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March 10, 2011

VIA E-FILING AND FIRST CLASS MAIL

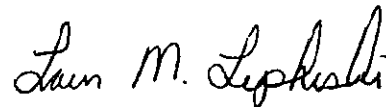
Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Second Street, 2nd Floor
Harrisburg, PA 17107

Re: William E. and Barbara Rovder v. Pennsylvania Electric Company
Docket Nos. C-2011-2227715

Dear Secretary Chiavetta:

Enclosed for filing please find the Preliminary Objection on behalf of Pennsylvania Electric Company in the above-captioned proceeding. Copies have been served on all parties as indicated in the attached certificate of service.

Very truly yours,



Lauren M. Lepkoski

LML/kra
Enclosure
cc: Certificate of Service

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

WILLIAM E. AND BARBARA A.
ROVDER

v.

PENNSYLVANIA ELECTRIC COMPANY :

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:
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:

Docket No. C-2011-2227715

NOTICE TO PLEAD

TO: William E. and Barbara A. Rovder
600 Decker Ave.
Johnstown, Pennsylvania 15906-1203

You are hereby notified that Pennsylvania Electric Company has filed Preliminary Objections to the above-captioned Complaint. Pursuant to 52 Pa. Code §§ 5.61 and 5.101 (a), you are hereby notified that if the Preliminary Objections are granted, your Complaint may be dismissed.

An Answer to the Preliminary Objections must be filed within ten (10) days of the date of service with the Secretary of the Pennsylvania Public Utility Commission, with a copy served on the undersigned counsel.

Dated: March 10, 2011

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Alan Michael Seltzer, Esquire
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(610) 372-4761

Attorneys for
Pennsylvania Electric Company

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

WILLIAM E. AND BARBARA A. :
ROVDER :

v. :

Docket No. C-2011-2227715

PENNSYLVANIA ELECTRIC COMPANY :

**PRELIMINARY OBJECTIONS TO THE COMPLAINT OF WILLIAM E. AND
BARBARA A. ROVDER**

TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

Pennsylvania Electric Company ("Penelec" or the "Company") by and through its counsel Lauren M. Lepkoski, Bridgid M. Good, Alan Michael Seltzer, and Buchanan Ingersoll & Rooney PC, files these Preliminary Objections, pursuant to Section 5.101(a)(3) of this Commission's regulations, 52 Pa. Code §5.101(a). In support, Penelec avers as follows:

I. Introduction

1. In these Preliminary Objections, Penelec seeks a ruling that the Formal Complaint filed on November 8, 2010, by William E. and Barbara A. Rovder ("Complainants") does not plead with sufficient specificity the facts on which any claim for relief can be granted and to which the Company can respond for purposes of preparing a response and ultimately its defense. As a result, Penelec does not have sufficient notice as to the nature of the allegations against it and cannot adequately respond. Therefore, the Preliminary Objections should be granted dismissing the Complaint, unless the Complainants file an amended Complaint that is plead with sufficient specificity on these issues within ten (10) days of the date of any order granting these Preliminary Objections.

2. The sole prayer for the relief contained in the Formal Complaint – stopping the rate increase or spreading it over several years – should be dismissed as legally insufficient because the "rate increase" at issue is never specifically identified.

II. Factual Background

3. Penelec is an Electric Distribution Company that is certificated as a public utility in Pennsylvania.

4. On or about November 8, 2010, the Complainants filed a Formal Complaint against Penelec at the above-captioned docket. The Complaint contains one broad general allegation. The Complainants allege that some unspecified rate hike that is about to go into effect is unfair. *Formal Complaint*, ¶ 4. The Complainants request that the rate hike be stopped or at least spread over several years. *Formal Complaint*, ¶¶ 4 and 5.

5. On or about February 28, 2011, the Formal Complaint was served on Penelec.

6. Penelec has not filed an Answer with these Preliminary Objections or any other pleading in response to the Formal Complaint based on Section 5.101(e)(1) of the Pennsylvania Public Utility Commission's ("Commission") regulations, 52 Pa. Code §5.101(e)(1), which provides "if a preliminary objection regarding insufficient specificity in a pleading is filed, an answer is not required until further directed by the presiding officer or the Commission."

III. The Complaint Lacks Sufficient Specificity

7. The Commission's regulations require that a complaint must, at a minimum, contain a clear and concise statement of the act or omission being complained

of and must contain a clear and concise statement of the relief being sought. 52 Pa. Code §§ 5.22(a) (5) and (6).

8. Moreover, it is fundamental under Pennsylvania law that where allegations in a complaint are unclear and unspecific and do not allow a party to adequately prepare a defense, a more specific pleading is necessary. *See Department of Transportation v. Shipley Humble Oil Co.*, 370 A. 2d 438 (Pa. Cmwlth. 1977). Pennsylvania is a fact pleading, rather than notice, state. Thus, pleadings should conform to the elements necessary to state a cause of action. *Pappert v. Tapp Pharmaceuticals, et al.*, 868 A. 2d 624 (Pa. Cmwlth. Ct. 2005).

9. Here, the Complainants have failed to plead a clear statement of the specific rate increase that is the subject of their Formal Complaint.¹ Specifically, the Complainants' state "this rate hike that is about to be imposed is unfair" and "...stop this rate hike or at least spread it out over several years...." *Formal Complaint*, ¶¶ 4 and 5.

10. It appears this Formal Complaint has also been docketed with the Company's State Tax Adjustment Surcharge ("STAS") filing at R-2010-2216300, and has been assigned as a complaint against a rate proceeding. (The Formal Complaint was also docketed at C-2011-222771).² The Company sent bill inserts regarding the STAS increase on January 1, 2010, informing customers that the increase would be effective on January 1, 2010. *See Penelec's January 1, 2010 bill insert*. The Complainants' Formal Complaint was filed with the Commission on November 8, 2010, which is nine months

¹ Currently Penelec has no rate increase pending before the Commission.

² The Company believes it is more appropriate to remove this Complaint completely from the STAS proceeding and docket it as a regular Formal Complaint proceeding. Treating a challenge to a tariff rider as a STAS proceeding makes it subject to different procedural rules than other formal complaints. The Company believes this practice is contrary to the Commission's practices and procedures.

after Penelec's sent its January 1, 2010, STAS bill insert to its customers. The timing of the Formal Complaint, in addition to the lack of specificity, raises questions about whether the Complainants are actually opposing the STAS increase.³

11. Because the Formal Complaint does not contain a clear and concise prayer for relief related to the alleged rate increase, the Company is (i) unable to discern the particular rate increase the Complainants want to be disallowed or spread over several months and (ii) incapable of adequately preparing a responsive pleading and asserting the appropriate defenses.

12. Without a more specific pleading, Penelec will be prejudiced and limited in its ability to defend itself in this action.

13. Accordingly, the Complainants should be ordered to file a more specific pleading within ten (10) days of any order granting these Preliminary Objections.

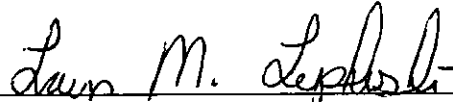
IV. Conclusion

WHEREFORE, for the foregoing reasons, the Pennsylvania Electric Company respectfully requests that the Commission grant its Preliminary Objection and such other relief as may be just and reasonable under the circumstances.

³ By Secretarial Letter, dated March 7, 2011, at Docket No. R-2010-2216300, the Commission allowed the Company to implement the 2010 STAS tariff change.

Respectfully submitted,

Dated: March 10, 2011


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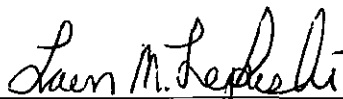
CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document upon the parties, listed below, in accordance with the requirements of § 1.54 (relating to service by a party).

Via First Class Mail

William E. And Barbara A. Rovder
600 Decker Ave
Johnstown, PA 15906-1203

Dated this 10 day of March, 2011.



Lauren M. Lepkoski, Esq.

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Notification

OF PRICE CHANGES FOR
PENELEC CUSTOMERS

Effective January 1, 2010, we are adjusting rates to reflect a change in state taxes on utility service in 2010.

There is an increase to the State Tax Adjustment Surcharge from -0.20% to -0.10% for all customers due to changes in Penelec's Pennsylvania Capital Stock and Franchise Tax liability, Gross Receipts Tax liability and its Public Utility Realty Tax liability. The State Tax Adjustment Surcharge change will also refund over recoveries from customers of Penelec's 2009 Pennsylvania state tax liability. These changes will result in an increase of approximately \$1.1 million that Penelec will collect from customers in 2010.

A typical Penelec residential customer using 750 kilowatt-hours a month who has not chosen an alternative generation supplier will pay \$0.08 more per month. The new monthly bill will go from \$78.09 to \$78.17.



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