

**Legal Department**

Exelon Business Services Company  
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Direct Dial: 215.841.6841

December 16, 2009

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

**Re: Robert & Cecelia Merritt v. PECO Energy Company**  
**PUC Docket No. C-2009-2142888**

Dear Mr. McNulty:

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

<u>  X  </u>	Answer and New Matter (e-filed and 1 original)
<u>    </u>	Motion for Continuance (e-filed and 1 original)
<u>    </u>	Motion for Judgment on the Pleadings (original and 3 copies)
<u>  X  </u>	Preliminary Objection (E-filed and 1 original)
<u>    </u>	Exceptions (original and 9 copies)
<u>    </u>	Reply Exceptions (original and 9 copies)
<u>    </u>	Brief (original and 9 copies)
<u>    </u>	Reply Brief (original and 9 copies)

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,



Ken Massey  
Counsel for PECO Energy Company

KM/zyr

Enc.

**Scheduling recommendation:      CALL OF THE DOCKET   X   NON-CALL OF THE DOCKET**

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**ROBERT & CECILIA MERRITT** :  
 :  
v. : **DOCKET NO. C-2009-2142888**  
 :  
**PECO ENERGY COMPANY** :

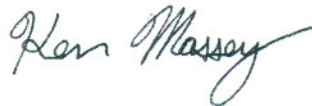
**NOTICE TO PLEAD**

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 Objection of PECO Energy Company, within 10 days from service of this notice, and if you do not file a written response denying or correcting the enclosed New Matter within 20 days from service of this notice, the facts set forth by PECO Energy Company in the New Matter may be deemed to be true, thereby requiring no other proof. All pleadings, such as a Reply to Preliminary Objection and Reply to New Matter, must be filed with the Secretary of the Pennsylvania Public Utility Commission, with a copy served to counsel for PECO Energy Company, Ken Massey, 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:  
Ken Massey, Esq.  
PECO Energy Company  
2301 Market Street, S-23  
Philadelphia, PA 19103

Dated at Philadelphia, PA, December 16, 2009



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

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

<b>ROBERT &amp; CECILIA MERRITT</b>	:	
	:	
v.	:	<b>DOCKET NO. C-2009-2142888</b>
	:	
<b>PECO ENERGY COMPANY</b>	:	

**PRELIMINARY OBJECTIONS OF RESPONDENT, PECO ENERGY COMPANY**

Respondent, PECO Energy Company (“PECO Energy”), pursuant to 52 Pa. Code § 5.101(a) respectfully petitions this Honorable Commission to dismiss this Complaint for the reasons described below.

**Preliminary Objection # 1: The Complaint is Legally Insufficient**

1. PECO Energy requests dismissal of the instant Complaint. The Complaint is legally insufficient due to its failure to aver any specific allegations. 52 Pa. Code § 5.101(a)(4).
2. Commission regulations require complaints to include “a clear and concise statement of the act or omission being complained of ....” 52 Pa. Code § 5.22. The instant Complaint lacks such a statement.
3. The Complaint is sparse at best. The Complaint itself contains absolutely no narrative statement of the basis of the Complaint – it is comprised of a check next to the box in Paragraph 4 labeled: “There are incorrect charges on my bill.” Additionally, no remedy is requested in paragraph 5.
4. Instead, Complainants attach a number of documents of unclear relevance to the Complaint. Complainants do not explain why they have attached such documents.
5. It appears that this Complaint involves a standard foreign wiring situation. Complainants, who are the landlords, appear to be seeking a determination that they are not responsible for tenant load involved foreign wiring.

6. The documents attached to the Complaint do not provide sufficient information to explain exactly what the Complainants seek from the Commission.

7. Indeed, based on the documents submitted by the Complainants, it is entirely possible that they are seeking – inappropriately – to have the Commission determine rights between them and their tenant.

8. For example, Complainants attached to their Complaint a copy of the residential lease between themselves and their tenant, Jane Johnson. Paragraph 18 of that lease addresses payment for utilities and states that: “Lessees shall be responsible for arranging for and paying for all utility services ....”

9. In addition, Complainants attach a copy of an Enforcement Order issued by the Philadelphia Municipal Court against the same tenant, Jane Johnson.

10. By attaching these documents to the Complaint, Complainants may be attempting to have the Commission rule on matters related to their lease with their tenant, or seeking to have the Commission take an enforcement role with respect to the Municipal Court Order. The Complaint is simply not clear on this issue.

11. Due to these infirmities in the Complaint, it is difficult to craft a targeted Answer. As best as PECO understands the issues it has drafted and filed an Answer addressing the foreign wiring situation previously discussed between the parties. PECO Energy reserves the right to supplement its Answer if and when the Commission grants its contemporaneous request for a more specific pleading

12. The Complaint is legally insufficient because it fails to aver any specific allegations, as required by Pennsylvania law. 52 Pa. Code § 5.22 Accordingly, PECO Energy preliminarily objects to the Complaint pursuant to 52 Pa. Code § 5.101(a)(4).

**WHEREFORE**, PECO Energy Company respectfully requests that your Honorable Commission dismiss the instant Complaint pursuant to 52 Pa. Code § 5.101(a)(4).

Respectfully Submitted,



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

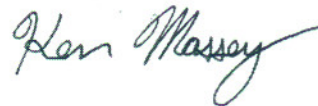
**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**ROBERT & CECILIA MERRITT**           :  
  :  
v.    :  
  :  
**PECO ENERGY COMPANY**           :

**DOCKET NO. C-2009-2142888**

**VERIFICATION**

I, Ken Massey, 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.



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Ken Massey

Date: December 16, 2009

\*\*1<sup>ST</sup> ACCOUNT

PECO Account Activity Statement

Date: 11/25/09  
Page: 1 of 1

\*\*\* Account Information \*\*\*

Account Number: 10357-66021  
 Account Status: Final  
 Requested By:  
 (215)548-1200 Extension:  
 Mail To: MERRITT LLC REMAX  
 2021 STENTON AVE  
 PHILADELPHIA PA 19138

\*\*\* Current Account Status \*\*\*

Current Bill: \$0.00  
 Billed Prior: \$0.00  
 Balance Due: \$0.00  
 Service Address:  
 238 COLLOM ST  
 1ST FL  
 PHILADELPHIA PA 19144  
 Credit Amount: \$0.00  
 Deposit Requested: \$0.00  
 Deposit On-Hand: \$0.00  
 Rate: Electric Residential Heating Service

DATE	CHARGE TYPE	BILLING PERIOD	READ	METER #	CHARGE AMOUNT	CREDIT AMOUNT	TOTAL BILL	BALANCE FORWARD	DUE DATE	KWH
04/28/09	ELECTRIC SERVICE	04/01/09 04/27/09	46351	032672064	\$183.02					
04/28/09	ELE-ADDITIONAL METER		1820	332225928						
04/28/09	CONNECTION CHARGE - STANDARD				\$6.00					
04/28/09	Regular Bill						\$189.02		05/20	1820
05/27/09	Late Payment Charge				\$2.75					
05/28/09	ELECTRIC SERVICE	04/27/09 05/27/09	3026	332225928	\$138.17					
05/28/09	Regular Bill						\$329.94	\$191.77	06/19	1206
06/24/09	Late Payment Charge				\$4.82					
06/26/09	ELECTRIC SERVICE	05/27/09 06/25/09	3747	332225928	\$116.45					
06/26/09	Regular Bill						\$451.21	\$334.76	07/20	721
07/27/09	Late Payment Charge				\$6.57					
07/28/09	ELECTRIC SERVICE	06/25/09 07/27/09	4334	332225928	\$93.95					
07/28/09	Regular Bill						\$551.73	\$457.78	08/19	587
08/25/09	Late Payment Charge				\$7.98					
08/26/09	ELECTRIC SERVICE	07/27/09 08/25/09	5170	332225928	\$135.98					
08/26/09	Regular Bill						\$695.69	\$559.71	09/17	836
09/08/09	ELECTRIC SERVICE	08/25/09 09/04/09	5170	332225928	\$1.76					
09/08/09	Regular Bill						\$697.45	\$551.73	09/30	
10/05/09	Transfer					\$697.45				

POST FOREIGN WIRING

PECO Account Activity Statement

Date: 11/25/09

Page: 1 of 1

\*\*\* Account Information \*\*\*

Account Number: 10357-66030  
 Account Status: Active  
 Requested By: MERRITT LLC REMAX  
 (215)548-1200 Extension:  
 Mail To: MERRITT LLC REMAX  
 2021 STENTON AVE  
 PHILA PA 19138

\*\*\* Current Account Status \*\*\*

Current Bill: \$8.98  
 Billed Prior: \$45.32  
 Balance Due: \$54.30  
 Service Address: 238 COLLOM ST  
 1ST FL  
 PHILADELPHIA PA 19144  
 Credit Amount: \$0.00  
 Deposit Requested: \$0.00  
 Deposit On-Hand: \$0.00  
 Meter Bill Grp: 19  
 Rate: Electric Residential Heating Service

DATE	CHARGE TYPE	BILLING PERIOD	READ	METER #	CHARGE AMOUNT	CREDIT AMOUNT	TOTAL BILL	BALANCE FORWARD	DUE DATE	KWH
10/26/09	ELECTRIC SERVICE	09/28/09 10/25/09	5400	332225928	\$39.32					
10/26/09	CONNECTION CHARGE - STANDARD				\$6.00		\$45.32		11/17	230
10/26/09	Regular Bill									
11/24/09	ELECTRIC SERVICE	10/25/09 11/23/09	5425	332225928	\$8.98		\$54.30	\$45.32	12/16	25
11/24/09	Regular Bill									

ACCOUNT #2

PECO Account Activity Statement

Date: 11/25/09  
Page: 1 of 2

\*\*\* Account Information \*\*\*

Account Number: 34944-83021  
Account Status: Active  
Requested By: MERRITT LLC REMAX  
(215)548-1200 Extension:  
Mail To: MERRITT LLC REMAX  
2021 STENTON AVE  
PHILADELPHIA PA 19138

\*\*\* Current Account Status \*\*\*

Current Bill: \$52.10  
Billed Prior: \$697.20  
Balance Due: \$749.30  
Service Address:  
2021 STENTON AV  
1ST FL  
PHILADELPHIA PA 19138  
Credit Amount: \$0.00  
Deposit Requested: \$0.00  
Deposit On-Hand: \$0.00  
Rate: Electric Residential Service

DATE	CHARGE TYPE	BILLING PERIOD	READ	METER #	CHARGE AMOUNT	CREDIT AMOUNT	TOTAL BILL	BALANCE FORWARD	DUE DATE	KWH
12/03/07	Payment					\$112.33				
12/07/07	ELECTRIC SERVICE	11/05/07 12/06/07	24288	080783417	\$61.71					
12/07/07	Regular Bill						\$61.71		12/31	382
01/07/08	Payment					\$61.71				
01/11/08	ELECTRIC SERVICE	12/06/07 01/10/08	24777	080783417	\$77.57					
01/11/08	Regular Bill						\$77.57		02/04	489
02/04/08	Payment					\$77.57				
02/11/08	ELECTRIC SERVICE	01/10/08 02/10/08	25206	080783417	\$68.02					
02/11/08	Regular Bill						\$68.02		03/03	429
02/28/08	Payment					\$68.02				
03/11/08	ELECTRIC SERVICE	02/10/08 03/10/08	25602	080783417	\$63.18					
03/11/08	Regular Bill						\$63.18		04/02	396
03/27/08	Payment					\$63.18				
04/09/08	ELECTRIC SERVICE	03/10/08 04/08/08	25948	080783417	\$55.84					
04/09/08	Regular Bill						\$55.84		05/01	346
05/02/08	Payment					\$55.84				
05/08/08	ELECTRIC SERVICE	04/08/08 05/07/08	26160	080783417	\$36.18					
05/08/08	Regular Bill						\$36.18		05/30	212
06/04/08	Late Payment Charge				\$0.54					
06/09/08	ELECTRIC SERVICE	05/07/08 06/08/08	26493	080783417	\$53.92					
06/09/08	Regular Bill						\$90.64	\$36.72	07/01	333
06/10/08	Payment					\$36.18				
07/02/08	Payment					\$53.92				
07/08/08	Late Payment Charge				\$0.01					
07/10/08	ELECTRIC SERVICE	06/08/08 07/09/08	26938	080783417	\$70.38					
07/10/08	Regular Bill						\$70.93	\$0.55	08/01	445
08/01/08	Payment					\$70.93				
08/08/08	ELECTRIC SERVICE	07/09/08 08/07/08	27422	080783417	\$76.10					
08/08/08	Regular Bill						\$76.10		09/02	484
09/09/08	Payment					\$76.10				
09/09/08	ELECTRIC SERVICE	08/07/08 09/08/08	27884	080783417	\$72.87					
09/09/08	Regular Bill						\$72.87		10/01	462
10/07/08	Late Payment Charge				\$1.09					
10/08/08	ELECTRIC SERVICE	09/08/08 10/07/08	28309	080783417	\$67.44					
10/08/08	Regular Bill						\$141.40	\$73.96	10/30	425
10/21/08	Payment					\$141.40				

11/06/08 ELECTRIC SERVICE	10/07/08	11/05/08	28560	080783417	\$41.90					
11/06/08 Regular Bill									12/01	251
11/11/08 Payment						\$72.87				
12/09/08 Payment						\$41.90				
12/09/08 ELECTRIC SERVICE	11/05/08	12/08/08	28981	080783417	\$66.85					
12/09/08 Regular Bill									\$-6.02	12/31
01/12/09 ELECTRIC SERVICE	12/08/08	01/11/09	29388	080783417	\$64.79					421
01/12/09 Regular Bill									\$58.77	02/03
02/10/09 Late Payment Charge					\$0.88					
02/11/09 ELECTRIC SERVICE	01/11/09	02/10/09	29780	080783417	\$63.32					
02/11/09 Regular Bill									\$122.97	03/05
03/10/09 Payment										392
03/12/09 ELECTRIC SERVICE	02/10/09	03/11/09	30112	080783417	\$54.40					
03/12/09 Regular Bill									\$54.40	04/03
04/08/09 Late Payment Charge					\$0.82					
04/10/09 ELECTRIC SERVICE	03/11/09	04/09/09	30395	080783417	\$47.14					
04/10/09 Regular Bill									\$102.36	05/04
05/11/09 ELECTRIC SERVICE	04/09/09	05/09/09	30629	080783417	\$39.87					283
05/11/09 Late Payment Charge					\$1.53					
05/11/09 Regular Bill									\$143.76	06/02
06/03/09 Payment										234
06/10/09 ELECTRIC SERVICE	05/09/09	06/09/09	30835	080783417	\$35.72	\$144.00				
06/10/09 Regular Bill									\$35.48	07/02
06/17/09 Payment										206
07/10/09 ELECTRIC SERVICE	06/09/09	07/09/09	31145	080783417	\$51.27					
07/10/09 Regular Bill									\$51.27	08/03
08/04/09 Payment										310
08/10/09 ELECTRIC SERVICE	07/09/09	08/09/09	31518	080783417	\$60.61					
08/10/09 Regular Bill									\$60.61	09/01
09/03/09 Payment									\$61.00	373
09/09/09 ELECTRIC SERVICE	08/09/09	09/08/09	31866	080783417	\$56.91					
09/09/09 Regular Bill									\$56.52	10/01
10/05/09 Transfer Debit (238 Collom -1 <sup>st</sup> Fl)					\$697.45					348
10/06/09 Late Payment Charge					\$0.85					
10/08/09 ELECTRIC SERVICE	09/08/09	10/07/09	32116	080783417	\$42.38					
10/08/09 Regular Bill									\$797.20	10/30
10/19/09 Payment										250
11/04/09 Late Payment Charge					\$10.03	\$100.00				
11/06/09 ELECTRIC SERVICE	10/07/09	11/05/09	32364	080783417	\$42.07					
11/06/09 Regular Bill									\$749.30	11/30
									\$707.23	248



PECO  
Customer Insights  
2301 Market Street, N5-1  
Philadelphia, PA 19101-8699

www.exeloncorp.com

September 2, 2009

MERRITT LLC REMAX  
2021 STENTON AVE  
PHILADELPHIA PA 19138

RE: 238 COLLOM ST, 1ST FL PHILADELPHIA PA 19144

Account Number: 10357-66021

Dear MERRITT LLC REMAX:

You had a question about your account. We have informed you in April of 2009 per our field appointment that there was foreign wiring at this property and the service was put in your name at the time. To this date it was never fixed. Therefore the service has remained in your name. Please call us as soon as possible at 215 841 4230.

Cordially,  
John J Vizza  
Customer Relations

**Este es un mensaje muy importante. Si usted no lo entiende, favor de llamar al número de teléfono que aparece en este documento.**

eco ex 2

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**ROBERT & CECILIA MERRITT**                   :  
  :  
v.   :  
  :  
**PECO ENERGY COMPANY**                   :

**DOCKET NO. C-2009-2142888**

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a copy of PECO Energy Company's Preliminary Objections in the above matter upon all interested parties by mailing a copy thereof Certified mail, properly addressed and postage prepaid to:

Cecilia Merritt  
2021 W. Stenton  
Philadelphia, PA 19138

Dated at Philadelphia, Pennsylvania, December 16, 2009.



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