

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Wanda Walker	:	
	:	
v.	:	C-2023-3042220
	:	
PECO Energy Company	:	

**INITIAL DECISION**

Before  
F. Joseph Brady  
Administrative Law Judge

**INTRODUCTION**

This Initial Decision dismisses the Complaint of Wanda Walker pursuant to 66 Pa.C.S. § 316.

**HISTORY OF THE PROCEEDING**

On October 6, 2020, Wanda Walker (Complainant or Ms. Walker) filed a Formal Complaint (2020 Complaint) with the Pennsylvania Public Utility Commission (Commission) against PECO Energy Company (Respondent or PECO), which was docketed at C-2020-3023220. In the 2020 Complaint, Ms. Walker alleged that there were incorrect charges on her PECO bill relating to her rental property payments stemming from 2018. Ms. Walker also alleged that PECO did not credit her account with all of the payments that she made to the Company. As relief, Ms. Walker sought return of money paid, plus damages, interest, and penalties.

On June 16, 2022, the Commission issued a final Opinion and Order in *Walker v. PECO Energy Co.*, Docket No. C-2020-3023220 ordering:

1. That the Exceptions filed by Wanda Walker on March 16, 2022, are denied.
2. That the Exceptions filed by PECO Energy Company on March 21, 2022, are granted.
3. That the Initial Decision of Administrative Law Judge Darlene Heep, served on February 28, 2022, is adopted as modified by this Opinion and Order.
4. That the Formal Complaint in the matter of Wanda Walker v. PECO Energy Company, at Docket No. C-2020-3023220, is denied.
5. That within thirty days of the entry date of this Opinion and Order, PECO Energy Company shall review the charges transferred to Wanda Walker from 6801 17th Street, 3 MID 7, Philadelphia, Pennsylvania totaling \$2,391.03 to determine whether Wanda Walker was the account holder at the time any of the charges were incurred and, if necessary, adjust Wanda Walker's account balance accordingly. Within the same thirty-day time period, PECO shall also file with this Commission, and serve a copy on the Commission's Bureau of Consumer Services, a written summary of the results of the Company's review of the billings for the \$2,391.03 amount that it transferred to Wanda Walker.
6. That within sixty days of the entry date of this Opinion and Order, PECO shall issue a bill to Wanda Walker reflecting any adjustments made in accordance with this Opinion and Order.
7. That upon PECO's compliance with Ordering Paragraph Nos. 5 and 6, above, this matter shall be marked closed.

On July 13, 2022, PECO filed a Status Report Letter and credited the Complainant's 452 Twickenham Rd., Glenside, PA account in the amount of \$92.67, pursuant to Ordering Paragraphs Nos. 5 and 6 in *Walker v. PECO Energy Co.*, Docket No. C-2020-3023220 (Opinion and Order entered June 16, 2022). Thereafter, on July 19, 2022, the case was closed pursuant to Ordering Paragraph No. 7.

On July 26, 2023, Ms. Walker filed the instant Formal Complaint (2023 Complaint) with the Commission against PECO, reasserting the same allegations, arguments, and request for relief that she set forth in her 2020 Complaint.

On August 31, 2023, PECO filed an Answer and New Matter (Answer) to the 2023 Complaint, along with a Notice to Plead. In its Answer, PECO denied all material allegations of fact in the 2023 Complaint. In its New Matter, PECO averred that Ms. Walker's 2023 Complaint is virtually identical to her 2020 Complaint that was already fully adjudicated in *Walker v. PECO Energy Co.*, Docket No. C-2020-3023220 (Opinion and Order entered June 16, 2022). Accordingly, PECO requested that the Complaint be dismissed based on the grounds of *res judicata*.

The Complainant's Answer to PECO's New Matter was due no later than September 25, 2023. 52 Pa. Code §§ 1.12(a), 1.56(a)(1), (b), 5.63(a). The Complainant did not file an Answer to PECO's New Matter.

Also on August 31, 2023, PECO filed a Preliminary Objection to the Complaint, along with a Notice to Plead. In its Preliminary Objection, PECO reiterated its argument that the 2023 Complaint should be dismissed based on the grounds of *res judicata*.

The Complainant's Answer to PECO's Preliminary Objection was due no later than September 13, 2023. 52 Pa. Code §§ 1.56(a)(1), (b), 5.101(f)(1). The Complainant did not file an Answer to PECO's Preliminary Objection.

On October 12, 2023, the Commission issued a Motion Judge Assignment Notice, assigning this proceeding to me.

The Respondent's Preliminary Objection is procedurally ready to be ruled upon. For the reasons discussed below, the 2023 Complaint will be dismissed with prejudice.

## FINDINGS OF FACT

1. The Complainant is Wanda Walker.
2. The Respondent is PECO Energy Company.
3. On October 6, 2020, the Complainant filed a Formal Complaint with the Commission against PECO, which was docketed at C-2020-3023220.
4. In the 2020 Complaint, the Complainant alleged that there were incorrect charges on her PECO bill relating to her rental property payments stemming from 2018 and PECO did not credit her account with all of the payments that she made to the Company.
5. On June 16, 2022, the Commission issued a final Opinion and Order in *Walker v. PECO Energy Co.*, Docket No. C-2020-3023220, ordering:
  - (1) That the Exceptions filed by Wanda Walker on March 16, 2022, are denied.
  - (2) That the Exceptions filed by PECO Energy Company on March 21, 2022, are granted.
  - (3) That the Initial Decision of Administrative Law Judge Darlene Heep, served on February 28, 2022, is adopted as modified by this Opinion and Order.
  - (4) That the Formal Complaint in the matter of Wanda Walker v. PECO Energy Company, at Docket No. C-2020-3023220, is denied.
  - (5) That within thirty days of the entry date of this Opinion and Order, PECO Energy Company shall review the charges transferred to Wanda Walker from 6801 17th Street, 3 MID 7, Philadelphia, Pennsylvania totaling \$2,391.03 to determine whether Wanda Walker was the account holder at the time any of the charges were incurred and, if necessary, adjust Wanda Walker's account balance accordingly. Within the same thirty-

day time period, PECO shall also file with this Commission, and serve a copy on the Commission's Bureau of Consumer Services, a written summary of the results of the Company's review of the billings for the \$2,391.03 amount that it transferred to Wanda Walker.

(6) That within sixty days of the entry date of this Opinion and Order, PECO shall issue a bill to Wanda Walker reflecting any adjustments made in accordance with this Opinion and Order.

(7) That upon PECO's compliance with Ordering Paragraph Nos. 5 and 6, above, this matter shall be marked closed.

6. On July 13, 2022, PECO filed a Status Report Letter and credited the Complainant's 452 Twickenham Rd., Glenside, PA account in the amount of \$92.67, pursuant to Ordering Paragraphs Nos. 5 and 6 in *Walker v. PECO Energy Co.*, Docket No. C-2020-3023220 (Opinion and Order entered June 16, 2023).

7. On July 19, 2022, the matter of *Walker v. PECO Energy Co.*, Docket No. C-2020-3023220 was closed pursuant to Ordering Paragraph No. 7 of the final Opinion and Order of same.

8. On July 26, 2023, Ms. Walker filed the instant Formal Complaint with the Commission against PECO, reasserting the same allegations, arguments, and request for relief that she set forth in her 2020 Complaint.

9. On August 31, 2023, PECO filed an Answer and New Matter to the 2023 Complaint denying all material allegations of fact in the 2023 Complaint.

10. The Answer and New Matter contained a Notice to Plead, requiring the Complainant to file a response no later than September 25, 2023.

11. The Complainant did not file a response to the New Matter.

12. On August 31, 2023, PECO filed a Preliminary Objection to the Complaint on the grounds that the Complaint should be dismissed based on the grounds of *res judicata*.

13. The Preliminary Objection contained a Notice to Plead, requiring the Complainant to file a response no later than September 13, 2023.

14. The Complainant did not file a response to the Preliminary Objection.

### DISCUSSION

In this case, PECO filed a Preliminary Objection requesting to dismiss the Complaint as legally insufficient and outside of the Commission's jurisdiction pursuant to 52 Pa. Code §§5.101(a)(1) and (a)(4). However, the substance and legal reasoning of the preliminary objection more appropriately constitute a Motion to Dismiss based on the doctrine of *res judicata*. Accordingly, I will exercise my discretion under 52 Pa. Code § 1.2(a)<sup>1</sup> and consider PECO's Preliminary Objection as a Motion to Dismiss under 52 Pa. Code § 5.103.

PECO requested this Complaint be dismissed based on the grounds of *res judicata*. Based on the record, I conclude that analysis of the doctrine of *res judicata* is unnecessary to resolve this matter. The Commission has previously confirmed that the decision of whether or not to dismiss a complaint brought on the same allegations as a prior complaint, which was already fully adjudicated by the Commission, is answered by the Public Utility Code (Code) at 66 Pa.C.S. § 316. *See Howell v. Phila. Gas Works*, Docket No. C-2016-2568426 (Opinion and Order entered May 2, 2017). Section 316 provides, in pertinent part:

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<sup>1</sup> 52 Pa. Code § 1.2(a) states:

This subpart shall be liberally construed to secure the just, speedy and inexpensive determination of every action or proceeding to which it is applicable. The Commission or presiding officer at any stage of an action or proceeding may disregard an error or defect of procedure which does not affect the substantive rights of the parties.

Whenever the commission shall make any rule, regulation, finding, determination, or order, the same shall be *prima facie* evidence of the facts found and shall remain conclusive upon all parties affected thereby, unless set aside, annulled or modified on judicial review.

66 Pa.C.S. § 316. Section 316 of the Code precludes a collateral attack upon a Commission order that has not been set aside by the Commission or reversed upon appeal. *Howell* at 7.

Here, Ms. Walker's current 2023 Complaint reasserts the same allegations, arguments, and request for relief that she set forth in her 2020 Complaint that was already fully adjudicated in *Walker v. PECO Energy Co.*, Docket No. C-2020-3023220 (Opinion and Order entered June 16, 2022). The Order adjudicating Ms. Walker's 2020 Complaint was not set aside by the Commission or by the courts and thus, has conclusive effect. This means that Ms. Walker is barred by Section 316 from re-litigating the issues raised in her prior complaint. 66 Pa.C.S. § 316.

Based on the foregoing, Ms. Walker's current Complaint shall be dismissed, with prejudice, pursuant to Section 316 of the Code.

#### CONCLUSIONS OF LAW

1. The Commission or presiding officer at any stage of an action or proceeding may disregard an error or defect of procedure which does not affect the substantive rights of the parties. 52 Pa. Code § 1.2(a).

2. Commission regulations provide for the filing of motions to dismiss. 52 Pa. Code § 5.103.

3. The decision of whether or not to dismiss a complaint brought on the same allegations as a prior complaint, which was already fully adjudicated by the Commission, is answered by the Public Utility Code at 66 Pa.C.S. § 316. *Howell v. Phila. Gas Works*, Docket No. C-2016-2568426 (Opinion and Order entered May 2, 2017).

4. Whenever the commission shall make any rule, regulation, finding, determination, or order, the same shall be prima facie evidence of the facts found and shall remain conclusive upon all parties affected thereby, unless set aside, annulled or modified on judicial review. 66 Pa.C.S. § 316.

5. The Complainant is barred from re-litigating the same issues fully adjudicated in *Walker v. PECO Energy Co.*, Docket No. C-2020-3023220 (Opinion and Order entered June 16, 2022). 66 Pa.C.S. § 316.

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Complaint of Wanda Walker at *Wanda Walker v. PECO Energy Company*, Docket No. C-2023-3042220, is dismissed with prejudice.

2. That Docket No. C-2023-3042220 be marked closed.

Date: November 17, 2023

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/s/  
F. Joseph Brady  
Administrative Law Judge