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October 22, 2024

VIA E-FILING

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

RE: Kafi Clark v. PECO Energy Company
Docket No. C-2024-3051478

Dear Ms. Chiavetta:

Enclosed for filing with the Commission is the *Preliminary Objections of Respondent, 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,

A handwritten signature in blue ink, appearing to read "Khadijah Scott".

Khadijah Scott, Esquire
Assistant General Counsel, PECO Energy Company

Encl.

PENNSYLVANIA PUBLIC UTILITY COMMISSION

KAFI CLARK	:	
Complainant	:	
v.	:	DOCKET NO. C-2024-3051478
	:	
PECO ENERGY COMPANY	:	
Respondent	:	

NOTICE TO PLEAD

Pursuant to 52 Pa. Code §§ 5.101 and 5.62(c), you are hereby notified that, if you do not file a written response denying or correcting the enclosed Preliminary Objections of PECO Energy Company, within 10 days from service of this notice, a decision may be rendered against you. All pleadings, such as a Reply to Preliminary Objections, must be filed with the Secretary of the Pennsylvania Public Utility Commission, with a copy served to counsel for PECO Energy Company, Khadijah Scott, and where applicable, the Administrative Law Judge presiding over the issue.

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

With a copy to:
Khadijah Scott, Esq.
PECO Energy Company
2301 Market Street, S-23
Philadelphia, PA 19103

Dated: October 22, 2024



Khadijah Scott
Counsel for PECO Energy Company
2301 Market Street S-23
Philadelphia, PA 19103
(267) 533-1830
Khadijah.scott@exeloncorp.com

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

KAFI CLARK	:	
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v.	:	DOCKET NO. C-2024-3051478
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PECO ENERGY COMPANY	:	
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**PRELIMINARY OBJECTION OF RESPONDENT,
PECO ENERGY COMPANY**

Respondent, PECO Energy Company (“PECO”), pursuant to 52 Pa. Code §5.101(a)(1), respectfully petitions this Honorable Commission to dismiss the instant Complaint as outside of the Commission’s jurisdiction.

1. On October 2, 2024, PECO was served with a formal complaint filed by Kafi Clark (hereafter “Complainant”). *See*, Complainant’s Complaint.
2. On October 22, 2024, the Respondent filed an Answer to the Complainant’s Complaint. *See*, Respondent’s Answer to Complaint.
3. In the Complaint, the Complainant states that she needs certain provisions under the Americans with Disabilities Act (ADA) due to an inability to practice law and requests that her IRS coupons be credited to her account.
4. To the extent the Complainant seeks the court to adjudicate over the applicability of the ADA or the Internal Revenue Service, that is outside of the Public Utility Commission’s (PUC) jurisdiction.
5. PECO therefore files the instant Preliminary Objection.

6. Pursuant to 52 Pa. Code §5.101, preliminary objections may be filed against a complaint and dismissed for lack of Commission jurisdiction. 52 Pa. Code § 5.101(a)(1).

7. Commission procedure regarding the disposition of preliminary objections is similar to that utilized in Pennsylvania civil procedure. Equitable Small Transportation Intervenor. v. Equitable Gas Co., 1994 Pa.PUC LEXIS 69, Docket No. C-00935435 (July 18, 1994).

8. In deciding preliminary objections, the Public Utility Commission must determine, based on the factual pleadings of the petitioner, if relief or recovery is possible. Roc v. Flaherty, 527 A.2d 211 (Pa. Cmwlth 1985).

9. A complaint must be able to recover under the law to survive a preliminary objection. Milliner v. Enck, 709 A.2d 417, 418 (Pa. Super. Ct. 1998) (“preliminary objection should be sustained only where it appears with certainty that, upon the facts averred, the law will not allow the plaintiff to recover”).

10. All of the non-moving party’s averments must be taken as true for the sake of deciding the preliminary objection. County of Allegheny v. Commw. of Pa., 490 A.2d 402 (Pa. 1985).

11. The court does not, however, need to accept, “unwarranted inferences from facts, argumentative allegations, or expressions of opinions.” Feingold v. McNulty, 2009 Phila. Ct. Com. Pl LEXIS 167, *3.

12. Section 703 of the Public Utility Code, 66 Pa. C.S.A. § 703(b) provides that the Commission may dismiss any complaint without a hearing if, in its opinion, a hearing is not necessary to the public interest.

13. A hearing is required only when there is a disputed question of fact, and is not required to resolve questions of law. Dee-Dee Cab, Inc. v. Pa.Pub. Util. Comm'n, 817 A.2nd 593 (Pa.Comm. Ct. 2003), petition for allowance of appeal denied, 836 A.2d 123 (Pa. 2003).

14. The PUC has jurisdiction over the Public Utility Code, the Commission's regulations, or an outstanding order of the Commission.

15. The offense alleged must be a violation of the Public Utility Code, the Commission's regulations, or an outstanding order of the Commission. *See*, 66 Pa.C.S. §701.

16. The Complainant's Complaint with regard to any issues associated with the ADA are outside of the PUC's jurisdiction.

17. The Complainant's Complaint without regard to any issues associated with the IRS is outside of the capacity and PUC's jurisdiction.

18. Moreover, this issue has already been decided in James Coppedge v. PECO, Docket No. F-2014-2406180 (Order entered Jul. 29, 2014). The PUC determined that "even accepting as true the Complainant's contentions, nothing in either PECO's tariff or our Regulations requires PECO to accept all forms of payment."

19. Accordingly, the Complainant's formal complaint should be dismissed as it fails to set forth any violation by PECO of either the Public Utility Code, the regulations of the PUC or PECO's Electric Service Tariff as required by 52 Pa. Code §5.22(a)(4).

REQUEST FOR RELIEF

WHEREFORE, for the reasons set forth above, PECO Energy Company respectfully requests that your Honorable Commission summarily dismiss the Complainant's Complaint.

Respectfully submitted,



Khadijah Scott
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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: October 22, 2024



Khadijah Scott

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CERTIFICATE OF SERVICE

I, Khadijah Scott, hereby certify that I have this day served a copy of PECO Energy Company's Preliminary Objection in the above matter upon all interested parties by *E-mailing* a copy to:

KAFI CLARK

Dated: October 22, 2024



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