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March 20, 2012

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

Re: Kerry Neal v. PECO Energy Company
Docket No. C-2012-2284618

Dear Secretary Chiavetta:

Enclosed for filing on behalf of PECO is an original of its Objection to Plaintiff/Complainant's Consolidated Motion to Withdraw Formal Complainant and Motion in Objection to the Petitioner's Petition to Intervene. This document has been e-filed at the Pennsylvania Public Utility Commission's website. A copy has been served on the Complainant and Counsel for Intervener, Winnie Overton, in accordance with the attached Certificate of Service.

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

Very truly yours,

STEVENS & LEE



Dana Pirone Carosella

Enclosures

cc: The Honorable Dennis J. Buckley (via Email and First Class Mail)
Kerry K. Neal, Esquire w/enclosures (via First Class Mail)
Christina Matthewson, Esquire w/enclosures (via First Class Mail)

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

KERRY NEAL	:	
	:	
Complainant	:	
	:	
v.	:	Docket No. C-2012-2284618
	:	
PECO ENERGY COMPANY	:	
	:	
Respondent	:	

**PECO ENERGY COMPANY’S OBJECTION TO COMPLAINANT’S CONSOLIDATED
MOTION TO WITHDRAW FORMAL COMPLAINT AND MOTION IN OBJECTION
TO THE PETITIONER’S PETITION TO INTERVENE**

Respondent, PECO Energy Company (“PECO”) pursuant to 52 Pa. Code §5.94(a) objects to Complainant’s Motion to Withdraw Formal Complaint and Motion in Objection to the Petitioner’s Petition to Intervene (the “Motion”)¹ for the following reasons:

1. Complainant requests to withdraw his formal complaint without prejudice.
2. PECO suggests that the Complaint should be dismissed, but only if it is with prejudice. This is because the Legislature and this Commission has made it clear that upon discovering the existence of a foreign load, a public utility is required to list the account, including any arrearages, in the landlord’s name. 66 Pa.C.S. §§ 1529.1(a) and (c); *Santos v. Metro. Edison Co.*, No. C-00967757 Pa.P.U.C. Aug. 7, 1997), reaff’d in *Ace Check Cashing, Inc. v. Phila. Gas Works*, Final Opinion & Order May 21, 2010.

¹ The Motion improperly suggests that this Honorable Commission consolidated the Motion and the tenant’s Petition to Intervene. This is incorrect. Instead, the Motion is Complainant’s attempt to provide this Honorable Commission with a singular document, a Motion to Withdraw a Complaint in a Contested Case and his Objection to the Petition to Intervene. PECO intends to file, under separate cover, opposition to the Petition to Intervene for the reasons stated herein and its Preliminary Objections.

3. Because it is well-settled that a landlord is responsible for paying the utility bills until the foreign load is corrected, on February 14, 2012, PECO responded to the Formal Complaint by filing an Answer and Preliminary Objections regarding this well-settled principle. As of this date, the Preliminary Objections are uncontested and ripe for adjudication.
4. In light of this well-settled principal of law, Complainant's Motion to Withdraw the Formal Complaint without prejudice gives him another opportunity to waste the time and resources of the parties and this Honorable Commission.
5. Complainant has made it clear that he will hold the Petitioner responsible for the arrearages and current charges while the foreign wiring existed. This issue does not involve PECO and, to this end, the financial dispute between Complainant as the landlord and the Petitioner as the tenant, is outside the province of this Honorable Commission. It is a matter to be decided by the civil courts. *Edmund V. Corazzini v. UGI Penn Natural Gas, Inc.*, No. F-2009-2101282, Opinion and Order adopted July 15, 2010 at 7.
6. PECO now responds to the specific allegations in the Motion as follows:
 - Paragraph 1: Admitted.
 - Paragraph 2: Admitted.
 - Paragraph 3: Admitted.
 - Paragraph 4: Denied. The allegations refer to legal conclusions which do not require a response and refer to a writing which speaks for itself. PECO denies Complainant's characterization of Exhibit 1 to PECO's Answer to the Formal Complaint.

Paragraph 5: Denied. The allegations refer to legal conclusions which do not require a response. By way of further answer, Complainant corrected the foreign wiring problem at the service property. As of March 13, 2012, PECO has placed service in the tenant's name and closed the account that had been established in Complainant's name.

Paragraph 6: Admitted.

Paragraph 7: Admitted.

Paragraph 8: Denied. The allegations refer to legal conclusions which do not require a response and refer to writings which speak for themselves. By way of further answer, PECO's records reflect that on March 12, 2012, Complainant had the foreign wiring corrected.

Paragraph 9: Denied. The allegations refer to legal conclusions which do not require a response.

Paragraph 10: Denied. The allegations refer to legal conclusions which do not require a response. PECO can neither admit nor deny the factual allegations concerning third parties over whom PECO has no control.

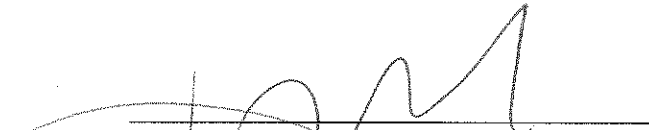
Paragraph 11: Denied. The allegations refer to legal conclusions which do not require a response. PECO can neither admit nor deny the factual allegations concerning third parties over whom PECO has no control.

Paragraph 12: Denied. The allegations refer to legal conclusions which do not require a response. By way of further response, and as previously explained, Complainant's Motion to Withdraw the Formal Complaint should only be granted if it is with prejudice. Complainant has made it clear that he will file another Formal Complaint

against PECO if he is unsuccessful in resolving his dispute with the tenant, the Petitioner, concerning the unpaid utility bill while foreign wiring existed. Complainant should not be afforded another opportunity to bring a complaint against PECO when the law on this point is clear.

WHEREFORE, PECO Energy Company respectfully requests that your Honorable Commission deny Complainant's Motion to Withdraw the Formal Complaint without prejudice.

Respectfully submitted,



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Dated: March 20, 2012

Counsel for PECO Energy Company

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

KERRY NEAL

Complainant

v.

PECO ENERGY COMPANY

Respondent

Docket No. C-2012-2284618

ORDER

AND NOW, this _____ day of _____, 2012, upon consideration of Complainant's Consolidated Motion to Withdraw Formal Complaint and Motion in Objection to the Petitioner's Petition to Intervene, and any responses thereto, it is hereby Ordered and Decreed that the Motion is granted in part and denied in part. The Motion is GRANTED in that the Formal Complaint is withdrawn with prejudice. Accordingly, Complainant's Motion to Withdraw the Formal Complaint without prejudice is DENIED. A separate Order shall be entered with respect to Petitioner's Petition to Intervene.

BY THE COMMISSION:

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

KERRY NEAL

Complainant

v.

PECO ENERGY COMPANY

Respondent

Docket No. C-2012-2284618

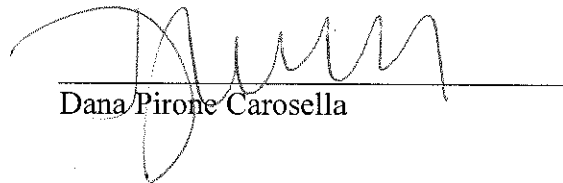
CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing Preliminary Objections upon the parties 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

Kerry K. Neal, Esq.
232 Rhode Island Avenue, NW
Washington, D.C. 20001-1825

Christina Matthewson, Esq.
Legal Aid of Southeastern PA
410 Welsh Street
Chester, PA 19013


Dana Pirone Carosella

DATED: March 20, 2012