

Legal Department

Exelon Business Services Company
2301 Market Street/S23-1
P.O. Box 8699
Philadelphia, PA 19101-8699

Telephone 215.841.4000
Fax 215.568.3389
www.exeloncorp.com

Direct Dial: 215.841.6841

February 10, 2008

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

Re: Stonehurst Realty Corp. Co. v. PECO Energy Company
PUC Docket No. C-2008-2059359; C-2008-2079291; C-C-2008-2080478

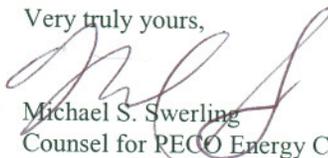
Dear Mr. McNulty:

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

___	Answer (original and 3 copies)
___	Motion to Consolidate Complaints & Dismiss (original and 3 copies)
<u>X</u>	Motion For Judgment on the Pleadings (original and 3 copies)
___	Preliminary Objection (original and 3 copies)
___	Exceptions (original and 9 copies)
___	Reply Exceptions (original and 9 copies)
___	Brief (original and 9 copies)
___	Reply Brief (original and 9 copies)

Also enclosed is an extra copy of this letter, which I request that you date stamp and return to me in the envelope provided as proof of filing. I have enclosed a Certificate of Service showing that a copy of the above document was served on the interested parties.

Very truly yours,



Michael S. Swerling
Counsel for PECO Energy Company

M SS/zyr

Enc.

cc: Stonehurst Realty Corp. Co.
ALJ Angela T. Jones

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

STONEHURST REALTY CORP. CO.

v.

PECO ENERGY COMPANY

DOCKET NOS. C-2008-2059359
C-2008-2079291
C-2008-2080478

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 of PECO Energy Company, within 20 days from service of this notice, the Commission may make a ruling not in your favor and your Complaint may be dismissed. All pleadings, such as a Reply to Motion, must be filed with the Secretary of the Pennsylvania Public Utility Commission, with a copy served to counsel for PECO Energy Company, Michael S. Swerling, and where applicable, the Administrative Law Judge presiding over the issue.

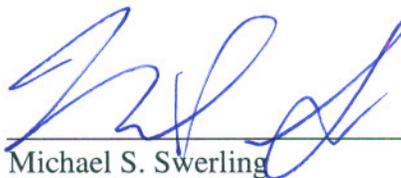
File with:

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, Second Floor
Harrisburg, PA 17120

With a copy to:

Michael S. Swerling, Esq.
PECO Energy Company
2301 Market Street, S-23
Philadelphia, PA 19103

Dated at Philadelphia, PA, February 10, 2009



Michael S. Swerling
Counsel for PECO Energy Company
2301 Market Street S-23
Philadelphia, PA 19101-8699
215-841-6841
Michael.Swerling@exeloncorp.com

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

STONEHURST REALTY CORP. CO.

v.

PECO ENERGY COMPANY

DOCKET NOS. C-2008-2059359
C-2008-2079291
C-2008-2080478

PECO ENERGY COMPANY'S MOTION FOR JUDGMENT ON THE PLEADINGS

PECO respectfully requests that this Honorable Commission dismiss all relevant dockets (C-2008-2059359, C-2008-2079291, and C-2008-2080478) pursuant to 52 Pa. Code § 5.101(d)(2) because all of the dockets fail to state a genuine issue as to a material fact.

In the alternative, PECO requests that all dockets be dismissed if Complainant fails to obtain counsel by March 3, 2009 pursuant to 52 Pa. Code §§1.21 and 1.22 and in accordance with Administrative Law Judge, Angela Jones's Prehearing Order #2 in dockets C-2008-2059359, C-2008-2079291, and C-2008-2080478.

FAILURE TO STATE A GENUINE ISSUE AS TO A MATERIAL FACT

1. PECO requests that dockets C-2008-2059359, C-2008-2079291 and C-2008-2080478 be dismissed pursuant to 52 Pa. Code § 5.101(d)(2) because all of the dockets fail to state a genuine issue as to a material fact.

2. In dockets C-2008-2059359, C-2008-2079291 and C-2008-2080478 Complainant admits that it pays late every month and that is the reason why Complainant has been charged its deposits.

3. PECO reserves the right to charge deposits and additional deposits to commercial customers such as Complainant, when it pays its bill late.

4. PECO avers that if all of Complainant's averments are taken as true, Complainant cannot be granted its requested relief.

5. There is no regulation stating that PECO cannot charge a commercial customer, such as Complainant a security deposit or an additional security deposit if it pays late and Complainant admits to paying late in each Complaint.

6. PECO avers that there is no genuine issue as to a material fact and that it is entitled to judgment as a matter of law on all outstanding issues.

REPRESENTATION BY COUNSEL

7. In the alternative, if it is decided that the Complainant is entitled to a hearing, PECO respectfully requests that the case be dismissed if Complainant fails to obtain counsel by March 3, 2009.

8. Commission regulations at 52 Pa. Code §§1.21 and 1.22 require that a Partnership be represented before the Commission by counsel in adversarial proceedings.

9. Administrative Law Judge, Angela T. Jones ("Judge Jones") has been assigned to cases C-2008-2059359, C-2008-2079291 and C-2008-2080478 for Stonehurst Realty Corporation.

10. On February 3, 2009, Judge Jones issued her Prehearing Order #2 wherein dockets C-2008-2059359, C-2008-2079291 and C-2008-2080478 were consolidated so that each docket would only receive one hearing date. A copy of the Prehearing Order is attached as Exhibit A.

11. In her Prehearing Order, Paragraph 11, Judge Jones also stated:

The Complainant, Stonehurst Realty is a corporation and in compliance with paragraph 6 above should have an attorney licensed to practice law

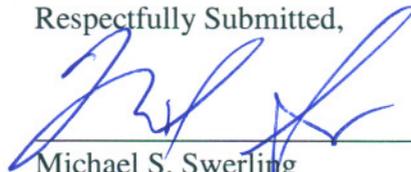
before the Pennsylvania Public Utility Commission. Complainant should provide evidence of any attorney through a notice of appearance filed by an attorney on Complainant's behalf on or before March 3, 2009. Failure to comply may produce an unfavorable result for the Complainant.

12. PECO requests that if Complainant fails to submit a notice of appearance demonstrating representation by counsel in compliance with 52 Pa. Code §1.21 and 1.22 and in compliance with Judge Jones' Order, that all dockets (C-2008-2059359, C-2008-2079291, and C-2008-2080478) be dismissed.

WHEREFORE, PECO respectfully requests that this Honorable Commission dismiss all relevant dockets (C-2008-2059359, C-2008-2079291, and C-2008-2080478) pursuant to 52 Pa. Code § 5.101(d)(2) because all of the dockets fail to state a genuine issue as to a material fact.

In the alternative, PECO requests that all dockets be dismissed if Complainant fails to obtain counsel by March 3, 2009 pursuant to 52 Pa. Code §§1.21 and 1.22 and in accordance with Administrative Law Judge, Angela Jones's Prehearing Order #2.

Respectfully Submitted,



Michael S. Swerling
Counsel for PECO Energy Company
2301 Market Street, S23-1
P.O. Box 8699
Philadelphia, PA 19101-8699
(215) 841-6841
Michael.Swerling@exeloncorp.com

MICHAEL SWERDLOFF ✓ 2/9/09
FEB - 5 2009

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Stonehurst Realty Corporation	:	
Stonehurst Realty Corp. – Harrison Court Apts.	:	
	:	C-2008-2059359;
v.	:	C-2008-2079291;
	:	C-2008-2080478
PECO Energy Company	:	

PREHEARING ORDER #2

An Initial Hearing in this case is scheduled for an available hearing room on the thirteenth floor of the Philadelphia State Office Building on Tuesday, March 24, 2009 at 1:30 p.m. Accordingly, the parties are hereby directed to comply with the following requirements:

1. You must serve me directly with a copy of any document that you file in this proceeding, at the time of filing. If you send me any correspondence or document, you must send a copy to all other parties. For your convenience, a copy of the Pennsylvania Public Utility Commission’s (“Commission” or “PUC”) current service list of the parties to this proceeding is enclosed with this Order.

2. A request for a change of the scheduled hearing date must state the agreement or opposition of other parties, and must be submitted in writing no later than five (5) days prior to the hearing. 52 Pa.Code § 1.15(b). Requests for changes of hearing dates must be sent to me and all parties of record. The correct address is: Administrative Law Judge Angela T. Jones, 1302 Philadelphia State Office Building, 1400 West Spring Garden Street, Philadelphia, PA 19130. Changes are granted only in rare situations where good cause exists.

3. YOU MAY LOSE THIS CASE IF YOU DO NOT TAKE PART IN THE HEARING AND PRESENT EVIDENCE ON THE ISSUES RAISED.

Exhib. + A

4. The hearing is a formal proceeding and will be conducted in accordance with the Pennsylvania Public Utility Commission's Rules of Practice and Procedure.

5. If you intend to introduce any exhibits into evidence at the hearing, you must supply an original and one copy for the court reporter, a copy for me, and one copy for each other party. Proposed exhibits should be properly pre-marked for identification purposes.

6. Pursuant to 52 Pa.Code §§ 1.21 & 1.22, you may represent yourself, if you are an individual, or you may have an attorney licensed to practice law in the Commonwealth of Pennsylvania, or admitted *Pro Hac Vice*, represent you. However, if you are a partnership, limited liability company, corporation, trust, association, or governmental agency or subdivision, you must have an attorney licensed to practice law in the Commonwealth of Pennsylvania, or admitted *Pro Hac Vice*, represent you in this proceeding. Unless you are an attorney, you may not represent someone else. Attorneys shall insure that their appearance is entered in accordance with the provisions of 52 Pa.Code § 1.24(b).

7. THE COMPLAINANT BEARS THE BURDEN OF PROOF IN THIS PROCEEDING AND MUST SHOW BY A PREPONDERANCE OF THE EVIDENCE THAT THE RESPONDENT HAS VIOLATED THE PUBLIC UTILITY CODE OR A REGULATION OR AN ORDER OF THE COMMISSION SO THAT THE COMPLAINANT IS ENTITLED TO THE RELIEF REQUESTED IN THE COMPLAINT.

8. If you intend to subpoena witnesses for the hearing, you should review the procedures established in 52 Pa.Code § 5.421. You must submit your written application to me sufficiently in advance of the hearing date so the other parties will have the required ten (10) days' notice to answer or object, and so you will have enough time to receive the subpoena and serve it.

9. Any party may conduct discovery to learn the factual basis of another party's position in this case. However, 52 Pa.Code § 5.331(b) provides, in relevant part, that "[a] party shall initiate discovery as early in the proceedings as reasonably possible." Additionally, 52 Pa.

Code § 5.322 provides, in relevant part, that “parties are encouraged to exchange information on an informal basis.” All parties are urged to cooperate in informal information exchanges and in conducting discovery. Cooperation is preferable to disagreements, which require my participation to resolve. There are limitations on discovery (52 Pa.Code § 5.361) and sanctions for abuse of the discovery process (52 Pa.Code §§ 5.371 & 5.372).

10. **Commission policy is to encourage settlements. 52 Pa.Code § 5.231(a). Therefore, you are urged to discuss informally between yourselves the possible settlement of this case at least one week before the hearing.** If you are unable to settle this case, you may still resolve as many questions or issues as possible during your informal discussion.

11. The Complainant, Stonehurst Realty is a corporation and in compliance with paragraph 6 above should have an attorney licensed to practice law before the Pennsylvania Public Utility Commission. Complainant should provide evidence of an attorney through a notice of appearance filed by an attorney on Complainant’s behalf on or before March 3, 2009. Failure to comply may produce an unfavorable result for the Complainant.

12. Respondent, PECO Energy Company (“PECO”) is cautioned to be prepared to show procedure in the spirit of 52 Pa.Code §§ 56.41 and 56.42 (regarding discretion to pay in installments, notice of status, and established delinquency) or rationale why not applicable.

13. Respondent should be prepared to show relevant tariff(s) upon which it has relied at the evidentiary hearing, if necessary.

14. Complainant filed a formal complaint on or about August 18, 2008 that was assigned Docket No. C-2008-2059359. Complainant filed a formal complaint on or about December 11, 2008 that was assigned Docket No. C-2008-2079291. Complainant filed a formal complaint on or about December 19, 2008 that was assigned Docket No. C-2008-2080478. All complaints dispute billing by PECO regarding security deposits. Both complaints are against PECO. Two complaints, Docket Nos. C-2008-2059359 and C-2008-2079291 involve the same

PECO account at 74245-01214 the third complaint at Docket No. C-2008-2080478 involves PECO account at 9582800607. All three complaints were verified by the same officer, Director of Operations, Mr. Phil Pulley.

15. The Pennsylvania Public Utility Commission's regulation at Section 5.81(a) states,

§ 5.81. Consolidation.

- (a) The Commission or presiding officer, with or without motion, may order proceedings involving a common question of law or fact to be consolidated. The Commission or presiding officer may make orders concerning the conduct of the proceeding as may avoid unnecessary costs or delay.

52 Pa.Code § 5.81(a).

16. The undersigned presiding officer exercises her discretion under 52 Pa.Code § 5.81(a) to consolidate these three complaints to be addressed in one proceeding to avoid unnecessary costs and delay.

THEREFORE;

IT IS ORDERED:

1. That the formal complaint of Stonehurst Realty Corp. against PECO Energy Company at Docket No. C-2008-2059359 and Docket No. C-2008-2079291 are consolidated with the formal complaint of Stonehurst Realty Corp. - Harrison Court Apts. against PECO Energy Company at Docket No. C-2008-2080478.

2. That the consolidated matter is set for evidentiary hearing.

Date: February 3, 2009



Angela T. Jones
Administrative Law Judge

Stonehurst Realty Corp. v. PECO Energy Company
Stonehurst Realty Corp.—Harrison Court Apts. v. PECO Energy Company
Docket Nos. C-2008-2059359; C-2008-2079291; C-2008-2080478

SERVICE LIST

Phil Pulley, Director of Operations
Stonehurst Realty Corporation
P.O. Box 549
Abington, PA 19001

Michael S. Swerling, Esquire
Exelon Business Services Company
2301 Market Street, S23-1
P.O. Box 8699
Philadelphia, PA 19101-8699

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

STONEHURST REALTY CORP. CO.

v.

PECO ENERGY COMPANY

DOCKET NOS. C-2008-2059359
C-2008-2079291
C-2008-2080478

VERIFICATION

I, Michael S. Swerling, hereby declare that I am an attorney representing 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: February 10, 2009



Michael S. Swerling

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

STONEHURST REALTY CORP. CO.

v.

PECO ENERGY COMPANY

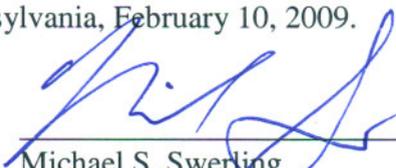
DOCKET NOS. C-2008-2059359
C-2008-2079291
C-2008-2080478

CERTIFICATE OF SERVICE

I 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 mailing a copy thereof, properly addressed and postage prepaid to:

STONEHURST REALTY CORP.
P.O. Box 549
Abington, PA 19001

Dated at Philadelphia, Pennsylvania, February 10, 2009.



Michael S. Swerling
Counsel for PECO Energy Company
2301 Market Street, S23-1
P.O. Box 8699
Philadelphia, PA 19101-8699
(215) 841-6841
Michael.Swerling@exeloncorp.com