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November 10, 2023

Via E-Mail: dheep@pa.gov
Administrative Law Judge Darlene Heep
Commonwealth of Pennsylvania
Pennsylvania Public Utility Commission
801 Market Street, Suite 4063
Philadelphia, PA 19107

RE: Kevin Brabank v. PECO Energy Company
In re: F-2023-3042345

Dear Judge Heep:

As you may recall, this matter had a hearing on October 31, 2023. I am in receipt of the Complainant's late-filed exhibits, which are internet hyperlinks: (1) Petition of PPL Electric Utilities Corporation for Approval of Its Default Service Plan For the Period June 1, 2021 Through May 31, 2025. P-2020-3019356; (2) Articles about the ALJ's recommendations and PUC's response; and (3) For more information on PA CAP-SOP see, Retail Energy Supply Association v. PA PUC :: 2018 :: Pennsylvania Commonwealth Court Decisions :: Pennsylvania Case Law :: Pennsylvania Law :: US Law :: Justia.

Kindly accept this correspondence as a response to the Complainant's late-filed exhibits. PECO Energy objects to the late filed exhibits as irrelevant and moot. On August 21, 2023, the Complainant filed a complaint alleging that "I enrolled in the Standard Offering Program 8/19/2019 without my knowledge or consent." *See*, Complainant's Complaint at 3. The Complainant raised this same allegation during testimony at the hearing. However, the Complainant now attempts to broaden the scope of his complaint by advocating for the rights of low-income customers, which he did not purport to be during his testimony. In essence, the Complainant asserts that low-income customers do not receive proper notification when the Standard Offer Program (SOP) twelve (12) month initial contract term ends. Not only does the Complainant lack standing to bring this claim on behalf of unidentified low-income customers of PECO Energy, the issue is moot. It is undisputed that customers who participate in a Pennsylvania utility's low-income Customer Assistance Program (CAP) are prohibited from utilizing a third-party supplier. The Complainant has not produced any evidence that PECO Energy Company violated the Public Utility Commission's regulation in that regard.

Moreover, the Commission only has jurisdiction to rule upon the matters raised before it, not an extraneous issue not raised in the Complaint against PECO, that neither impacts the Complainant nor any witness who he had an opportunity to present during his case-in-chief. 52 Pa. Code § 5.101(a)(1) The Complainant asserts that he was signed up for the SOP without his knowledge or consent. Assuming

arguendo that to be true, the contract limitations in which to decline future rates is of no moment. The Complainant has not submitted any evidence or testimony during the hearing or within his late filed exhibits as proof that PECO would have been the party to notify the Complainant of contract changes with his then supplier, Tomorrow Energy Company. PECO is not a party to third-party supplier contracts. The Complainant has not even submitted any evidence that PECO enrolled him fraudulently with his then supplier, Tomorrow Energy Company. Accordingly, these exhibits are irrelevant and moot.

It is also important to note, that the information provided by the Complainant is not only irrelevant, but is contrary to his newly found argument, as the Public Utility Commission did not find merit in the issues raised within the information that he has proposed to introduce into evidence. *See*, P-2020-3019356, Final Order at 152 (holding “that the proposal of PPL Electric Utilities Corporation to modify its customer referral Standard Offer Program so that, upon expiration of the Standard Offer Program contract, a customer who fails to make an affirmative election of a new contract with the existing Electric Generation Supplier or a new Electric Generation Supplier would be automatically transferred to default service at the applicable default service rate, rather than be converted to a month-to-month contract with their existing Standard Offer Program Electric Generation Supplier, is denied”)

Accordingly, PECO objects to the Complainant’s late-filed exhibits as irrelevant, moot and immaterial to the issue at hand, *i.e.*, whether PECO Energy Company fraudulently enrolled him in the Public Utility Commission’s SOP.

If you have any questions, please do not hesitate to contact me.

Very truly yours,

Khadijah Scott

Khadijah Scott, Esquire
Assistant General Counsel, PECO Energy

cc: Kevin Brabank (via email)