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November 18, 2024

VIA E-FILING

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


RE: Nicole Gibson v. PECO Energy Company
Docket No. F-2024-3049195

Dear Ms. Chiavetta:

Enclosed for filing with the Commission is *PECO Energy Company's Motion to Dismiss 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 in this matter.

Very truly yours,


Khadijah Scott, Esquire
Assistant General Counsel, PECO Energy Company

Encl.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

NICOLE GIBSON	:	
Complainant	:	
v.	:	DOCKET NO. F-2024-3049195
	:	
PECO ENERGY COMPANY	:	
Respondent	:	

NOTICE TO PLEAD

Pursuant to 52 Pa. Code §5.102(a), you are hereby notified that, if you do not file a written response denying or correcting the enclosed Motion to Dismiss of PECO Energy Company, within twenty (20) days from service of this notice, a decision may be rendered against you. All pleadings, such as a Reply to PECO’s Motion to Dismiss, 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
Khadijah.scott@exeloncorp.com

Dated: November 18, 2024



Khadijah Scott
Counsel for PECO Energy Company
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**BEFORE THE
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**MOTION TO DISMISS OF RESPONDENT,
PECO ENERGY COMPANY**

Respondent, PECO Energy Company (“PECO”), pursuant to 52 Pa. Code § 5.102(a) respectfully petitions this Honorable Commission to dismiss the instant Complaint for the following reasons:

1. On May 22, 2024, PECO Energy Company ("PECO Energy") was served with a formal complaint filed by Nicole Gibson (hereafter “Complainant”) in the above captioned docket. *See*, Complainant’s Complaint.
2. On June 10, 2024, PECO Energy filed an Answer to the Complainant’s Complaint. *See*, Respondent’s Answer to Complainant’s Complaint.
3. In the Complaint, the Complainant requests that the Public Utility Commission (“PUC”) force PECO to accept her remittance payment and that UCC, USC and BOE laws be relied upon in her Complaint.
4. In essence, the Complainant is requesting that the PUC institute its jurisdiction over the Uniform Commercial Code and United States Code.
5. 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. Commw. Ct. 2003), petition for allowance of appeal denied, 836 A.2d 123 (Pa. 2003).

6. Here, there are no genuine issues of fact and PECO Energy is entitled to judgment as a matter of law with respect to all of the allegations in the Complaint.

I. LEGAL ARGUMENT

A. Standard of Review

7. The Commission's regulations at 52 Pa. Code §5.102(a) permits any party to move for summary judgment or judgment on the pleadings after the pleadings are closed, but within such time as to not delay a hearing.

8. Under 52 Pa. Code §5.102(d)(1), the presiding officer will grant the motion if the pleadings, depositions, answers to interrogatories, admissions and affidavits show that there is no genuine issue as to a material fact and that the moving party is entitled to judgment as a matter of law.

9. The moving party bears the burden of showing that no genuine issue of material fact exists and that it is entitled to judgment as a matter of law. The Commission must view the record in the light most favorable to the non-moving party, giving that party the benefit of all reasonable inferences. First Mortgage Co. of Pennsylvania v. McCall, 459 A.2d 406 (Pa. Super. 1983).

10. The provision at 52 Pa. Code §5.102(c) serves judicial economy by avoiding a hearing where no factual dispute exists. If no factual issue pertinent to the resolution of the case exists, a hearing is unnecessary. Lehigh Valley Power Committee v. Pennsylvania Public Utility Commission, 563 A.2d. 557 (Pa. Cmwlth. 1989).

II. Lack of Commission Jurisdiction – The PUC does not have Jurisdiction to Resolve matters of the Uniform Commercial Code or United States Code.

11. The Complainant requests that the Public Utility Commission require PECO to accept her remittance payment and that UCC, USC and BOE laws be relied upon in her Complaint.

12. Section 332(a) of the Public Utility Code provides that the party seeking relief from the Commission has the burden of proof. 66 Pa.C.S. § 332(a).

13. As a matter of law, the Complainant must show that PECO Energy is responsible or accountable for the problem described in the Complaint in order to prevail. *Patterson v. Bell Tel. Co. of Pa.*, 72 Pa. PUC 196 (1990).

14. “Burden of proof” means a duty to establish a fact by a preponderance of the evidence, or evidence more convincing, by even the smallest degree, than the evidence presented by the other party. *Se-Ling Hosiery v. Margulies*, 70 A.2d 854 (Pa. 1950).

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

17. The PUC does not have jurisdiction over the Uniform Commercial Code.

18. The PUC does not have jurisdiction over federal law or the United States Code.

19. The Complainant seeks the Commission to review a matter outside of its jurisdiction.

20. In this matter, the Complainant has failed to allege a Public Utility Commission regulation, law or statute that the Respondent has violated in regard to her utility service.

21. Accordingly, the Complainant's formal complaint should be dismissed as it fails to set forth a violation by PECO Energy 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 formal complaint, and all issues which were raised in the Complaint.

Respectfully submitted,



Khadijah Scott
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PECO ENERGY COMPANY	:	
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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: November 18, 2024

Khadijah Scott

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v.	:	DOCKET NO. F-2024-3049195
	:	
PECO ENERGY COMPANY	:	
Respondent	:	

CERTIFICATE OF SERVICE

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

NICOLE GIBSON
2426 W GORDON ST
PHILADELPHIA PA 19132
Via email: nicolegibson77777@gmail.com

Dated: November 18, 2024



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