

STEVENS & LEE
LAWYERS & CONSULTANTS

1818 Market Street
29th Floor
Philadelphia, PA 19103
(215) 575-0100 Fax (215) 851-0214
www.stevenslee.com

Direct Line: (215) 751-1955
Email: epy@stevenslee.com
Fax: (610) 988-0860

March 21, 2011

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

Re: Andree Lombard v. PECO Energy Company
Docket No. C-2011-2227678

Dear Secretary Chiavetta:

Enclosed for filing on behalf of PECO is an original of its Preliminary Objection to the above-referenced Complaint. This document has been e-filed at the Pennsylvania Public Utility Commission's website. A copy has been served on the Complainant in accordance with the attached Certificate of Service.

If you have any questions, please feel free to contact me.

Best Regards,

STEVENS & LEE



Edward P. Yim

Enclosure

cc: Certificate of Service

Philadelphia • Reading • Valley Forge • Lehigh Valley • Harrisburg • Lancaster • Scranton
Williamsport • Wilkes-Barre • Princeton • Cherry Hill • New York • Wilmington

A PROFESSIONAL CORPORATION

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

ANDREE LOMBARD	:	
Complainant	:	
	:	
v.	:	Docket No. C-2011-2227678
	:	
PECO ENERGY COMPANY	:	
Respondent	:	

NOTICE TO PLEAD

To: *Andree Lombard*

You are hereby notified to file a written response to the attached Preliminary Objection of PECO within 10 days from the date of service of this notice. If you do not file a written response denying or correcting the enclosed Objection within 10 days of service, the facts set forth by PECO may be deemed to be true, thereby requiring no other proof, and judgment may be entered against you. All pleadings, such as responses to Preliminary Objection, must be filed with the Secretary of the Pennsylvania Public Utility Commission:

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

You must also serve a copy of your response on the undersigned counsel for PECO.
Failure to respond to the Preliminary Objection may result in the dismissal of your case.

STEVENS & LEE



Edward P. Yim (I.D. No. 205612)
1818 Market Street, 29th Floor
Philadelphia, PA 19103
Tel. (215) 751-1955
Fax (610) 988-0852
COUNSEL FOR PECO

DATE: March 21, 2011

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

ANDREE LOMBARD	:	
Complainant	:	
	:	
v.	:	Docket No. C-2011-2227678
	:	
PECO ENERGY COMPANY	:	
Respondent	:	

**PRELIMINARY OBJECTION OF
PECO ENERGY COMPANY**

Respondent, PECO Energy Company (“PECO”), pursuant to 52 Pa. Code §5.101(a)(6), respectfully petitions this Honorable Commission to dismiss the formal complaint at Docket No. C-2011-2227678 because it is exactly identical to the complaint already filed by Mr. Lombard at Docket No. C-2011-2227675.

1. On February 25, 2011, PECO Energy Company (PECO) was served with a formal complaint from Andree Lombard (Complainant), which was assigned Docket Number C-2011-2227675 (“Complaint 1”). In that complaint, Complainant claimed that there were incorrect charges on his account and that he opposed an alleged proposed rate increase and the rate increase that took effect in January 2011. A copy of Complaint 1 is attached as Exhibit 1.

2. PECO timely filed an Answer and New Matter as well as Preliminary Objections to Complaint 1. Copies of these pleadings are attached as Exhibit 2.

3. On February 28, 2011, PECO was served another formal complaint by Complainant, Docket Number C-2011-2227678 (“Complaint 2”), that is identical to

Complaint 1, and **is in fact an exact photocopy of Complaint 1**. A copy of Complaint 2 is attached as Exhibit 3.

4. Because Complaint 2 is an exact copy of Complaint 1, Complaint 2 is frivolous and must be dismissed with prejudice based on the pendency of a prior proceeding.

5. The Commission allows a party to file a preliminary objection based on the pendency of a prior proceeding, or the doctrine of lis pendens, under 52 Pa.Code §5.101(a)(6).

6. In interpreting its regulations, the Commission is not bound by the Rules of Civil Procedure but may use them as guidance. *Pennsylvania Public Utility Commission v. Metropolitan Edison Co.*, 54 Pa.P.U.C. 57(1980).

7. In construing Rule 1028(a)(6) of the Pennsylvania Civil Rules of Procedure, the Pennsylvania Superior Court has said: “In order to plead successfully the defense of lis pendens,...it must be shown that the prior case is the same, the parties are the same, and the relief requested is the same.” *Penox Technologies, Inc. v. Foster Medical Corp.*, 546 A.2d 114, 115 (Pa.Super. 1988).

8. The doctrine of lis pendens protects a defendant from harassment of having to defend several suits on the same cause of action at the same time.

9. Once the defense is raised, a court may dismiss or stay the subsequent proceedings. *Penox Technologies*, 546 A.2d at 115.

10. The three-pronged identity test must be applied strictly when a party is seeking dismissal under the doctrine of prior pending action. *Id.*

11. In the instant case, the three-pronged identity test is clearly met. The instant complaint at issue, Complaint 2, is an exact photocopy of another complaint already filed and answered. Complaint 2 contains not a single alteration of text from Complaint 1. The case, relief and party in Complaint 1 are exactly identical as those in Complaint 2.

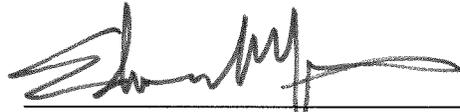
12. Because Complainant successfully brought his claims before the Commission for adjudication in Complaint 1, Complaint 2, which contains the identical claims, party and relief, serves no purpose and would be a waste of resources for the Commission and PECO.

13. Therefore, the instant complaint at Docket Number C-2011-2227678 must be dismissed with prejudice under 52 Pa.Code §5.101(a)(6).

REQUEST FOR RELIEF

WHEREFORE, PECO Energy Company respectfully requests that your Honorable Commission dismiss the instant complaint with prejudice.

Respectfully submitted,



Edward P. Yim (I.D. No. 205612)
Dana Pirone Carosella (I.D. No. 57221)
1818 Market Street, 29th Floor
Philadelphia, PA 19103
Tel. (215) 751-1955
Fax (610) 988-0852
epy@stevenslee.com
dpc@stevenslee.com

Michael A. Gruin (I.D. No. 78625)
17 North 2nd Street, 16th Floor
Harrisburg, PA 17101

Tel. (717) 255-7365
Fax (610) 988-0852
mag@stevenslee.com

Tishekia Williams
PECO Energy Company
2301 Market Street, S23-1
PO Box 8699
Philadelphia, PA 19101-8699
(215) 841-6841
Fax: 215.568.3389
tishekia.williams@exeloncorp.com

Counsel for PECO Energy Company

Dated: March 21, 2011

Commonwealth of Pennsylvania

:

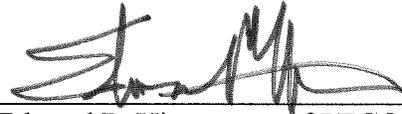
SS

County of Philadelphia

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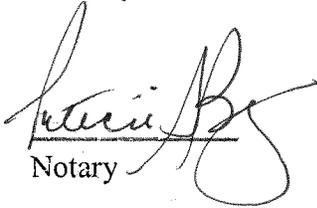
AFFIDAVIT

I, Edward P. Yim, being duly sworn according to law, depose and say I am agent of PECO Energy Company and have been authorized to make this affidavit on its behalf and that the facts above set forth are true and correct to the best of my knowledge, information and belief, and PECO Energy Company expects to be able to prove the same at any hearing hereof.



Edward P. Yim, agent of PECO Energy Company

Sworn and subscribed before me this
21st day of March, 2011


Notary

My Commission Expires:

COMMONWEALTH OF PENNSYLVANIA
NOTARIAL SEAL
PATRICIA S. BRADWAY, Notary Public
City of Philadelphia, Phila. County
My Commission Expires March 17, 2014

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

ANDREE LOMBARD
Complainant

v.

PECO ENERGY COMPANY
Respondent

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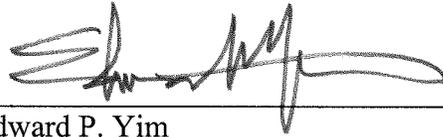
Docket No. C-2011-2227678

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing Preliminary Objection upon the party listed below, in accordance with the requirements of 52 Pa. Code §1.54 (relating to service by a party).

VIA First Class U.S. Mail

Andree Lombard
404 Aldan Avenue
Aldan, PA 19018



Edward P. Yim

DATED: March 21, 2011

Exhibit 1



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265

IN REPLY PLEASE
REFER TO OUR FILE

DATE SERVED: February 25, 2011

C-2011-2227675

PECO ENERGY COMPANY
C/O WARD L SMITH
ASSOCIATE GENERAL COUNSEL
PO BOX 8699
PHILADELPHIA PA 19101-8699

Dear Mr. Smith:

A complaint has been filed against you before the Pennsylvania Public Utility Commission by Andree Lombard. To defend yourself against the claims stated in the complaint, you must respond within twenty (20) days of the above date served by filing with the Commission, in writing, an Answer in accordance with 52 Pa. Code Section 5.61, either personally or through your attorney. Or, you may satisfy the complaint by settling the matter with the Complainant and submitting proof of settlement to the Commission within twenty (20) days of the above date served.

IF YOU FAIL TO ANSWER THE COMPLAINT WITHIN TWENTY (20) DAYS OF THE ABOVE DATE SERVED, THE CLAIMS AGAINST YOU MAY BE DEEMED ADMITTED, THE CASE MAY GO FORWARD IN YOUR ABSENCE, AND A JUDGEMENT MAY BE ENTERED AGAINST YOU BY THE COMMISSION WITHOUT FURTHER NOTICE.

CUSTOMER OF A UTILITY

A payment schedule may be prescribed or a termination of utility services may be authorized. You may lose money or property or other rights important to you.

COMPANY/UTILITY

An Administrative Law Judge may revoke or suspend any certificate or permit held by you, or impose a fine, or any other appropriate penalty or remedy authorized by the Public Utility Code. You may lose money or property or other rights important to you.

Detailed instructions on how to proceed are contained in the attached pages. You are advised to read them carefully.

February 25, 2011

Unless you are a corporation or other organization, you may proceed without a lawyer. However, if you want a lawyer and do not have one or cannot afford one, the office listed below can tell you where you can get legal help:

Pennsylvania Lawyer Referral Service
Pennsylvania Bar Association
P.O. Box 186
Harrisburg, PA 17108
(800) 692-7375

Very truly yours,

A handwritten signature in cursive script, reading "Rosemary Chiavetta". The signature is written in black ink and is positioned above the printed name and title.

Rosemary Chiavetta
Secretary

jms

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

DATE SERVED: February 25, 2011

ANDREE LOMBARD

Complainant

v.

PECO ENERGY COMPANY

Respondent

Complaint Docket

No: C-2011-2227675

FORMAL COMPLAINT NOTICE TO RESPONDENT TO ANSWER OR SATISFY

TO: PECO ENERGY COMPANY

TAKE NOTICE:

That a complaint in the above entitled matter, of which the attached is a true and correct copy, has been presented and filed of record with the Pennsylvania Public Utility Commission. Section 702 of the Public Utility Code, 66 Pa. C.S. Section 702, requires the Commission to serve on each party named in a complaint a copy of the complaint and notice calling upon each party to satisfy the complaint, or to answer the same in writing within a specified time; THEREFORE,

1. You have twenty (20) days from the date on which this complaint is served to either satisfy this complaint or to file with the **Secretary of the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265**, an answer (original and three copies), in writing, under oath, which, as required by Section 5.61 of the Commission's Rules of Practice and Procedure, 52 Pa. Code Section 5.61, either affirms or specifically denies the allegations in this complaint. You must also serve a copy of the answer upon the complainant. **The date served is the mailing date appearing at the top of this Notice.** Section 1.56(a) of the Commission's Rules of Practice and Procedure, 52 Pa. Code Section 1.56(a).

2. If you fail to either satisfy or settle this complaint, or to file an answer or other responsive pleading within twenty (20) days of the date served, you will be deemed to have admitted all the allegations in this complaint in accordance with Section 5.61 of the Commission's Rules of Administrative Practice and Procedure, 52 Pa. Code Section 5.61. In that event, the Commission may, without hearing, enter an order which either revokes or suspends any certificate or permit held by you or which imposes a fine or any other appropriate penalty or remedy authorized by the Public Utility Code, 66 Pa. C.S. Section 101, et seq. If you are a customer of a utility, an order may be entered which prescribes a

payment schedule or which authorizes termination of utility services. The Commission is not limited to the relief sought by the complainant in paragraph 4 of the attached complaint.

3. If you elect to satisfy or settle this complaint, you must file, within twenty (20) days from the date on which this complaint is served, affidavits executed by each complainant that this complaint has been satisfied. Such affidavits must describe the basis on which this complaint was satisfied; any settlement agreement between the parties must be reduced to writing and attached to the affidavit. Such affidavits are to be filed with the Secretary of the Commission at the address set forth in paragraph 1. Upon receipt of affidavits of satisfaction from all complainants, this complaint may be dismissed by the Commission in accordance with Section 703(a) of the Public Utility Code, 66 Pa. C.S. Section 703(a), unless the Commission determines that such dismissal would be contrary to the public interest, in which event the Commission may direct that hearings be held upon the complaint.

4. If you file an answer which admits the allegations in this complaint, or which fails to specifically deny the allegations in this complaint, the Commission may, without hearing, enter an order which either revokes or suspends any certificate held by you or which imposes a fine or any other appropriate penalty or remedy authorized by the Public Utility Code, 66 Pa. C. S. Section 101, et seq. If you are a customer of a utility, an order may be entered which prescribes a payment schedule or which authorizes termination of utility services. The Commission is not limited to the relief sought by the complainant in paragraph 4 of the attached complaint.

5. If you file a timely answer which specifically denies the allegations in this complaint, or which raises material questions of law or fact, this matter shall be referred to the Office of Administrative Law Judge for hearing and decision. If, after hearing on the issues raised by that answer, you are found to have committed any of the violations alleged in the complaint, the Administrative Law Judge may render a decision which either revokes or suspends any certificate or permit held by you or which imposes a fine or any other appropriate penalty or remedy authorized by the Public Utility Code, 66 Pa. C. S. Section 101, et seq. If you are a customer of a utility, an order may be entered which prescribes a payment schedule or which authorizes termination of utility services. In the imposition of a penalty after a hearing the Administrative Law Judge is not bound by the relief sought by the complainant in paragraph 4 of the attached complaint.



Rosemary Chiavetta
Secretary

(SEAL)

Certified Mail
Return Receipt Requested

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Formal Complaint Form

Please print in ink or type.

1. CUSTOMER (COMPLAINANT) INFORMATION

C-2011-2227675

Your name, mailing address, county, telephone number, utility account number and service address:

Name Andrecc Lombard

Street/P.O. Box 404 Aldan Ave Apt #

City Aldan State PA Zip 19018

County Delaware

Daytime Telephone Number Where We Can Contact You: (484) 472 2628

E-mail Address (optional): (610) 284 6614

Utility Account Number (from your bill) 83245-01705

If your complaint involves utility service provided to a different address than your mailing address, please list this information below.

Name

Street/P.O. Box

City State Zip

2. FULL NAME OF UTILITY COMPANY (RESPONDENT):

PECO

3. TYPE OF UTILITY (check one)

[X] ELECTRIC

[] STEAM HEAT

[X] GAS

[] WASTE WATER

[] WATER

[] MOTOR CARRIER

(e.g., taxi, moving company, limousine)

[] TELEPHONE (local, long distance)

SECRETARY'S BUREAU 2011 FEB 22 AM 10:19

W4977

4. **COMPLAINT** (check one)

A. In general, what is your complaint?

- I want to oppose the company's proposed rate increase.
- There are incorrect charges on my bill.
- There is a reliability, safety or quality problem with my utility service.
- I received a notice that my utility service is being terminated.
- I would like a payment agreement.
- Other (explain).

B. State the facts of your complaint.

Include any specific dates, times or places that may be important. If the complaint is about a bill, tell us about any charges that you believe are not correct. Use additional paper if you need more space. Provide copies of all relevant documents you believe will support your complaint.

PECO BAL DATE 02/10/2011

I am currently in the process of switching my energy provider. However I was not aware that a rate increase already started since January 2011. I do oppose to that rate increase!

In addition I would like to know how PECO is reading my meter, which was moved to the front of my house. I actually never saw any physical person coming to read the meter!

It seems to me that the bill is extremely bloated and incorrect.

5. RELIEF

How do you want your complaint to be resolved? Use additional paper if you need more space.

Please investigate the bloated bill
and if these are correct charges!
This is a household of four people!
Two kids, two adults.

6. PROTECTION FROM ABUSE

Answer the following question if your complaint is against a natural gas distribution utility, an electric distribution utility or a water distribution utility **AND** your complaint is about a billing problem, a request to receive service, a security deposit request, termination of service or a request for a payment agreement.

Has a court granted a "Protection from Abuse" order for your personal safety or welfare?

YES

NO

7. PRIOR UTILITY CONTACT

Answer the following question only if you are a residential customer and your complaint is against an electric distribution utility, natural gas distribution utility or a water distribution utility.

Have you spoken to a utility company representative about this complaint?

YES (includes appeals of BCS determinations)

NO

If you tried to, but could not speak to a utility company representative about your complaint, please explain why.

8. LEGAL REPRESENTATION (IF ANY)

If you are represented by a lawyer **in this matter** you must provide your lawyer's name, address, telephone number, and e-mail address, if known.

Lawyer's Name _____

Street _____

City _____ State _____ Zip _____

Area Code/Phone Number _____

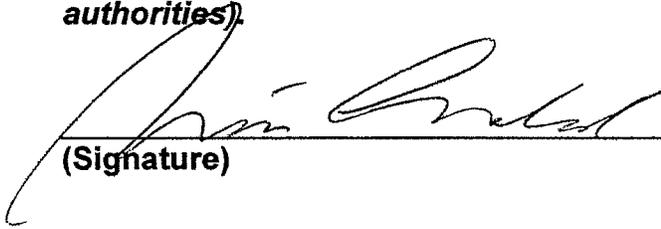
E-mail Address (If Known) _____

9. VERIFICATION AND SIGNATURE

You must print or type your name below on the line provided for the verification paragraph, and you must sign and date (in ink) this form on the lines provided.

Verification:

I Andree Lombard, hereby state that the facts above set forth are true and correct (or are true and correct to the best of my knowledge, information and belief) and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).


(Signature)

2-17-2011
(Date)

Title of authorized employee or officer

10. FILING

Please return the completed form to one of the addresses listed below:

If using U.S. Postal Service:

If using overnight delivery service:

Secretary Pennsylvania Public Utility Commission P.O. Box 3265 Harrisburg, PA 17105-3265	Secretary Pennsylvania Public Utility Commission 400 North Street Commonwealth Keystone Building, 2 nd Floor Harrisburg, Pennsylvania 17120
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Facsimiles and/or electronic filings of the complaint will not be accepted.

If you have any questions about filling out this form, please contact the Secretary's Bureau at 717-772-7777.

Keep a copy of your complaint for your records.

Name: ANDREE LOMBARD
 Account Number: 83245-01705
 Phone Number: 610-284-6614
 Service Address: 404 ALDAN AV, ALDAN

Billing Summary

Bill Date	02/10/2011
Charges from previous bill	\$1,075.84
Late payment charge	\$29.27
Total Other Charges	\$1,105.11
Current Period Charges	
Gas	\$299.01
Electric	\$142.83
Total New Charges	\$441.84
Total amount due on 03/04/2011	\$1,546.95

General Information

Next scheduled meter reading: **March 11, 2011**
 PECO, 2301 Market St, Philadelphia, PA 19103-1380. If you have any questions or concerns, please call **1-800-494-4000** before the due date.

- Customer Self Service - Manage Your Account 24/7**
- www.peco.com/ebill - Go paperless: receive and pay your bill
 - www.peco.com/service - Start, stop and transfer your service
 - www.peco.com/SmartIdeas - Save energy and money
 - Pay by phone with credit/debit card at **1-877-432-9384** (\$3.50 fee)

Message Center

New charges contain estimated total state taxes of \$12.94, including \$8.66 for State Gross Receipts Tax.

Your electric price to compare is \$0.0992 per kWh.

When paying in person, please bring the entire bill.

(continued on next page)

Return only this portion with your check made payable to PECO. Please write your account number on your check.

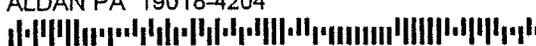


- Check here to enroll in Power Pay automatic account debit and complete form on reverse side.
- Check here to pledge a donation to MEAF and complete form on reverse side.

To pay by phone call **1-877-432-9384**.
 A convenience fee will apply.

83245 0170 5000 0000

2667 1 AV 0.332 2667/002667/005399 011 01 GXC1P0 1234 02112011
 ANDREE LOMBARD
 404 ALDAN AVE
 ALDAN PA 19018-4204



Account Number **83245-01705** Payment Receipt Stamp

Payment Amount

Please pay this amount by 03/04/2011 **\$1,546.95**

00000441840000107584

PECO - PAYMENT PROCESSING
 PO BOX 37629
 PHILADELPHIA PA 19101-0629



832450170500015469510631546956



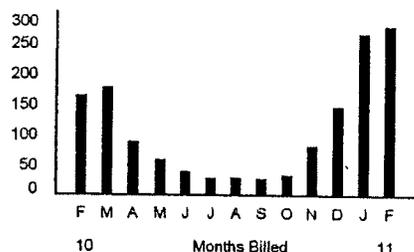
Name: **ANDREE LOMBARD**
Account Number: **83245-01705**

Meter Information								
Read Date	Meter Number	Load Type	Reading Type	Meter Reading		Difference	Multiplier X	Usage
				Previous	Present			
02/09	018825358	General Service	Total Ccf	1230 Actual	1508 Actual	278	1	278
02/09	105262436	General Service	Tot kWh	59774 Actual	60628 Actual	854	1	854
Total Ccf Used								278
Total kWh Used								854

Gas Residential Heating Service - Current Period Detail **Service 01/10/2011 to 02/09/2011 - 30 days**

Customer charge								\$11.75
Natural Gas Supply Charges	278	Ccf	X	\$0.62934				174.96
Distribution Charges	278	Ccf	X	0.38853				108.01
Balancing Service Charges	278	Ccf	X	0.04052				11.26
Gas Cost Adjustment Charges	278	Ccf	X	-0.02366				-6.58
State Tax Adjustment								-0.39
Total Current Charges								\$299.01

13-Month Usage (Total Ccf)



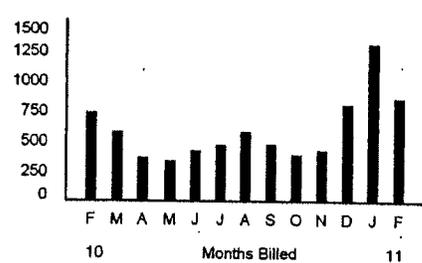
Your Usage Profile

Period	Usage	Avg Daily Usage	Days	Avg Daily Temp
Current Month	278	9.2	30	30
Last Month	265	7.7	34	32
Last Year	163	5.6	29	34
Avg Ccf per Month				104
Total Annual Ccf Usage				1,253

Electric Residential Service - Current Period Detail **Service 01/10/2011 to 02/09/2011 - 30 days**

Customer charge								\$7.25
Generation Charges	854	kWh	X	\$0.09070				77.46
Alt. Energy Portfolio Standard	854	kWh	X	0.00120				1.02
Transmission Charges	854	kWh	X	0.00730				6.23
Distribution Charges	854	kWh	X	0.05960				50.90
State Tax Adjustment								-0.03
Total Current Charges								\$142.83

13-Month Usage (Total kWh)



Your Usage Profile

Period	Usage	Avg Daily Usage	Days	Avg Daily Temp
Current Month	854	28.4	30	30
Last Month	1,306	38.4	34	32
Last Year	737	25.4	29	34
Avg kWh per Month				580
Total Annual kWh Usage				6,968



DO NOT MAIL THIS PORTION WITH YOUR PAYMENT

Exhibit 2

STEVENS & LEE
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March 17, 2011

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

Re: Andree Lombard v. PECO Energy Company
Docket No. C-2011-2227675

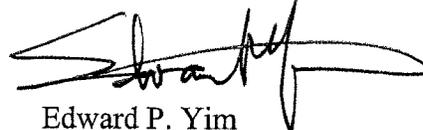
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If you have any questions, please feel free to contact me.

Best Regards,

STEVENS & LEE



Edward P. Yim

Enclosure

cc: Certificate of Service

Philadelphia • Reading • Valley Forge • Lehigh Valley • Harrisburg • Lancaster • Scranton
Williamsport • Wilkes-Barre • Princeton • Cherry Hill • New York • Wilmington

A PROFESSIONAL CORPORATION

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

ANDREE LOMBARD
Complainant

v.

PECO ENERGY COMPANY
Respondent

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Docket No. C-2011-2227675

NOTICE TO PLEAD

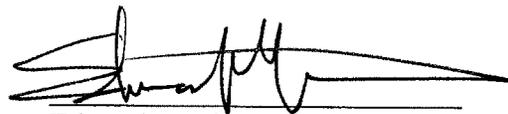
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STEVENS & LEE



Edward P. Yim (I.D. No. 205612)
1818 Market Street, 29th Floor
Philadelphia, PA 19103
Tel. (215) 751-1955
Fax (610) 988-0852
COUNSEL FOR PECO

DATE: March 17, 2011

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

ANDREE LOMBARD
Complainant

v.

PECO ENERGY COMPANY
Respondent

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Docket No. C-2011-2227675

**ANSWER OF RESPONDENT,
PECO ENERGY COMPANY**

On February 25, 2011, PECO Energy Company (PECO) was served with a formal complaint from Andree Lombard (Complainant), in the above captioned Docket Number.

Pursuant to 52 Pa Code §5.61, PECO hereby responds as follows:

1. Admitted.
2. Admitted
3. Admitted.
4. Denied. PECO denies that there are any proposed rate increases pending before the Commission. The complaint does not specify whether Complainant is alleging an increase in generation or distribution rates since January 1, 2011. PECO avers that to the extent that Complainant challenges a generation rate increase, the challenge must be dismissed for legal insufficiency. To the extent that Complainant challenges a distribution rate increase, PECO avers that the rates are lawful, just and reasonable and were approved by the Commission on December 16, 2011. PECO further denies that there are incorrect charges on Complainant's bill. PECO avers that as of March 4, 2011,

Complainant owed \$1,546.95 on his account. PECO further avers that Complainant's meter has an automated meter reading (AMR) capability, which enables PECO to obtain actual meter data remotely, eliminating the need for a manual reading at the site.

Therefore, Complainant's allegation that he did not observe any PECO meter reader at his residence is irrelevant.

5. Paragraph 5 is a request for relief for which no answer is required.

Nonetheless, PECO denies that there are incorrect charges. PECO is without sufficient information to admit or deny that four people live at Complainant's residence.

6. PECO is without sufficient information to admit or deny this statement.

7. Admitted.

8. Admitted.

NEW MATTER

9. PECO incorporates by reference responses contained in Paragraphs 1 through 8 above as though fully set forth at length.

10. PECO is represented in this matter by:

Edward P. Yim (I.D. No. 205612)
Dana Pirone Carosella (I.D. No. 57221)
1818 Market Street, 29th Floor
Philadelphia, PA 19103
Tel. (215) 751-1955
Fax (610) 988-0852
epy@stevenslee.com
dpc@stevenslee.com

Michael A. Gruin (I.D. No. 78625)
17 North 2nd Street, 16th Floor
Harrisburg, PA 17101
Tel. (717) 255-7365
Fax (610) 988-0852
mag@stevenslee.com

11. To the extent that Complainant challenges a “proposed rate increase,” that claim must be dismissed because PECO currently has no proposed rate increase pending before the Commission. Simply, there is no proposed rate increase about which to complain. Therefore, this claim must be dismissed because the subject of the claim does not exist.

12. The complaint refers to a rate increase that took effect in January 2011. To the extent that the complaint challenges PECO’s distribution rate that took effect in January 2011, it should be dismissed for legal insufficiency.

13. On March 31, 2010, PECO filed a tariff proposing, among others, increases in electric and gas distribution rates in a proceeding with the docket number R-2010-2161575. Several parties, representing industrial, commercial, small business and residential customers, intervened.

14. The Commission afforded PECO customers additional opportunities to express any concerns about proposed rate increases by holding public input hearings on June 28, June 29 and June 30 in three different locations in PECO’s service territory. Notices of the public input hearings were posted on local newspapers as well as on PECO’s and the Commission’s websites. See *Pennsylvania Public Utility Commission, et al. v. PECO Energy Company*, p.5, Docket Number R-2010-2161575 (Order entered December 21, 2010).

15. On December 21, 2010, following an exhaustive review, the Commission approved PECO’s settlements with all interested parties on proposed distribution rate increases. *Id.*

16. There is a strong presumption that “the preexisting Commission approved rates are just and reasonable.” *Duquesne Light Company v. Pennsylvania Public Utility Commission*, 715 A.2d 540, 545 (Pa. Cmwlth. 1998).

17. To overcome the presumption, Complainant must demonstrate the existence of “recent significant changes in circumstances in the interim.” *Schellhammer v. Public Utility Commission*, 629 A.2d 189, 193 (Pa. Cmwlth. 1993).

18. In the absence of such a showing of “recent significant change in circumstances” by Complainant, the prior commission rate determination remains conclusive under Section 316 of the Public Utility Code, 66 Pa.C.S. §316.

19. Section 316 of the Code provides that “[w]henver the commission shall make any rule, regulation, finding, determination or order, the same shall be *prima facie* evidence of the facts found and shall remain conclusive upon all parties affected thereby....”

20. The complaint makes no assertion whatsoever of recent significant changes in circumstances that would allow Complainant to overcome the presumption that PECO’s rates are just and reasonable.

21. The Commission approved PECO’s distribution rates on December 21, 2010, less than two months before the complaint was filed.

22. The Commission’s approval is *prima facie* evidence of the reasonableness of such rates. 66 Pa.C.S. §316; *Duquesne Light Company*, at 545. Therefore, under Section 316 of the Public Utility Code, the Commission’s approval of PECO’s distribution rates is conclusive and binding.

23. For these reasons, Complainant's challenge of PECO's distribution rates must fail for legal insufficiency under 52 Pa.Code §5.101(a)(4).

24. The complaint mentions that Complainant is "in the process of switching [his] energy provider," that "a rate increase already started since January 2011," and that "I do oppose [sic] to that rate increase." To the extent that such assertions could be possibly interpreted by the Commission as challenging Complainant's generation rates, such claim should be dismissed for legal insufficiency in that those assertions fail to state a claim for which relief can be granted.

25. In 1996, the Pennsylvania General Assembly enacted the Electricity Generation Customer Choice and Competition Act (Act), 66 Pa.C.S §§2801-15. The Act allows Pennsylvanians to buy electric generation supply from licensed alternative suppliers by unbundling the generation portion of electric rates from the transmission and distribution portions.

26. The Act capped the generation portion of electric rates to ease the transition to competitive markets at 1996 levels. The rate cap was initially established under Section 2804 of the Act, and, after much litigation, settlements were reached in which the rate cap would expire for all PECO customers at the end of 2010. See *Application of PECO Energy Company for Approval of Its Restructuring Plan under Section 2806 of the Public Utility Code*, Docket Number R-00973953 (April 29, 1998).

27. The Commission has already ruled that it lacks the authority to extend the expired rate caps. See *Tshudy v. PPL Electric Utilities Corp.*, Docket Number C-2009-2092230 (Order entered August 21, 2009) (citing 66 Pa.C.S 2804(4)).

28. Starting January 1, 2011, PECO's generation rates have reflected wholesale market prices at which PECO procured its generation supply for its customers who do not choose an alternative generation supplier, known as "Default Service Program." Those customers who choose an alternative supplier would pay the rates set by the supplier based on wholesale market prices.

29. As of the date of the complaint, Complainant receives generation supply through PECO's default service program.

30. To the extent that Complainant challenges any increase in PECO's generation rates, the challenge must be dismissed for legal insufficiency.

31. The Commission has only those duties, powers, responsibilities and jurisdiction that were expressly or by necessary implication given to it by the Legislature. *Rogoff v. The Buncher Company*, 395 Pa. 477, 151 A.2d 83 (1959).

32. Wholesale market-based generation rates are a federal subject matter and are regulated only by the Federal Energy Regulatory Agency (FERC). See *Utilimax.com. Inc. v. PPL Energy Plus, LLC*, 378 F.3d 303 (3d Cir.2004).

33. The Federal Power Act of 1935 established the Federal Power Commission (now FERC) and gave it "plenary and exclusive jurisdiction over 'the transmission of electric energy in interstate commerce' and 'the sale of electric energy at wholesale in interstate commerce.'" *Utilimax.com. Inc. v. PPL Energy Plus, LLC*, 273 F.Supp.2d 573, 574 (E.D.Pa.2003); 16 U.S.C. §824(b).

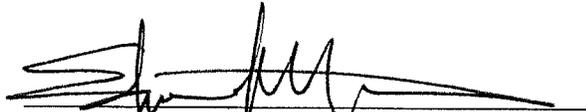
34. There is no relief that the Commission may grant regarding market-based generation rates. As the Commission recognized in *Tshudy*, the Commission may not extend the rate caps, which expired in 2010, in order to prevent a generation rate increase.

35. Therefore, the claim related to the rate cap expiration or wholesale market-based generation rates must be dismissed for legal insufficiency under 52 Pa.Code §5.101(a)(4).

REQUEST FOR RELIEF

WHEREFORE, for all of the reasons stated herein, PECO respectfully requests that your Honorable Commission dismiss the instant complaint with prejudice.

Respectfully submitted,



Edward P. Yim (I.D. No. 205612)
Dana Pirone Carosella (I.D. No. 57221)
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Philadelphia, PA 19101-8699
(215) 841-6841
Fax: 215.568.3389
tishekia.williams@exeloncorp.com

Counsel for PECO Energy Company

Dated: March 17, 2011

Commonwealth of Pennsylvania

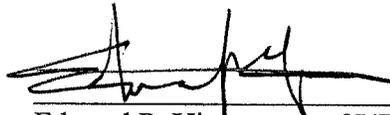
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County of Philadelphia

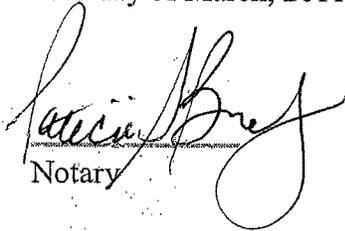
AFFIDAVIT

I, Edward P. Yim, being duly sworn according to law, depose and say I am agent of PECO Energy Company and have been authorized to make this affidavit on its behalf and that the facts above set forth are true and correct to the best of my knowledge, information and belief, and PECO Energy Company expects to be able to prove the same at any hearing hereof.



Edward P. Yim, agent of PECO Energy Company

Sworn and subscribed before me this
17th day of March, 2011


Notary

My Commission Expires:

COMMONWEALTH OF PENNSYLVANIA
NOTARIAL SEAL
PATRICIA S. BRADWAY, Notary Public
City of Philadelphia, Phila. County
My Commission Expires March 17, 2014

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

ANDREE LOMBARD
Complainant

v.

PECO ENERGY COMPANY
Respondent

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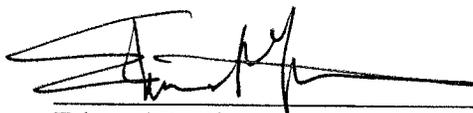
Docket No. C-2011-2227675

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing Answer and New Matter upon the party listed below, in accordance with the requirements of 52 Pa. Code §1.54 (relating to service by a party).

VIA First Class U.S. Mail

Andree Lombard
404 Aldan Avenue
Aldan, PA 19018



Edward P. Yim

DATED: March 17, 2011

STEVENS & LEE
LAWYERS & CONSULTANTS

1818 Market Street
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Philadelphia, PA 19103
(215) 575-0100 Fax (215) 851-0214
www.stevenslee.com

Direct Line: (215) 751-1955
Email: epy@stevenslee.com
Fax: (610) 988-0860

March 17, 2011

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

Re: Andree Lombard v. PECO Energy Company
Docket No. C-2011-2227675

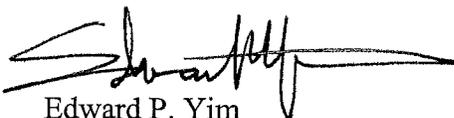
Dear Secretary Chiavetta:

Enclosed for filing on behalf of PECO is an original of its Preliminary Objection to the above-referenced Complaint. This document has been e-filed at the Pennsylvania Public Utility Commission's website. A copy has been served on the Complainant in accordance with the attached Certificate of Service.

If you have any questions, please feel free to contact me.

Best Regards,

STEVENS & LEE



Edward P. Yim

Enclosure

cc: Certificate of Service

Philadelphia • Reading • Valley Forge • Lehigh Valley • Harrisburg • Lancaster • Scranton
Williamsport • Wilkes-Barre • Princeton • Cherry Hill • New York • Wilmington

A PROFESSIONAL CORPORATION

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

ANDREE LOMBARD
Complainant

v.

PECO ENERGY COMPANY
Respondent

Docket No. C-2011-2227675

NOTICE TO PLEAD

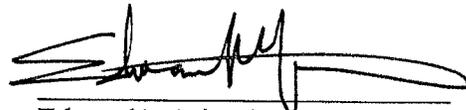
To: Andree Lombard

You are hereby notified to file a written response to the attached Preliminary Objections of PECO within 10 days from the date of service of this notice. If you do not file a written response denying or correcting the enclosed Preliminary Objections within 10 days of service, the facts set forth by PECO may be deemed to be true, thereby requiring no other proof, and judgment may be entered against you. All pleadings, such as responses to Preliminary Objections, must be filed with the Secretary of the Pennsylvania Public Utility Commission:

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

You must also serve a copy of your response on the undersigned counsel for PECO.
Failure to respond to Preliminary Objections could result in the dismissal of your case.

STEVENS & LEE



Edward P. Yim (I.D. No. 205612)
1818 Market Street, 29th Floor
Philadelphia, PA 19103
Tel. (215) 751-1955
Fax (610) 988-0852
COUNSEL FOR PECO

DATE: March 17, 2011

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

ANDREE LOMBARD
Complainant

v.

PECO ENERGY COMPANY
Respondent

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Docket No. C-2011-2227675

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

Pursuant to 52 Pa Code §5.101(a), PECO hereby files the within Preliminary Objections to the Complaint filed by Complainant Andree Lombard, and requests that this Honorable Commission dismiss those portions of the Complaint that seek to contest PECO's rates.

1. On February 25, 2011, PECO Energy Company (PECO) was served with a formal complaint from Andree Lombard (Complainant).
2. The complaint checked the box marked "I want to oppose the Company's proposed rate increase". In the fact section of the complaint, Complainant indicates that "I was not aware that a rate increase already started in January 2011. I do oppose [sic] to that rate increase."
3. The complaint also alleges that his bill seems too high for his usage.
4. To the extent that Complainant seeks to contest PECO's distribution or generation rates, the complaint is legally insufficient, and Complainant's purported challenge of PECO's rates should be dismissed for the reasons set forth below.

5. Under 52 Pa. Code §5.101(a)(4), a formal complaint may be dismissed with prejudice for legal insufficiency.

6. When considering a preliminary objection seeking dismissal for legal insufficiency, the complaint must be viewed in the light most favorable to Complainant, and the facts alleged in the complaint must be assumed to be true. The complaint should be dismissed only when it appears that Complainant is not entitled to relief under any circumstances. This requirement is similar to Pennsylvania civil practice with respect to the filing of preliminary objections. *Equitable Small Transportation Interveners v. Equitable Gas Co.*, Docket No. C-00935435 (Order entered July 18, 1994).

7. In this case, the portion of the complaint involving a challenge to PECO's rates should be dismissed. Even when viewed in the light most favorable to Complainant, the complaint fails to state a claim for which relief can be granted with respect to PECO's distribution and generation rates, and therefore the Commission must deny the complaint as a matter of law.

PRELIMINARY OBJECTION #1

Legal Insufficiency on Alleged Proposed Rate Increase

8. To the extent that Complainant challenges a "proposed rate increase," that claim must be dismissed because PECO currently has no proposed rate increase pending before the Commission. Simply, there is no proposed rate increase about which to complain. Therefore, this claim must be dismissed because the subject of the claim does not exist.

PRELIMINARY OBJECTION #2

Legal Insufficiency of Complaint about PECO Distribution Rate

9. The complaint refers to a rate increase that took effect in January 2011. To the extent that the complaint challenges PECO's distribution rate that took effect in January 2011, the complaint is legally insufficient and should be dismissed for failing to state a claim for which relief can be granted.

10. On March 31, 2010, PECO filed a tariff proposing, among others, increases in electric and gas distribution rates in a proceeding at docket number R-2010-2161575. Several parties, representing industrial, commercial, small business and residential customers, intervened.

11. The Commission afforded PECO customers additional opportunities to express any concerns about proposed rate increases by holding public input hearings on June 28, June 29 and June 30, 2010 in three different locations in PECO's service territory. Notices of the public input hearings were posted on local newspapers as well as on PECO's and the Commission's websites. See *Pennsylvania Public Utility Commission, et al. v. PECO Energy Company*, p.5, Docket Number R-2010-2161575 (Order entered December 21, 2010).

12. On December 21, 2010, following an exhaustive review, the Commission approved PECO's settlements with all interested parties on proposed distribution rate increases. *Id.*

13. There is a strong presumption that "the preexisting Commission approved rates are just and reasonable." *Duquesne Light Company v. Pennsylvania Public Utility Commission*, 715 A.2d 540, 545 (Pa. Cmwlth. 1998).

14. To overcome the presumption that preexisting Commission approved rates are just and reasonable, a Complainant must demonstrate the existence of “recent significant changes in circumstances in the interim.” *Schellhammer v. Public Utility Commission*, 629 A.2d 189, 193 (Pa. Cmwlth. 1993).

15. In the absence of such a showing of “recent significant change in circumstances” by Complainant, the prior Commission rate determination remains conclusive under Section 316 of the Public Utility Code, 66 Pa.C.S. §316.

16. Section 316 of the Code provides that “[w]henver the commission shall make any rule, regulation, finding, determination or order, the same shall be *prima facie* evidence of the facts found and shall remain conclusive upon all parties affected thereby....”

17. The instant Complaint makes no assertion whatsoever of recent significant changes in circumstances that would allow Complainant to overcome the presumption that PECO’s existing Commission-approved rates are just and reasonable.

18. The Commission approved PECO’s distribution rates on December 21, 2010, less than two months before the Complaint was filed.

19. The Commission’s approval is *prima facie* evidence of the reasonableness of such rates. 66 Pa.C.S. §316; *Duquesne Light Company*, at 545. Therefore, under Section 316 of the Public Utility Code, the Commission’s approval of PECO’s distribution rates is conclusive and binding.

20. For these reasons, Complainant’s challenge of PECO’s distribution rates must fail for legal insufficiency under 52 Pa.Code §5.101(a)(4).

PRELIMINARY OBJECTION #3

Legal Insufficiency of Complaint about Generation Rates

21. The complaint mentions that Complainant is “in the process of switching [his] energy provider,” that “a rate increase already started since January 2011,” and that “I do oppose [sic] to that rate increase.” To the extent that such assertions could be possibly interpreted by the Commission as challenging Complainant’s generation rates, such claim should be dismissed for legal insufficiency because those assertions fail to state a claim for which relief can be granted.

22. In 1996, the Pennsylvania General Assembly enacted the Electricity Generation Customer Choice and Competition Act (Act), 66 Pa.C.S §§2801-15. The Act allows Pennsylvanians to buy electric generation supply from licensed alternative suppliers by unbundling the generation portion of electric rates from the transmission and distribution portions.

23. The Act also capped the generation portion of electric rates to ease the transition to competitive markets at 1996 levels. The rate cap was initially established under Section 2804 of the Act, and, after much litigation, settlements were reached in which the rate cap would expire for all PECO customers at the end of 2010. See *Application of PECO Energy Company for Approval of Its Restructuring Plan under Section 2806 of the Public Utility Code*, Docket Number R-00973953 (April 29, 1998).

24. The Commission has already ruled that it lacks the authority to extend the expired rate caps. See *Tshudy v. PPL Electric Utilities Corp.*, Docket Number C-2009-2092230 (Order entered August 21, 2009) (citing 66 Pa.C.S 2804(4)).

25. Starting January 1, 2011, PECO’s generation rates have reflected wholesale market prices at which PECO procured its generation supply for its customers who do not

choose an alternative generation supplier, known as “Default Service Program.” Those customers who choose an alternative supplier would pay the rates set by the supplier based on wholesale market prices.

26. As of the date of the complaint, Complainant receives generation supply through PECO’s Default Service Program.

27. To the extent that Complainant challenges any increase in PECO’s generation rates, the challenge must be dismissed for legal insufficiency under 52 Pa.Code §5.101(a)(4).

28. The Commission has only those duties, powers, responsibilities and jurisdiction that were expressly or by necessary implication given to it by the Legislature. *Rogoff v. The Buncher Company*, 395 Pa. 477, 151 A.2d 83 (1959).

29. Wholesale market-based generation rates are a federal subject matter and are regulated only by the Federal Energy Regulatory Agency (FERC). See *Utilimax.com, Inc. v. PPL Energy Plus, LLC*, 378 F.3d 303 (3d Cir.2004).

30. The Federal Power Act of 1935 established the Federal Power Commission (now FERC) and gave it “plenary and exclusive jurisdiction over ‘the transmission of electric energy in interstate commerce’ and ‘the sale of electric energy at wholesale in interstate commerce.’” *Utilimax.com, Inc. v. PPL Energy Plus, LLC*, 273 F.Supp.2d 573, 574 (E.D.Pa.2003); 16 U.S.C. §824(b).

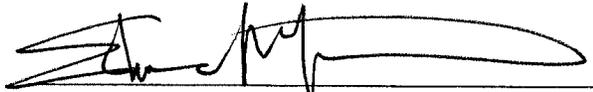
31. There is no relief that the Commission may grant regarding market-based generation rates. As the Commission recognized in *Tshudy*, the Commission may not extend the rate caps, which expired in 2010. in order to prevent a generation rate increase.

32. Therefore, the claim related to the rate cap expiration or wholesale market-based generation rates must be dismissed for legal insufficiency under 52 Pa.Code §5.101(a)(4).

REQUEST FOR RELIEF

WHEREFORE, for all of the reasons stated herein, PECO respectfully requests that your Honorable Commission dismiss those portions of the Complaint that seek to contest PECO's generation or distribution rates, with prejudice.

Respectfully submitted,



Edward P. Yim (I.D. No. 205612)
Dana Pirone Carosella (I.D. No. 57221)
1818 Market Street, 29th Floor
Philadelphia, PA 19103
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tishekia.williams@exeloncorp.com

Counsel for PECO Energy Company

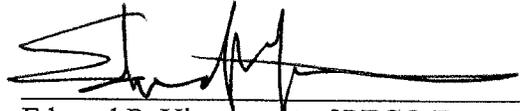
Dated: March 17, 2011

Commonwealth of Pennsylvania :
County of Philadelphia :

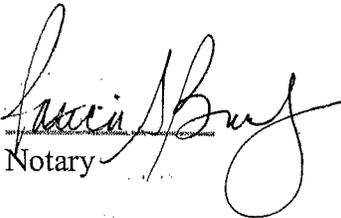
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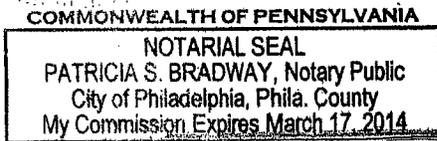
I, Edward P. Yim, being duly sworn according to law, depose and say I am agent of PECO Energy Company and have been authorized to make this affidavit on its behalf and that the facts above set forth are true and correct to the best of my knowledge, information and belief, and PECO Energy Company expects to be able to prove the same at any hearing hereof.


Edward P. Yim, agent of PECO Energy Company

Sworn and subscribed before me this
17th day of March, 2011


Notary

My Commission Expires:



**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

ANDREE LOMBARD
Complainant

v.

PECO ENERGY COMPANY
Respondent

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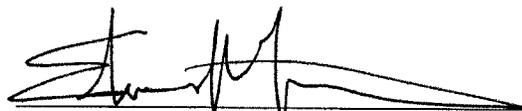
Docket No. C-2011-2227675

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing Answer and New Matter upon the party listed below, in accordance with the requirements of 52 Pa.Code §1.54 (relating to service by a party).

VIA First Class U.S. Mail

Andree Lombard
404 Aldan Avenue
Aldan, PA 19018


Edward P. Yim

DATED: March 17, 2011

Exhibit 3



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265

IN REPLY PLEASE
REFER TO OUR FILE

DATE SERVED: February 28, 2011

C-2011-2227678

PECO ENERGY COMPANY
C/O WARD L SMITH
ASSOCIATE GENERAL COUNSEL
PO BOX 8699
PHILADELPHIA PA 19101-8699

Dear Mr. Smith:

A complaint has been filed against you before the Pennsylvania Public Utility Commission by Andree Lombard. To defend yourself against the claims stated in the complaint, you must respond within twenty (20) days of the above date served by filing with the Commission, in writing, an Answer in accordance with 52 Pa. Code Section 5.61, either personally or through your attorney. Or, you may satisfy the complaint by settling the matter with the Complainant and submitting proof of settlement to the Commission within twenty (20) days of the above date served.

IF YOU FAIL TO ANSWER THE COMPLAINT WITHIN TWENTY (20) DAYS OF THE ABOVE DATE SERVED, THE CLAIMS AGAINST YOU MAY BE DEEMED ADMITTED, THE CASE MAY GO FORWARD IN YOUR ABSENCE, AND A JUDGEMENT MAY BE ENTERED AGAINST YOU BY THE COMMISSION WITHOUT FURTHER NOTICE.

CUSTOMER OF A UTILITY

A payment schedule may be prescribed or a termination of utility services may be authorized. You may lose money or property or other rights important to you.

COMPANY/UTILITY

An Administrative Law Judge may revoke or suspend any certificate or permit held by you, or impose a fine, or any other appropriate penalty or remedy authorized by the Public Utility Code. You may lose money or property or other rights important to you.

Detailed instructions on how to proceed are contained in the attached pages. You are advised to read them carefully.

February 25, 2011

Unless you are a corporation or other organization, you may proceed without a lawyer. However, if you want a lawyer and do not have one or cannot afford one, the office listed below can tell you where you can get legal help:

Pennsylvania Lawyer Referral Service
Pennsylvania Bar Association
P.O. Box 186
Harrisburg, PA 17108
(800) 692-7375

Very truly yours,

A handwritten signature in cursive script that reads "Rosemary Chiavetta". The signature is written in black ink and is positioned above the printed name and title.

Rosemary Chiavetta
Secretary

jms

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

DATE SERVED: February 28, 2011

ANDREE LOMBARD

Complainant

v.

PECO ENERGY COMPANY

Respondent

Complaint Docket

No: C-2011-2227678

FORMAL COMPLAINT NOTICE TO RESPONDENT TO ANSWER OR SATISFY

TO: PECO ENERGY COMPANY

TAKE NOTICE:

That a complaint in the above entitled matter, of which the attached is a true and correct copy, has been presented and filed of record with the Pennsylvania Public Utility Commission. Section 702 of the Public Utility Code, 66 Pa. C.S. Section 702, requires the Commission to serve on each party named in a complaint a copy of the complaint and notice calling upon each party to satisfy the complaint, or to answer the same in writing within a specified time; THEREFORE,

1. You have twenty (20) days from the date on which this complaint is served to either satisfy this complaint or to file with the **Secretary of the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265**, an answer (original and three copies), in writing, under oath, which, as required by Section 5.61 of the Commission's Rules of Practice and Procedure, 52 Pa. Code Section 5.61, either affirms or specifically denies the allegations in this complaint. You must also serve a copy of the answer upon the complainant. **The date served is the mailing date appearing at the top of this Notice.** Section 1.56(a) of the Commission's Rules of Practice and Procedure, 52 Pa. Code Section 1.56(a).

2. If you fail to either satisfy or settle this complaint, or to file an answer or other responsive pleading within twenty (20) days of the date served, you will be deemed to have admitted all the allegations in this complaint in accordance with Section 5.61 of the Commission's Rules of Administrative Practice and Procedure, 52 Pa. Code Section 5.61. In that event, the Commission may, without hearing, enter an order which either revokes or suspends any certificate or permit held by you or which imposes a fine or any other appropriate penalty or remedy authorized by the Public Utility Code, 66 Pa. C.S. Section 101, et seq. If you are a customer of a utility, an order may be entered which prescribes a

payment schedule or which authorizes termination of utility services. The Commission is not limited to the relief sought by the complainant in paragraph 4 of the attached complaint.

3. If you elect to satisfy or settle this complaint, you must file, within twenty (20) days from the date on which this complaint is served, affidavits executed by each complainant that this complaint has been satisfied. Such affidavits must describe the basis on which this complaint was satisfied; any settlement agreement between the parties must be reduced to writing and attached to the affidavit. Such affidavits are to be filed with the Secretary of the Commission at the address set forth in paragraph 1. Upon receipt of affidavits of satisfaction from all complainants, this complaint may be dismissed by the Commission in accordance with Section 703(a) of the Public Utility Code, 66 Pa. C.S. Section 703(a), unless the Commission determines that such dismissal would be contrary to the public interest, in which event the Commission may direct that hearings be held upon the complaint.

4. If you file an answer which admits the allegations in this complaint, or which fails to specifically deny the allegations in this complaint, the Commission may, without hearing, enter an order which either revokes or suspends any certificate held by you or which imposes a fine or any other appropriate penalty or remedy authorized by the Public Utility Code, 66 Pa. C. S. Section 101, et seq. If you are a customer of a utility, an order may be entered which prescribes a payment schedule or which authorizes termination of utility services. The Commission is not limited to the relief sought by the complainant in paragraph 4 of the attached complaint.

5. If you file a timely answer which specifically denies the allegations in this complaint, or which raises material questions of law or fact, this matter shall be referred to the Office of Administrative Law Judge for hearing and decision. If, after hearing on the issues raised by that answer, you are found to have committed any of the violations alleged in the complaint, the Administrative Law Judge may render a decision which either revokes or suspends any certificate or permit held by you or which imposes a fine or any other appropriate penalty or remedy authorized by the Public Utility Code, 66 Pa. C. S. Section 101, et seq. If you are a customer of a utility, an order may be entered which prescribes a payment schedule or which authorizes termination of utility services. In the imposition of a penalty after a hearing the Administrative Law Judge is not bound by the relief sought by the complainant in paragraph 4 of the attached complaint.



Rosemary Chiavetta
Secretary

(SEAL)

Certified Mail
Return Receipt Requested

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Formal Complaint Form

Please print in ink or type.

1. CUSTOMER (COMPLAINANT) INFORMATION

Your name, mailing address, county, telephone number, utility account number and service address:

Name Andreo Lombard

Street/P.O. Box 404 Aldan Ave Apt #

City Aldan State PA Zip 19018

County Delaware

Daytime Telephone Number Where We Can Contact You: (484) 472 2628

E-mail Address (optional): (610) 284 6614

Utility Account Number (from your bill) 83245-01705

If your complaint involves utility service provided to a different address than your mailing address, please list this information below.

Name

Street/P.O. Box

City State Zip

2. FULL NAME OF UTILITY COMPANY (RESPONDENT):

PECO

3. TYPE OF UTILITY (check one)

[X] ELECTRIC

[] STEAM HEAT

[X] GAS

[] WASTE WATER

[] WATER

[] MOTOR CARRIER

(e.g., taxi, moving company, limousine)

[] TELEPHONE (local, long distance)

SECRETARY'S BUREAU 2011 FEB 22 AM 10:19

4. **COMPLAINT** (check one)

A. In general, what is your complaint?

- I want to oppose the company's proposed rate increase.
- There are incorrect charges on my bill.
- There is a reliability, safety or quality problem with my utility service.
- I received a notice that my utility service is being terminated.
- I would like a payment agreement.
- Other (explain).

B. State the facts of your complaint.

Include any specific dates, times or places that may be important. If the complaint is about a bill, tell us about any charges that you believe are not correct. Use additional paper if you need more space. Provide copies of all relevant documents you believe will support your complaint.

PECO BILL DATE 02/10/2011

I am currently in the process of switching my energy provider.

However I was not aware that a rate increase already started since January 2011. I do oppose to that rate increase!

In addition I would like to know how PECO is reading my meter, which was moved to the front of my house. I actually never saw any physical person coming to read the meter!

It seems to me that the bill is extremely bloated and incorrect.

5. **RELIEF**

How do you want your complaint to be resolved? Use additional paper if you need more space.

*Please investigate the bloated Bill
and if those are correct charges!
This is a household of four people!
Two kids, two adults.*

6. PROTECTION FROM ABUSE

Answer the following question if your complaint is against a natural gas distribution utility, an electric distribution utility or a water distribution utility **AND** your complaint is about a billing problem, a request to receive service, a security deposit request, termination of service or a request for a payment agreement.

Has a court granted a "Protection from Abuse" order for your personal safety or welfare?

YES

NO

7. PRIOR UTILITY CONTACT

Answer the following question only if you are a residential customer and your complaint is against an electric distribution utility, natural gas distribution utility or a water distribution utility.

Have you spoken to a utility company representative about this complaint?

YES (includes appeals of BCS determinations)

NO

If you tried to, but could not speak to a utility company representative about your complaint, please explain why.

8. LEGAL REPRESENTATION (IF ANY)

If you are represented by a lawyer in this matter you must provide your lawyer's name, address, telephone number, and e-mail address, if known.

Lawyer's Name _____

Street _____

City _____ State _____ Zip _____

Area Code/Phone Number _____

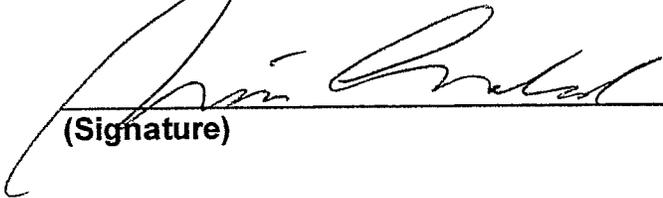
E-mail Address (If Known) _____

9. VERIFICATION AND SIGNATURE

You must print or type your name below on the line provided for the verification paragraph, and you must sign and date (in ink) this form on the lines provided.

Verification:

I Andree Lombard, hereby state that the facts above set forth are true and correct (or are true and correct to the best of my knowledge, information and belief) and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).



(Signature)

2-17-2011

(Date)

Title of authorized employee or officer

10. FILING

Please return the completed form to one of the addresses listed below:

If using U.S. Postal Service:

If using overnight delivery service:

Secretary Pennsylvania Public Utility Commission P.O. Box 3265 Harrisburg, PA 17105-3265	Secretary Pennsylvania Public Utility Commission 400 North Street Commonwealth Keystone Building, 2 nd Floor Harrisburg, Pennsylvania 17120
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Facsimiles and/or electronic filings of the complaint will not be accepted.

If you have any questions about filling out this form, please contact the Secretary's Bureau at 717-772-7777.

Keep a copy of your complaint for your records.

In Section Nine (9) of the formal complaint, you **must** print or type your name in the space provided in the verification paragraph, and you **must** sign and date your formal complaint form on the lines in this Section. If a complainant is a corporation or association, the verification must be signed by an authorized officer or other authorized employee. If you do not sign the formal complaint form, the Commission will not accept it.

10. Please return the completed form to one of the addresses listed below:

If using U.S. Postal Service:

If using overnight delivery service:

Secretary Pennsylvania Public Utility Commission P.O. Box 3265 Harrisburg, PA 17105-3265	Secretary Pennsylvania Public Utility Commission 400 North Street Commonwealth Keystone Building, 2 nd Floor Harrisburg, Pennsylvania 17120
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Keep a copy of your complaint for your records.

Facsimiles and/or electronic filings of the complaint form will not be accepted.

Name: ANDREE LOMBARD
 Account Number: 83245-01705
 Phone Number: 610-284-6614
 Service Address: 404 ALDAN AV, ALDAN

Billing Summary

Bill Date	02/10/2011
Charges from previous bill	\$1,075.84
Late payment charge	\$29.27
Total Other Charges	\$1,105.11

Current Period Charges

Gas	\$299.01
Electric	\$142.83
Total New Charges	\$441.84
Total amount due on 03/04/2011	\$1,546.95

General Information

Next scheduled meter reading: **March 11, 2011**
 PECO, 2301 Market St, Philadelphia, PA 19103-1380. If you have any questions or concerns, please call **1-800-494-4000** before the due date.

- Customer Self Service - Manage Your Account 24/7**
- www.peco.com/ebill - Go paperless: receive and pay your bill
 - www.peco.com/service - Start, stop and transfer your service
 - www.peco.com/SmartIdeas - Save energy and money
 - Pay by phone with credit/debit card at **1-877-432-9384** (\$3.50 fee)

Message Center

New charges contain estimated total state taxes of \$12.94, including \$8.66 for State Gross Receipts Tax.

Your electric price to compare is \$0.0992 per kWh.

When paying in person, please bring the entire bill.

(continued on next page)

Return only this portion with your check made payable to PECO. Please write your account number on your check.



- Check here to enroll in Power Pay automatic account debit and complete form on reverse side.
- Check here to pledge a donation to MEAF and complete form on reverse side.

To pay by phone call **1-877-432-9384**.
 A convenience fee will apply.

83245 0170 50000 0000

2667 1 AV 0.332 2667/002667/005399 011 01 GXC1P0 1234 02112011
 ANDREE LOMBARD
 404 ALDAN AVE
 ALDAN PA 19018-4204



Account Number **83245-01705** Payment Receipt Stamp

Payment Amount

Please pay this amount by 03/04/2011 \$1,546.95

PECO - PAYMENT PROCESSING
 PO BOX 37629
 PHILADELPHIA PA 19101-0629



00000441840000107584

832450170500015469510631546956



Name: **ANDREE LOMBARD**
Account Number: **83245-01705**

Meter Information

Read Date	Meter Number	Load Type	Reading Type	Meter Reading		Difference	Multiplier X	Usage
				Previous	Present			
02/09	018825358	General Service	Total Ccf	1230 Actual	1508 Actual	278	1	278
02/09	105262436	General Service	Tot kWh	59774 Actual	60628 Actual	854	1	854

Total Ccf Used 278
Total kWh Used 854

Gas Residential Heating Service - Current Period Detail

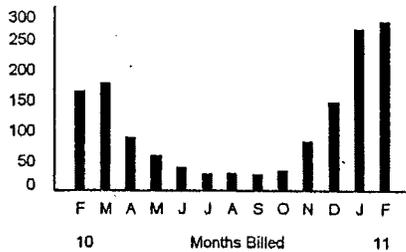
Service 01/10/2011 to 02/09/2011 - 30 days

Customer charge								\$11.75
Natural Gas Supply Charges			278 Ccf	X	\$0.62934			174.96
Distribution Charges			278 Ccf	X	0.38853			108.01
Balancing Service Charges			278 Ccf	X	0.04052			11.26
Gas Cost Adjustment Charges			278 Ccf	X	-0.02366			-6.58
State Tax Adjustment								-0.39

Total Current Charges

\$299.01

13-Month Usage (Total Ccf)



Your Usage Profile

Period	Usage	Avg Daily Usage	Days	Avg Daily Temp
Current Month	278	9.2	30	30
Last Month	265	7.7	34	32
Last Year	163	5.6	29	34

Avg Ccf per Month	104
Total Annual Ccf Usage	1,253

Electric Residential Service - Current Period Detail

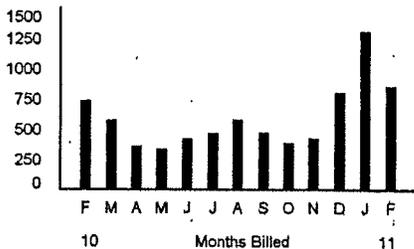
Service 01/10/2011 to 02/09/2011 - 30 days

Customer charge								\$7.25
Generation Charges			854 kWh	X	\$0.09070			77.46
Alt. Energy Portfolio Standard			854 kWh	X	0.00120			1.02
Transmission Charges			854 kWh	X	0.00730			6.23
Distribution Charges			854 kWh	X	0.05960			50.90
State Tax Adjustment								-0.03

Total Current Charges

\$142.83

13-Month Usage (Total kWh)



Your Usage Profile

Period	Usage	Avg Daily Usage	Days	Avg Daily Temp
Current Month	854	28.4	30	30
Last Month	1,306	38.4	34	32
Last Year	737	25.4	29	34

Avg kWh per Month	580
Total Annual kWh Usage	6,968

