

Rashid A. Elmalik
1320 Via Margarita
Palos Verdes Estates, CA 90274

January 13, 2022

Via Electronic filing

RE: Rashid El Malik v PECO and NRG
Docket # F-2020-3018838

Dear Secretary Chiavetta:

I am responding to the Respondent answer to the Reconsideration request.

A copy of the answer is served accordance with the attached Certificate of service.

Respectfully Submitted

/RELM/ 

Rashid El Malik, Sr JD

CERTIFICATE OF SERVICE

I HEREBY THIS DAY SERVED A COPY OF A RESPONSE TO NRG'S ANSWER TO THE PETITION FOR RECONSIDERATION UPON THE PERSON LISTED BELOW IN THE MANNER INDICATED IN ACORDANCE WITH THE REQUIREMENT OF 52 Pa Code § 1.54

Via Electronic Mail

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Date January 13, 2022


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8 PENNSYLVANIA PUBLIC UTILITY COMMISSION
9 HARRISBURG PA 17120
10

11 Rashid El Malik, Sr)
12 v)
13 PECO Energy Company and) F-2020-3018838
14 Reliant Energy Northeast LLC t/a)
15 NRG Residential Solutions)
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19 **RESPONSE TO NRG ANSWER TO PLAINTIFF RECONSIDERATION**
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22 Defendant argues the Petitioner raises no new and novel argument not
23 previously heard or considered that appeared to have been overlooked by
24 the commission. (Respondent Pg. 1)

25 The record clearly showed the allegations of NRG unauthorized enrollments
26 of not only the Petitioner but also other unsuspecting customers were
27 overlooked when BCS entered into a Settlement Agreement filed with the
28 Commission on September 29, 2020 that the Commissioner left out of their
29 report to the Petitioner.
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1 NRG or the Commissioner did not bring up this Settlement agreement
2 during the hearing. ¹

3 The Respondent acknowledged Petitioner presented a new argument
4 for reconsideration and remand of the denial of his appeal concerning the
5 settlement. (Pg. 4 § 13) The Commissioner left this settlement agreement
6 out of the record when they did their investigation on behalf of the Petitioner.
7 Petitioner was prejudice by this omission. If Petitioner was aware of the
8 settlement, he could have subpoenaed the settlement agreement and
9 question NRG representative during his appeal with Administrative Law
10 Judge Conrad Jackson. Notwithstanding under cross examination NRG
11 representative Spencer Halstead admitted under oath NRG was receiving
12 complaints from consumer of unauthorized transfer of their account during
13 the same time Petitioner account was transferred.
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17 In Respondent answer, Pg. (3) Respondent concluded the Law Judge
18 found the record lack any evidence regarding who signed the enrollment
19 forms.
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21 **LEGAL STANDARD** To establish a sufficient case and satisfy the
22 burden of proof, that NRG was responsible or accountable for the problem
23 described in the Complaint. *Patterson v The Bell Telephone Company of*
24 *Pennsylvania*, 72 Pa. P.U.C. 196 (1990) The showing must be by a
25 preponderance of the evidence. *Samuel J Lansberry, Inc. v Pa. PUC*, 578
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30 ¹ Petitioner filed a claim with the Commissioner alleging the same activities the
31 commissioner fined NRG for in their settlement. The Commissioner excluded the settlement
32 with NRG from their investigation and report to the Petitioner. The settlement evidence was
crucial to support Petitioner claim of NRG Slamming activities.

1 A.2d 600 (Pa. Cmwlth 1990), alloc. denied, 529 Pa. 654, 602 A.2d 863
2 (1992)

3 The record showed the Petitioner did provide evidence that NRG was
4 responsible and accountable for the problem described in the Complaint.

5 NRG statement (Pg. 2 § 8) that no evidence was presented as to who
6 actually signed the enrollment forms and the Law Judge accepting the
7 Respondent allegations but acknowledging the same NRG employee had
8 been cited for the same unlawful authorization creates a higher bar for the
9 legal standard of Petitioner evidence. *Se-Ling Hosiery, Inc. v. Margulies*, 364
10 Pa. 45, 70 A.2d 854 (1950)

11 The Respondent presented no evidence concerning the signature only
12 that someone from the petitioner family could have signed the document;²

13 The weight of the evidence pointed to NRG agent who forged the
14 signatures since the signore provided no email address, which is a Public
15 Utility requirement.

21 CONCLUSION

22 Respondent conclusion (Pg. 4 § 14) that the Commissioner
23 acknowledge the Settlement and express concerns about the similarity
24 between the allegations raised during the I&E investigation fail to
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30 ² Petitioner gave testimony that he lived in California for 22 years and his only
31 relative in Philadelphia is his 88-year-old mother who physically could not have been in the
32 mall in question. Petitioner has two sisters who live in North Carolina and Chester County
respectively who could not have been in the mall.

1 acknowledge the prejudicial effect of not presenting the Settlement to the
2 Law Judge and Petitioner during the appeal.

3 Petitioner reconsideration should be granted since the Commissioner
4 failed to include the settlement in the record
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7 Respectfully Submitted

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10 Rashid El Malik, SR JD

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12 Date: 1/13/2022
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