



**Exelon Business Services Company**  
Legal Department  
2301 Market Street/S23-1  
Philadelphia, PA 19103  
215 568 3389 Fax  
www.exeloncorp.com

Direct Dial: 215 841.6841

April 10, 2013

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

**RE: Gary Eckenrode v. PECO Energy Company**  
**PUC Docket No.: C-2012-2337839**

Dear Ms. Chiavetta:

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

—	Answer
—	Answer & New Matter
<u>X</u>	Motion
—	Motion for Judgment on the Pleadings
—	Motion for Continuance
—	Preliminary Objection
—	Exceptions
—	Reply Exceptions
—	Main Brief
—	Reply Petition

I have enclosed a Certificate of Service showing that a copy of the above document was served on the interested parties. Thank you for your time and attention on this matter.

Very truly yours,

Shawane Lee  
Counsel for PECO Energy Company  
SL/lo

cc: Gary Eckenrode

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

GARY ECKENRODE

v.

PECO ENERGY COMPANY

:  
:  
:  
:  
:

DOCKET NO. C-2012-2337839

**MOTION OF PECO ENERGY COMPANY OBJECTING TO COMPLAINANT, GARY  
ECKENRODE'S REQUEST FOR EVIDENTIARY INFORMATION**

PECO Energy Company ("PECO Energy"), pursuant to 52 Pa. Code § 5.421(f), respectfully petitions this Honorable Commission to object to Gary Eckenrode's Request for Evidentiary Information, and hereby states the following:

1. On April 1, 2013, PECO Energy received correspondence directed to Administrative Law Judge Marta Guhl ("ALJ Guhl") requesting information from PECO Energy for a hearing set on April 10, 2013 at 10:00 a.m. See Correspondence, attached hereto as Exhibit "1".

2. The correspondence lists a request for thirteen (13) separate documents, records and/or items from PECO Energy, which purports to be a subpoena request.

3. PECO Energy objects to the Complainant's request for information as the request does not comply with the subpoena rules set forth under 52 Pa. Code § 5.421; the request is overbroad and seeks documents not relevant to the formal complaint in contravention of 52 Pa. Code § 5.421(b)(1) and (b)(2) ; and the request was not timely as it was served on PECO Energy only nine (9) days before the scheduled hearing.

4. The rules for the subpoena of documents is enumerated under 52 Pa. Code § 5.421. Section 5.421(a)(1) states:

(a) *Issuance.*

(2) Other than under paragraph (1), a subpoena will issue only upon application in writing to the presiding officer...

Additionally, section 5.421(b) states:

(b) *Form.* The written application:

(1) Must specify as nearly as possible the general relevance, materiality and scope of the testimony or documentary evidence sought, including, as to documentary evidence, specification as nearly as possible of the documents desired.

(2) Must list the facts to be proved by the documents in sufficient detail to indicate the necessity of the documents.

(3) Must contain a notice that a response or objection to the application shall be filed with the Commission and presiding officer within 10 days of service of the application.

(4) Must include a certificate of service.

(5) May attach the proposed subpoena to the application.

5. The Complainant's correspondence to ALJ Guhl, requesting evidentiary information from PECO Energy purports to be a subpoena. However, the correspondence does not comply with the requirements of section 5.421(b). Specifically, the correspondence does not specify "the general relevance, materiality and scope of the" documentary evidence sought. For instance, the Complainant's formal complaint raises an issue with PECO Energy's response to a power outage at his premises that occurred during Hurricane Sandy. The formal complaint does not raise an issue with the Complainant's reliability of service at any other time than the date of the storm. However, in the Complainant's request for documents, he requests such documents as "copies of all PECO correspondence related to Docket No. 2011-2271989, including any prior non-public correspondence by PECO to such docket". The request also asks for "all related inspections and reports to demonstrate its adherence and compliance with Sub Chapter "N" entitled Electric Reliability Standards." The Complainant requests "records and reports pertaining to the Burdsal Avenue outages along with any other documentation".

The documentation the Complainant requests are not relevant to his formal complaint. The Complainant requests information related to outages in general as opposed to the outages that occurred during the time period specified in his formal complaint, arising from Hurricane Sandy.

Further, the Complainant's request asks for information, concerning other customer's accounts. Specifically, the Complainant requests "the content of calls between 10/29/12 and 11/05/12" from customer calls made from Burdsal Avenue. The content of telephone calls made by other customers is protected by privacy rules that do not permit the company to disclose specific information on customer's accounts.

6. The Complainant's request for information does not comply with section 5.421(b)(1) as it does not contain a notice that an objection can be filed and it does not attach a proposed subpoena.

7. More importantly, the Complainant's request was not made in a timely manner. The request was served on PECO Energy on April 1, 2013 – *nine* days before the scheduled hearing on April 10, 2013. The request does not give PECO Energy reasonable time to object to the subpoena nor does it give the company a reasonable amount of time to gather the documentation requested.

8. PECO Energy further objects to the Complainant's request pursuant to 52 Pa. Code § 5.423 as it requests information that is proprietary and not available to the public. For instance, the Complainant requests documentation filed by PECO Energy with the Pennsylvania Public Utility Commission ("PUC"), including "any prior non-public correspondence" by PECO. Not only is the information the Complainant requests not relevant to his formal complaint, it is not available on the public docket. Any information submitted pursuant to the Order of the PUC is not yet publicly available. Additionally, the Complainant requests such proprietary

information as “a detailed overview of how [PECO’s] cost and any out-of state or area crews paid for in responding to episodes such as Sandy and what overheads additives and/or profit are added to such cost. The information the Complainant requests has no bearing on the outcome of whether PECO responded to his outage in a timely manner. Further, PECO’s profits, costs and overheads is proprietary information that would cause “unfair economic or competitive advantage” if made public. See 52 Pa. Code § 5.423(a)(1).

9. PECO Energy respectfully requests that this Honorable Commission deny the Complainant’s request for evidentiary information because it is does not comply with the form required under section 5.421(b); it is overbroad and does not have the specificity required under section 5.421(b)(1) and (b)(2); he documentation requested is not relevant to the formal complaint at issue; and the request was not timely as it was served only nine (9) days before the hearing.

10. PECO Energy additionally requests that this Honorable Commission deny the Complainant’s request for evidentiary information because it seeks proprietary information that would cause the company an unfair economic or competitive advantage if made public to PECO Energy’s competitors.

WHEREFORE, PECO Energy respectfully requests that this Honorable Commission grant PECO Energy's Motion, denying Complainant's request for evidentiary information.

Respectfully Submitted,



---

Shawane L. Lee  
Counsel for PECO Energy Company  
2301 Market Street, S23-1  
P.O. Box 8699  
Philadelphia, PA 19101-8699  
Direct Dial: 215.841.6841  
Fax: 215.568.3389  
Shawane.Lee@exeloncorp.com

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

GARY ECKENRODE

v.

PECO ENERGY COMPANY

:  
:  
:  
:  
:

DOCKET NO. C-2012-2337839

**VERIFICATION**

I, Shawane L. Lee, hereby declare that I am counsel for PECO Energy Company; that as such I am authorized to make this verification on its behalf; that the facts set forth in the foregoing Pleading are true to the best of my knowledge, information and belief, and that I make this verification subject to the penalties of 18 Pa. C.S. § 4904 pertaining to false statements to authorities.



---

Shawane L. Lee

Date: April 10, 2013

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

GARY ECKENRODE

v.

PECO ENERGY COMPANY

:  
:  
:  
:  
:

DOCKET NO. C-2013-2337839

**CERTIFICATE OF SERVICE**

I, Shawane L. Lee, hereby certify that I have this day served a copy of PECO Energy Company's Motion for a Protective Order and Motion for Sanctions in the above matter upon all interested parties by mailing a copy, properly addressed and postage prepaid to:

Gary Eckenrode  
69 Burdsal Avenue  
Richboro, PA 18954



---

Shawane L. Lee  
Counsel for PECO Energy Company  
2301 Market Street, S23-1  
P.O. Box 8699  
Philadelphia, PA 19101-8699  
Direct Dial: 215.841.6841  
Fax: 215.568.3389  
[Shawane.Lee@exeloncorp.com](mailto:Shawane.Lee@exeloncorp.com)

Dated at Philadelphia, Pennsylvania, April 10, 2013.

**EXHIBIT “1”**

69 Burdsal Avenue  
Richboro, Pa 18954

Administrative Law Judge Marta Guhl  
801 Market Street  
Suite 4063  
Philadelphia, PA 19107



Re: Docket No. C-2012-2337839 Gary Eckenrode vs. PECO Energy Company

Dear Honorable Judge Guhl,

This a request for evidentiary information from PECO for the Docket Number referenced above for the hearing set for April 10, 2013 at 10:00AM.

PECO please check and verify that the telephone calls made from this customer to PECO are all listed and are thereby a full and comprehensive list for the period 10/29/12 through 11/05/12.

PECO please identify all other seven (7) or so power loss customer calls made from Burdsal or nearby Burdsal Avenue by likewise outage affected customer that contacted PECO and the content of those calls between 10/29/12 and 11/05/12.

PECO please provide the date, time and content of any other notices provided PECO from police, government agencies or any other source between 10/29/12 and 11/05/12 concerning the power outages affecting Burdsal Avenue and nearby Burdsal Avenue.

Provide copies of all PECO correspondence related to Docket No.2011-2271989, including any prior non-public correspondence by PECO to such docket.

Request explanation of why PECO response and records to the above Docket No. 2011-2271989 did not address "preventable and non-preventable" tree/vegetation outages information that were provided by other utilities.

PECO is requested to provide all related inspections and reports to demonstrate its adherence and compliance with Sub Chapter "N" entitled Electric Reliability Standards (section 57.198) for Burdsal Avenue

Provide notarized statement and work records related to the out-of- state repair crews making a request to first address tree/vegetation overgrowth along the Burdsal Avenue power line right-of-way prior to commencing the wire repairs that caused/created my extended outage.

PECO please disclose whether when the tree/vegetation crews responded to the out- of- state repair crews to clear the lines did those said tree/vegetation crews have chipper equipment to dispose of the tree/vegetation that it removed? Did PECO ever remove or arrange to remove this tree/vegetation by anyone?

**PECO ENERGY**  
**EXHIBIT 1**

PECO please provide full documentation of any and all reports or records that addressed what tree/vegetation control and preventive measures were taken along Burdsal Avenue from January 1, 2008 to December 31, 2012.

PECO provide records and documentation of what delays (downtime) occurred with out-of- state or out of area crews in carrying out needed repairs due to PECO's logistical inability or failure to provide the needed repair materials, inventory or supplies to allow these crews to perform such repairs in a timely and efficient manner.

Provide PECO all "assessors" records and reports pertaining to the Burdsal Avenue outages along with any other documentation generated by them as the result of their assessment and to whom this information was provided and when.

PECO belatedly assigned at least two "watchers" to oversee the ingress and egress passed the downed wired across Burdsal Avenue, when did PECO provide these watchers and provide the duration, payroll records and the compensation paid for said watchers together with any truck and fuel cost to provide this function.

PECO is requested to provide a detailed overview of how their cost and any out-of- state or area crews paid for in responding to episodes such as Sandy and what overheads additives and/or profit are added to such cost.

The opportunity to request to subpoena witnesses at the hearing in accordance with 52 Pa. Code 5.421 shall be preserved and maintained by the plaintiff.

I hereby verify and certify that I have served a copy of this above request to the Honorable Presiding Administrative Law Judge at the address listed above and have likewise served this request via U.S. First Class mail upon the Current Service party identified below on this date of March 28, 2013.

Sent to PECO representative:

Shawane L. Lee, Esquire  
PECO Energy Company  
2301 Market Street, S23-1  
P.O. BOX 8699  
Philadelphia, PA 19101-8699

Gary Eckenrode



A handwritten signature in cursive script, appearing to read "Gary Eckenrode", is written over a solid horizontal line.