGSs

When a contact occurs between a customer and an NGS to request a change of the NGS, upon receiving direct oral confirmation or written authorization from the customer to change the NGS, the customer's new NGS shall:

(1) Notify the NGDC of the customer's NGS selection by the end of the next business day following completion of the application process. The NGDC shall verify the accuracy of the information provided by the NGS by matching at least two data elements such as name and account number, or address and account number, with NGDC records.

(2) Upon receipt of this notification, the NGDC shall send the NGDC ratepayer of record a confirmation letter noting the proposed change of NGS. This letter shall include notice of a 10-day waiting period in which the order may be canceled before the change of the NGS takes place. The notice shall include the date service with the new NGS will begin unless the customer contacts the NGDC to cancel the change. The 10-day waiting period shall begin on the day the letter is mailed. The letter shall be mailed by the end of the next business day following the receipt of the notification of the customer's selection of a NGS.

See, 52 Pa.Code §59.93.

However, PECO does dispute that it is in violation of the Code. Notwithstanding the requirements of 52 Pa.Code §59.93(2), the PUC Final Order, specifically addressed this issue.

The Final Order acknowledged PECO's concerns within its Order.

PECO hopes it will be possible to maintain the same switching rules for both electric and gas service because doing so would reduce systems, training, IT and customer service burdens in implementing any changes and lessen customer confusion for those customers who receive both electric and gas from suppliers. PECO "supports taking a closer look at the impacts of accelerated switching on gas suppliers and customers."

See, Final Order at 43.

Thus, after careful consideration of the various Pennsylvania utilities' concerns, the PUC held:

On the issue of application of the proposed guidelines to the gas industry, we agree that the operational differences between the two industries warrant a separate proceeding involving the broader issues that will be focused solely on that industry. However, since we have substantially narrowed the focus of this proceeding to shortening the 10-day confirmation period, we see no reason why this narrow, focused change cannot also be applied to the gas industry. **Additionally, as PECO points out, we see value in keeping the rules for electric and gas as similar as possible. This makes sense for suppliers and utilities that sell both electric and gas – and for customers who shop for both electric and gas. Having a 10-day confirmation period for gas and a 5-day period for electric would simply invite confusion and frustration. Accordingly, we will waive 52 Pa. Code § 59.93(2) to the extent necessary to provide for a 5-day waiting period instead of a 10-day period:**

Upon receipt of the notification required by 52 Pa. Code § 59.93(1), the NGDC shall send the NGDC ratepayer of record a confirmation letter noting the proposed change of NGS. This letter should include notice of a 5-day waiting period in which the order may be canceled before the change of the NGS takes place. The notice shall include the date service with the new NGS will begin unless the customer contacts the NGDC to cancel the change. The 5-day waiting period shall begin on the day the letter is mailed. The letter shall be mailed by the end of the next business day following the receipt of the notification of the customer's selection of a NGS.

See, Final Order, at 48-49. (*emphasis added*)

Thus, PECO is in full compliance with the PUC Final Order. During the hearing, PECO's Manager of Energy Acquisition Operations, Carol Reilly, testified that notification of the switch of Mr. El Malik from PECO to a natural gas supplier was sent on January 23, 2019. *Tr.* 67-68. Ms. Reilly testified that the notification letter "is sent the next business day when we accept the enrollment from the supplier, and it is letting the customer know a supplier switch has been made and lists the supplier name and contact information and the effective date of when that service will begin with the chosen supplier." *Id.* Mr. El Malik testified that he received the notification letter of the change from PECO to a natural gas supplier. *Tr.* 42. As required, the notice included the date service that the new NGS will begin unless the customer contacted PECO to cancel the change. PECO's notification letter stated that if the information was incorrect, Mr. El Malik had six (6) days of the date of the confirmation letter in which to contact PECO. *I.D.* at 9. The *I.D.* correctly states that PECO's Commission-approved Tariff differs from section 59.93(2) in that it provides for only 5 days from the date of the confirmation letter to cancel the natural gas supplier switch. *Id.* However, this PECO practice of limiting the response time to five (5) days is in full compliance with the PUC Final Order that ordered the reduction from ten (10) days to five (5) days for notification of natural gas supplier changes. *See*, Final Order, at 48-49.

The *I.D.* states that PECO is in violation of regulation 52 Pa.Code §59.93(2). However, the *I.D.* does not take into account that the ten (10) day requirement of §59.93(2) was waived with regard to Pennsylvania utilities by the PUC Final Order and thus permits PECO to limit the response time in which to object to the switch to five days. *See*, Final Order, at 48-49.

PECO respectfully requests that the Commission conclude that PECO properly applied the five (5) day requirement pursuant to the PUC Final Order and is not in violation of 52 Pa.Code §59.93(2).

III. Conclusion

For the reasons stated above, PECO respectfully requests that the Commission issue an Order in this proceeding that:

1. The Complaint is denied in its entirety as to PECO.
2. The docket is closed.

Respectfully submitted,



KHADIJAH SCOTT
PECO Energy Company
2301 Market Street, S23-1
Philadelphia, PA 19103
(215) 841-6841
Fax: 215.568.3389
Khadijah.scott@exeloncorp.com
Counsel for PECO Energy Company

Dated: December 18, 2020

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

RASHID EL MALIK	:	
	:	
Mr. El Malik	:	
	:	
v.	:	Docket No. F-2020-3018838
	:	
PECO ENERGY COMPANY and	:	
RELIANT ENERGY NORTHEAST LLC	:	
d/b/a NRG RESIDENTIAL SOLUTIONS	:	
	:	
Respondents	:	

CERTIFICATE OF SERVICE

I, KHADIJAH SCOTT, hereby certify that I have this day served a copy of PECO Energy Company's Exceptions to ALJ Conrad A. Johnson's Initial Decision in the above matter upon all interested parties by e-mailing a copy to:

RASHID EL MALIK
1320 VIA MARGARITA
PALOS VERDES ESTATE, CA 90274
Via Email: elmaliksr@gmail.com

Dated at Philadelphia, Pennsylvania, December 18, 2020.



KHADIJAH SCOTT
Counsel for PECO Energy Company
2301 Market Street, S23-1
Philadelphia, PA 19103
(215) 841-6841
Fax: 215.568.3389
Khadijah.scott@exeloncorp.com