



Exelon Business Services Company

Legal Department

2301 Market Street/S23 1
Philadelphia, PA 19103

215 568 3389 Fax
www.exeloncorp.com

Direct Dial: 215.841.6841

March 22, 2013

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

RE: Richard Coppola v. PECO Energy Company
PUC Docket No.: F-2012-2325791

Dear Ms. Chiavetta:

Enclosed for filing with the Commission are the following documents in the matter referenced above.

| | |
|----------|--------------------------------------|
| — | Answer |
| — | Answer & New Matter |
| <u>X</u> | Motion |
| — | Motion for Judgment on the Pleadings |
| — | Motion for Continuance |
| — | Preliminary Objection |
| — | Exceptions |
| — | Reply Exceptions |
| — | Main Brief |
| — | Reply Petition |

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,

Shawane Lee
Counsel for PECO Energy Company
SL/lo

cc: Christopher Pell, ALJ (*via email only*)
Richard Coppola (*via email & regular mail*)

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

RICHARD J. COPPOLA

v.

PECO ENERGY COMPANY

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DOCKET NO. F-2012-2325791

**MOTION OF PECO ENERGY COMPANY OBJECTING TO COMPLAINANT'S
WITHDRAWAL OF FORMAL COMPLAINT**

PECO Energy Company ("PECO Energy"), hereby objects to the Complainant's request to withdraw his formal complaint, pursuant to 52 Pa. Code § 5.94(a) and states the following:

1. An In-Person hearing is scheduled to take place Friday, March 22, 2013, before Administrative Law Judge Christopher Pell.
2. On Thursday, March 21, 2013, PECO Energy received Complainant's Notice of Withdraw of Complaint without Prejudice. See Complainant's Notice of Withdraw of Complaint, attached hereto as Exhibit "1".
3. In his Notice, the Complainant states that he is withdrawing his formal complaint because he was "prevented from completing discovery by and through the Commissions Interim Order dated 3/22/2013". See Exhibit "1".
4. Complainant also states that his "due process and administrative law rights have been infringed upon" and "commencement of the 3/22/2013 hearing" will extinguish his rights.
5. PECO Energy objects to the Complainant's Petition to withdraw the formal complaint.
6. 52 Pa. Code § 5.94(a) states:

Except as provided in subsection (b), a party desiring to withdraw a pleading in a contested proceeding may file a petition for leave to withdraw the appropriate document with the Commission and serve it upon the other parties. The petition must set forth the

reasons for the withdrawal. A party may object to the petition within 20 days of service. After considering the petition, an objection thereto and the public interest, the presiding officer or the Commission will determine whether the withdrawal will be permitted.

7. "Pleading" is defined as "an application, complaint, petition, answer, motion, protest, reply, or other similar document filed in a proceeding." 52 Pa. Code § 1.8(a).

8. The Complainant filed his formal complaint on September 17, 2012.

9. PECO Energy filed an answer to the formal complaint on October 1, 2012.

10. The Complainant has had approximately six (6) months to conduct discovery in this matter.

11. Over the past six months, the Complainant has propounded upon PECO Energy at least five (5) discovery requests including: Complainant's Requests for Admissions, Request for Interrogatories Set I, Set II and Set III, and Request for Production of Documents.

12. PECO Energy provided responses to all of the Complainant's discovery requests and provided over 164 pages of documentation.

13. PECO Energy has stated that the company has no additional documentation to provide to the Complainant. Accordingly, consistent with 52 Pa. Code § 5.36(a)(4), any additional discovery propounded on the company would require the company to make an unreasonable investigation as there are no other documents to produce.

14. On March 15, 2013, the Complainant served a Notice of Deposition on PECO Energy to produce eight (8) witnesses for deposition at a location forty miles away from PECO Energy's Main Office Building in Philadelphia.

15. The Notice of Deposition was filed only one week before the hearing despite the fact that the Complainant had knowledge of the individuals he wanted to depose back in November 2012.

16. The Complainant has had ample opportunity (approximately six months) to conduct and complete discovery in this matter.

17. Accordingly, the Complainant's basis for withdrawing his formal complaint alleging that he was "prevented from completing discovery" is without merit.

18. Further, the Complainant's withdrawal of the formal complaint one day before the hearing and his proffered reason further demonstrates the Complainant's bad faith in instigating, and continuing this litigation to the 11th hour.

19. PECO Energy's due process and administrative law rights that will be infringed upon if the formal complaint is withdrawn.

20. If the Complainant is given an opportunity to withdraw his formal complaint without prejudice, he will have the ability to re-file the complaint and begin this process all over again.

21. The Complainant will simply re-file the formal complaint and commence harassment against the company by propounding nuisance discovery requests and motions under another Administrative Law Judge.

22. Withdrawal of the formal complaint will result in severe prejudice to PECO Energy and its ratepayers as well as the Commission because of the resources that have already been committed to litigating and adjudicating this matter. Consequently, permitting the Complainant to withdraw his formal complaint is not in the public interest. See Acot v. PPL Elec. Utilities Corp., Docket No. F-01017024 (Aug. 29, 2002) (where the Commission concluded that the Complainant's Petition to Withdraw her formal complaint would not be in the public interest.)

23. Accordingly, PECO Energy respectfully requests that this Honorable Commission

deny the Complainant's Petition to Withdraw his formal complaint and the March 22, 2013 proceeding commence as scheduled.

WHEREFORE, PECO Energy respectfully requests that this Honorable Commission deny the Complainant's Petition to Withdraw Formal Complaint.

Respectfully Submitted,



Shawane L. Lee
Counsel for PECO Energy Company
2301 Market Street, S23-1
P.O. Box 8699
Philadelphia, PA 19101-8699
Direct Dial: 215.841.6841
Fax: 215.568.3389
Shawane.Lee@exeloncorp.com

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

RICHARD J. COPPOLA

v.

PECO ENERGY COMPANY

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DOCKET NO. F-2012-2325791

VERIFICATION

I, Shawane L. Lee, 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.



Shawane L. Lee

Date: March 22, 2013

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

RICHARD J. COPPOLA

v.

PECO ENERGY COMPANY

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DOCKET NO. F-2012-2325791

CERTIFICATE OF SERVICE

I, Shawane L. Lee, hereby certify that I have this day served a copy of PECO Energy Company's Motion in the above matter upon all interested parties by mailing and emailing a copy, properly addressed and postage prepaid to:

Richard J. Coppola
Post Office Box 99
25 Parkside Drive
Langhorne, PA 19047



Shawane L. Lee
Counsel for PECO Energy Company
2301 Market Street, S23-1
P.O. Box 8699
Philadelphia, PA 19101-8699
Direct Dial: 215.841.6841
Fax: 215.568.3389
Shawane.Lee@exeloncorp.com

Dated at Philadelphia, Pennsylvania, March 22, 2013.

EXHIBIT “1”

From: The Clerk of

Richard J. Coppola
Post Office Box 99
25 Parkside Drive
Langhorne Pennsylvania 19047
Telephone: (Daytime) 215.497.1000, (Cell) 215.990.9900
Telefax: 215.497.9000
Email: hut@globalweb.com

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

RE: Richard Coppola v. PECO Energy Company
PUC Docket No.: F-2012-2325791

Dear Ms. Chiavetta,

Enclosed for filing with the Commission are the following documents in the matter referenced above along with their respective Certificates of Service.

1. COMPLAINANT'S NOTICE OF WITHDRAW OF COMPLAINT WITHOUT PREJUDICE

Very Truly Yours,



Richard Coppola, Jr.

RJC/lg

2013/03/21 12:48:48

Via.: USPS with Delivery Confirmation

Page 1 of 1 plus attachments

Copy: File

PECO ENERGY
EXHIBIT

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Richard J. Coppola, Jr.
P.O Box 99
Langhorne, PA 19047

Complainant

: No.: F-2012-2325791

v.

PECO Energy Company
2301 Market Street
Philadelphia, PA 19101

: Administrative Law

Respondent

**COMPLAINANT'S NOTICE OF WITHDRAW OF COMPLAINT
WITHOUT PREJUDICE**

COMES NOW Complainant in his notice to Withdraw Complaint Without Prejudice.

1. The record clearly reflects that Complainant has prosecuted his case and attempted to conduct and to complete discovery fairly and in good faith required to prosecute Complainant's case however Complainant was prevented from completing discovery by and through the Commissions interim Order dated 3/22/2013. It is worth noting that no discovery schedule was established by the Commission or requested by the respondent so the process of discovery scheduling was left entirely upon Complainant. Submitted however undocketed pleadings by the Commission, discovery delays by respondent actions, etc. contributed to the timeline and sequence for Complainant's establishment of his discovery schedule. Complainant's due process and administrative law rights have been infringed upon and upon commencement of the 3/22/2013 hearing Complainant's rights within the administrative law procedures and rules will in-fat be extinguished by a rush-to-trial effort on behalf of both the respondent and the Commission.

2. It has been assumed that the administrative law avenue is "sufficient" to resolve certain disputes regarding public utility complaints however Complainant's

experience with this matter has clearly demonstrated otherwise throughout this matter filed before the Commission as the record clearly demonstrates including violation of Complainant's due process rights and being precluded from completing discovery which are basic rights of the Complainant.

3. It has become apparent today considering the interim order by the Commission dated 3/21/2013 received within the hour that the Commission leaves Complainant with no other option than to withdraw Complainant's Complaint.

4. Complainant's Complaint is hereby withdrawn and will be filed within the Court of Common Pleas where Complainant's due process and discovery rights will not be infringed.

Dated: 3/21/13



Richard J. Coppola, Jr.
Complainant
(215) 497-1000
(business - daytime phone)

(Mailing Address)
25 Parkside Drive
Langhorne, PA 19047

CERTIFICATION OF SERVICE

I, Richard J. Coppola, Jr., do hereby certify that a true and correct copy of **COMPLAINANT'S NOTICE OF WITHDRAW OF COMPLAINT WITHOUT PREJUDICE** was served upon the Defendant by United States Postal Service and electronically in PDF file format, in accordance with the requirements of ss 1.54 on or about the below written date:

Dated: 3/21/13



Richard J. Coppola, Jr.
Complainant
(215) 497-1000
(business - daytime phone)

(Mailing Address)
25 Parkside Drive
Langhorne, PA 19047

PECO Energy Company
2301 Market Street
Philadelphia, PA 19101

Respondent

VERIFICATION

I, Richard J. Coppola, Jr., Complainant verifies that the statements made in the foregoing pleading are true and correct to the best of his knowledge, information and belief. Plaintiff understands that false statements herein are subject to the penalties of 18 Pa. C.S. Section 4904 relating to unsworn falsification to authorities.

Dated: 3/21/13



Richard J. Coppola, Jr.
Complainant
(215) 497-1000
(business - daytime phone)

(Mailing Address)
25 Parkside Drive
Langhorne, PA 19047