

Dan Helwig Inc. – Realtors®

May 22, 2012

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

RE: Daniel Helwig v. PECO Energy Company
Docket No. F-2012-2299753

Dear Secretary Chiavetta:

Enclosed is our response to your Answers and New Matter to the formal complaint filed by us in BCS case 2928830 on April 16, 2012.

We will be referring to several Exhibits. Rather than reprint it, Exhibit 1 is the same Exhibit 1 enclosed with our letter in response to your Preliminary Objections enclosed in this same mailing.

If you have any questions or concerns, please do not hesitate to contact me at the number listed below.

Best Regards,

Daniel Helwig
Dan Helwig, Inc. Realtors

cc: Michael A. Gruin/w enclosures
Stevens & Lee

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU



**Response to Answer of Complaint filed by Daniel Helwig and New Matter of
PECO Energy Company**

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Docket No. F-2012-2299753

MAY 23 2012

RESPONSE TO ANSWER

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

1. Admitted with explanation: Service account number is 66941-87003 and relates to service to 6303 Sunnybrook Rd. 1st floor, Flourtown PA, a rental property. Roslyn Delizarriturri is the owner of the property and customer of record. The Complainant, Dan Helwig, is Mrs. Delizarriturri's property manager. As her property manager, Mr. Helwig responded in her behalf at her request. As the first case of this nature that he has encountered over 35 years of property management, he felt that this was a test case, the outcome of which could affect other properties under his purview.

2. Admitted

3. Admitted

4. Admitted and denied in part. Foreign wiring and piping was discovered. However, based on Exhibit 1 included with our Response to Preliminary Objection, the foreign wiring and piping should have been determined to be minimal and as such Mrs. Delizarriturri shouldn't have had to go to the expense of reconfiguring the foreign wiring and piping and the account never should have been transferred into Mrs. Delizarriturri's name. See excerpted portion below:

1. Proposed Policy Defining "A Dwelling Unit, Not Individually Metered" To Exclude Situations Involving Minimal Foreign Load.

Since the enactment of section 1529.1, the Commission has been faced with several cases where there was more than one dwelling unit in a building, and although each dwelling unit was individually metered, there was foreign load attached to the meter of one dwelling unit. Although in some cases, the foreign load was characterized as de minimis⁴, the ultimate resolution was to place that account in the building owner's name. Two reasons support this resolution: (1) the difficulty of developing a definition of de minimis foreign load that can be readily applicable to all situations; and (2) the adverse effect on one or more of the building's other tenants resulting from termination of service to the foreign load.

Such a strict interpretation of the law has proven harsh for small building owners who have been forced to rewire or replumb an entire building to separately meter such things as hall lights, an electric fan on a furnace, a water pump, and the like, to remove foreign load from an individual dwelling unit. This can be onerous where a building owner has already rewired a building to

provide an individual meter for each dwelling unit.

The Commission's Bureau of Consumer Services (BCS) has employed in its informal proceedings a policy whereunder a dwelling unit would be considered to be individually metered where only minimal foreign load is registered by that unit's meter. Under this policy, wiring and piping for a unit would not need to be reconfigured to remove foreign load where, after a reasonable investigation of all circumstances, the foreign load was found to be minimal. Also, under this policy, where after a reasonable investigation the amount of foreign load is found to be minimal, the utility or BCS may determine that the account does not need to be transferred into the building owner's name. A customer who did not want to be responsible for the foreign load could file civil suit against the building owner or could file a formal Commission complaint against the utility.

The Commission believes that under specific circumstances allowing minimal foreign load to be recorded by the meter (without affecting a dwelling unit's status of being individually metered) is not contrary to the intent of the statute. Therefore, the Commission proposes adopting a broader definition of "an individually metered dwelling unit," consistent with BCS usage, so as to include those units with meters that register minimal foreign load⁵.

However, even if that had been disregarded or denied, the findings of the PUC, in Exhibit 2 concluded:

That based on the Opinion and Order entered 4/09/08 at C-20055547 Susan Afshari vs. PPL Electric Utilities Corporation and Kim and Mike Fantazier, the landlord should be held responsible for an amount to reflect an estimate of the additional usage that can be reasonably attributed to the foreign load.

The account statement for the dwelling in question 66941-87003 as shown in Exhibit 3 is totally unreasonable.

Additionally, the account statement was NEVER placed back in the Saiber's name, even after Ms. O'Donnell, the PECO technician verified that the foreign wiring/piping was corrected and that the service would be placed back in the Saiber's name as of February 16, 2012.

Mrs. Delizarriturri has been in contact with PECO as recently as 5/16/12 regarding this matter. She has spoken to Yvette, at 215-841-4194, who assured Mrs. Delizarriturri that the situation will be rectified.

5. Denied. We assert that Mrs. Delizarriturri is entitled to total relief by the commission; i.e., PECO using their discretion to determine the wiring and piping as de minimis and removing all unpaid balances from her name.

6-9. We do not understand the assertions made. They do not correspond to numbers 6-9 of the original response to complaint.

RESPONSE TO NEW MATTER

10. Admitted for 1-5; Denied for 6-9 which appear to be referring to another document not in our possession.

11. Admitted.

12. Admitted, however alarm had been abandoned. There was only a light that would illuminate on the 1st floor alerting them to unknown entry through the basement door. The outlet was used for that light. The light was a safety feature for the dwelling.

Again, all foreign wiring/piping should have been considered de minimis.

13. Admitted.

14. Admitted.

15. Admitted.

16. Admitted.

17. Admitted.

18. Denied. See Exhibit 1 enclosed with Response to Preliminary Objection. The load should have been considered de minimis. Additionally, even if PECO did not consider that, the charges on Exhibit 3 including arrearages of \$ 1193.54, could hardly be considered reasonable.

19. Admitted.

20. Admitted.

21. Admitted.

22. Denied. The service was never placed back into the tenant Timothy Saiber's name.

23. Denied. See Exhibit 1 enclosed in Response to Preliminary Objection. PECO could have used their discretion and considered the foreign wiring and piping de minimis.

24. Denied. The additional expense of retaining attorneys to appear in Common Pleas court would be an undue burden on Mrs. Delizarriturri, a small building owner. PECO could have used their discretion and considered the foreign wiring and piping de minimis.

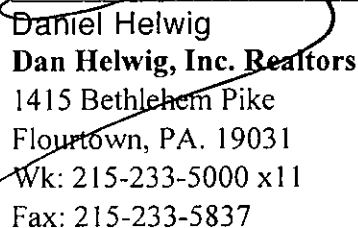
25. Admitted and denied in part. Mrs. Delizarriturri is the owner of the property. However, As her property manager, Mr. Helwig responded in her behalf at her request. As the first case of this nature that he has encountered over 35 years of property management, he felt that this was a test case, the outcome of which could affect other properties under his purview. Mrs. Delizarriturri has been involved in the entire process.

26. Admitted and denied in part. For the record, according to Blacks' Law Dictionary, 8th edition, An attorney is "one who is designated to transact business for another, a legal agent." Dan Helwig is designated to transact property management issues for Mrs. Delizarriturri. However, Mrs. Delizarriturri will represent herself in adversarial proceedings.

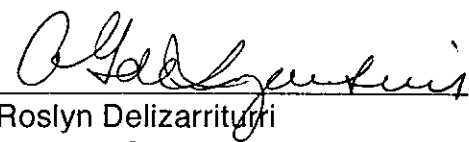
Request for Relief

Wherefore, for all of the reasons stated herein, Daniel Helwig, agent for Roslyn Delizarriturri, request that your Honorable Commission reconsider the complainants' case and decide in their favor.

Respectfully submitted,



Daniel Helwig
Dan Helwig, Inc. Realtors
1415 Bethlehem Pike
Flourtown, PA. 19031
Wk: 215-233-5000 x11
Fax: 215-233-5837



Roslyn Delizarriturri
Property Owner
6303 Sunnybrook Rd. 1st & 2nd floor
Flourtown, PA 19031
215-948-3787

INFORMAL COMPLAINT DECISION
THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

EXHIBIT 2

DANIEL HELWIG
1415 BETHLEHEM PIKE
FLOURTOWN PA 19031

Date: 3/30/2012

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MAY 23 2012

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

BCS: 2928830

Acct. No: 6694187003

V.

PECO ENERGY

DECISION ON INFORMAL COMPLAINT BY THE PUBLIC UTILITY COMMISSION:

STATEMENT OF COMPLAINT:

We received your informal complaint on 2/1/12. In the complaint, you state that:

You stated that you do not have any verbiage in the lease stating that you should assume responsibility for the tenant's bills. The company states that the landlord is responsible for the common area. The company states that you are the managing agent for the owner, Roslyn Delizarriturri. This is regarding the service address of 6303 Sunnybrook Road, First Floor, Flourtown, PA 19031. You asked the PUC to investigate.

INVESTIGATION BY STAFF OF THE PUBLIC UTILITY COMMISSION FOUND:

1. That at the request of the first floor tenant's wife, Margaret Saiber, a field visit was initiated 11/14/11. She stated that when she shut off the breakers, the basement and common area service remained on.
2. That on 11/18/11 the field appointment was cancelled.
3. That on 1/10/12 the company found foreign load as the basement light bulb, alarm and an outlet were connected to the customer's electric meter. The company found the first floor was connected to the hallway gas heat.
4. That on 1/17/12 foreign wiring and foreign piping letters were sent to the owner, Roslyn Delizarriturri, first and second floor, Flourtown, PA 19031.
5. That on 2/3/12, a final bill for the first floor tenant account for \$1,193.64 was transferred to the owner, Roslyn Delizarriturri.
6. That on 2/16/12 the company preformed a field visit, which confirmed there was no evidence of foreign load. Roslyn Delizarriturri was advised the service would revert back to the tenant's name effective this date.
7. That on 2/21/12 a final bill was rendered Roslyn Delizarriturri for \$156.62 gas and \$78.89 electric. The final balance was \$1,717.57 due 3/14/12.

BASED ON THESE FINDINGS, WE CONCLUDE THAT:

1. That foreign load Act 54 of 1993, 66 Pa. C.S. 1529.1 (b) indicates if the mobile home park or residential building contains one or more dwelling units not individually metered, an affected public utility shall forthwith list the account for the premise in question in the name of the owner, and the owner shall thereafter be responsible for the payment for the utility service rendered thereunto. In the case of individually metered dwelling units, unless notified to the contrary by the tenant or an authorized representative, an affected public utility shall list the account for the premises in

question in the name of the owner, and the owner shall be responsible for the payment for utility services to the premises.

2. That if an account, held in a tenant's name, provides utility service to common areas/appliances, other units or any other portion of the building other than areas used exclusively by the tenant, it is considered foreign load.
3. That a foreign load existed. The landlord is responsible for the foreign load and the additional usage caused by it.
4. That based on the Opinion and Order entered 4/9/08 at C-20055547 Susan Afshari vs. PPL Electric Utilities Corporation and Kim and Mike Fantazier the landlord should be held responsible for an amount to reflect an estimate of the additional usage that can be reasonably attributed to the foreign load.
5. That the Bureau of Consumer Services does not have the authority at the informal complaint level to calculate the foreign load amount.
6. That the Bureau of Consumer Services does not have the authority at the informal complaint level to direct the utility to rebill the foreign load.

THEREFORE, IT IS DECIDED THAT:

1. That the informal complaint of Daniel Helwig is dismissed.
2. That the bill is correct as rendered.

We will send a copy of this decision to the utility company. If you have questions about the terms of this decision or how to appeal this decision, please call us at 1-800-782-1110.

BARBARA BARBUSH
Investigator

Name: ROSLYN DELIZARRITURRI
 Account Number: 66941-87003
 Phone Number: 215-948-3787
 Service Address: 6303 SUNNYBROOK RD, 1ST FL,
 FLOURTOWN

EXHIBIT 3

Billing Summary

Bill Date	02/21/2012
Connection charge - standard	\$6.00
Billing Adjustment	\$1,193.54
Charges from previous bill	\$282.52
Total Other Charges	\$1,482.06
Current Period Charges	
Gas	\$156.62
Electric	\$78.89
Total New Charges	\$235.51
Total Amount Due on 03/14/2012	\$1,717.57

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PA PUBLIC UTILITY COMMISSION
 SECRETARY'S BUREAU

1429.05

General Information

Next scheduled meter reading: **February 23, 2012**
 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.

Message Center

New charges contain estimated total state taxes of \$7.71, including \$4.65 for State Gross Receipts Tax.

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

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)

*** Final Bill ***

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.

66941 8700 30000 0000

23505 1 AT 0.371 235051023505/047706 085 01 GXDSM4 1 02222012
 ROSLYN DELIZARRITURRI
 1121 BETHLEHEM PIKE STE 60-263
 SPRING HOUSE PA 19477-1102

Account Number **66941-87003** Payment Receipt Stamp

Payment Amount

Please pay this amount by 03/14/2012 **\$1,717.57**

00000235510000028252

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

669418700300017175720741717579

Name: **ROSLYN DELIZARRITURRI**
Account Number: **66941-87003**

Meter Information								
Read Date	Meter Number	Load Type	Reading Type	Meter Reading		Difference	Multiplier X	Usage
				Previous	Present			
02/16	015760005	General Service	Total Ccf	3186 Actual	3333 Actual	147	1	147
02/16	057069532	General Service	Tot kWh	75196 Actual	75657 Actual	461	1	461
Total Ccf Used								147
Total kWh Used								461

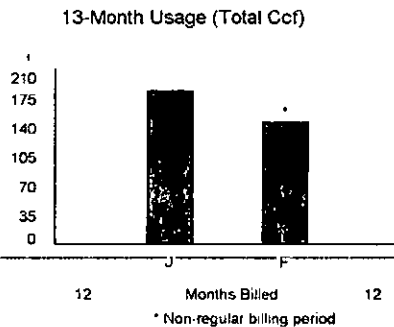
Gas Residential Heating Service - Current Period Detail

Service 01/24/2012 to 02/16/2012 - 23 days

Customer charge					\$9.01
Natural Gas Supply Charges	147 Ccf	X	\$0.58312		85.72
Distribution Charges	147 Ccf	X	0.37606		55.28
Balancing Service Charges	147 Ccf	X	0.03434		5.05
Gas Cost Adjustment Charges	147 Ccf	X	0.01167		1.72
State Tax Adjustment					-0.16

Total Current Charges

\$156.62



Your Usage Profile

Period	Usage	Avg Daily Usage	Days	Avg Daily Temp
Current Month	147	6.3	23	41
Last Month	185	5.2	35	39
Last Year	0	0.0	0	0

Avg Ccf per Month	166
Total Annual Ccf Usage	332

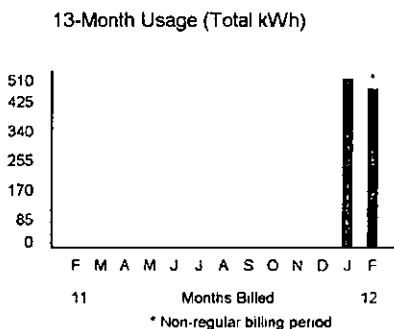
Electric Residential Service - Current Period Detail

Service 01/24/2012 to 02/16/2012 - 23 days

Customer charge					\$5.52
Generation Charges	461 kWh	X	\$0.09180		42.32
Transmission Charges	461 kWh	X	0.00740		3.41
Distribution Charges	461 kWh	X	0.06000		27.66
State Tax Adjustment					-0.02

Total Current Charges

\$78.89



Your Usage Profile

Period	Usage	Avg Daily Usage	Days	Avg Daily Temp
Current Month	461	20.0	23	41
Last Month	489	13.9	35	39
Last Year	0	0.0	0	0

Avg kWh per Month	475
Total Annual kWh Usage	950



DO NOT MAIL THIS PORTION WITH YOUR PAYMENT