



# KINGSLAW<sup>inc.</sup>

50 West Bridge Street  
New Hope, PA 18938

TEL: 215-862-4630  
FAX: 267-483-5519

April 10, 2013

Rosemarie Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 N. St., 2<sup>nd</sup> floor  
Harrisburg, PA 17120

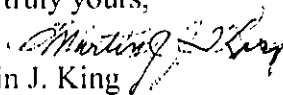
Shawane L. Lee, Esq.  
PECO Energy Co.  
2301 Market St., S-23  
Philadelphia, PA 19101 – 8699

Re: New Hope Bookshop v. PECO-No. C-213-2351715

Dear Ms. Chiavetta and Ms. Lee:

Enclosed please find the Claimant's Reply to New Matter and New Matter in the above matter, endorsed with Notice to Plead. Thank you for your consideration.

Very truly yours,

  
Martin J. King

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**PA.P.U.C.**  
**SECRETARY'S BUREAU**

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

NEW DELAWARE BOOKSHOP :  
v. : DOCKET NO. C-2013-2351715  
PECO ENERGY COMPANY :

NOTICE TO PLEAD

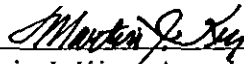
Pursuant to the Pennsylvania Code, you hereby are notified that, if you do not file a written response to the New Matter of the Claimant herein contained, within 10 days of service of this notice, a decision may be rendered against you. All pleadings must be filed with the Secretary of the Pennsylvania Public Utility Commission with a copy served upon counsel for PECO ENERGY and, where applicable, the Administrative Law Judge presiding over the issue.

File with:  
Rosemarie Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 N. St., 2<sup>nd</sup> Floor  
Harrisburg P.A. 17120

With a copy to:  
Martin J. King  
50 W. Bridge St.  
New Hope Pennsylvania 18938

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April 10, 2013

  
Martin J. King, Atty. Id.#16495  
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2013 APR 15 AM 11:51 BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

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SECRETARY'S BUREAU

NEW DELAWARE BOOKSHOP : NO. C-2013-2351715  
v. :  
PECO ENERGY COMPANY :

**COMPLAINANT'S REPLY TO NEW MATTER & NEW MATTER**

New Delaware Bookshop, by counsel, Martin J. King, responds to the Answer and New matter of Peco Energy Company, as follows:

**REPLY TO NEW MATTER**

1. Admitted. However, this is a separate entity and address from the limited liability company customer of PECO, the individual members of which limited liability company are not liable for its debts or obligations as a matter of Pennsylvania law, and which immunity is the primary benefit conferred for operating as a limited liability company. Therefore, the individual members of New Hope Toll House, LLC are not liable for its debts, including the instant PECO claim, unless guaranteed in writing signed by the member of the LLC as an individual liability.

2. Denied. As stated on the face of Exhibit 1 itself, the filing was nothing more than that of a fictitious name, not the formation of a separate corporation or other business entity.

3. Denied as conclusions of law. As a sole proprietorship, there is no requirement that the business be represented by counsel in these proceedings; however, the sole proprietorship of Nancy Farley, as hereinafter set forth, now is so represented.

4. Denied as stated. While this is an accurate statement of the law, it is unsupported by fact, for the reasons hereinbefore set forth.

**WHEREFORE**, Complainant moves the Commission to deny and dismiss PECO's claim, and sustain this appeal, with counsel fees and costs.

### **CLAIMANT'S NEW MATTER**

5. PECOS claim is barred by the immunity conferred upon individual members of little limited liability companies, under the Pennsylvania Limited Liability Law.

6. PECO admits that the charges in question do not relate to utilities provided to the restaurant owned by New Hope Toll House, LLC.; its claim fails for lack of consideration as applied to Delaware Bookshop.

7. None of PECO's records constitute a written guarantee signed by the individual member of the limited liability company, or the terms under which it is purported that any liability was assumed by whomever, as required by Pennsylvania law. The records are insufficient evidence of any claim against Delaware Bookshop.

8. While Mr. Farley applied for and obtained the fictitious name of the business in **1967** as evidenced by Exhibit 1 to PECO's Answer, ownership of the business changed over the years to a partnership with his wife, Nancy Farley, whereby the business was owned by the entireties, and passed to Mrs. Farley by operation of law upon his death.

9. There is no evidence presented by PECO that Mr. Farley had authority to obligate the Bookshop partnership for the separate liability of New Hope Toll House, LLC at the time it is alleged he did so.

10. Mr. Farley paid the PECO electric bills by checks drawn on the account of the LLC, there is no evidence that Mr. Farley paid those bills drawn on the account of the Bookshop; therefore, there is no evidence of an intent to obligate the bookshop for the liabilities of the LLC, merely because Mr. Farley had an ownership interest in both entities.


11. Any claim by PECO allegedly based upon an oral communication by Mr. Farley, or any record allegedly based upon such oral communications not signed or otherwise adopted by Mr. Farley, are barred from consideration in support of the claim under the Dead Man's Act. They accordingly are to be disregarded as supporting the claim.

12. Any attempt to impute liability of the limited liability company to the Bookshop based upon PECO's unilateral policies or practices, or records created pursuant thereto, under color of state law, would be a denial of due process as of law under the 4th and 14<sup>th</sup> amendments to the Constitution of the United States and the due process provisions of the Constitution of the Commonwealth of Pennsylvania.

**WHEREFORE**, Complainant requests the Commission to deny and dismiss PECO's claim and sustain Claimant's challenge thereto, with costs and attorneys fees.

Respectfully submitted,

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\_\_\_\_\_  
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**VERIFICATION**

Martin J. King, counsel for Complainant, New Delaware Bookshop, states he is authorized to make this verification on its behalf and that the facts set forth in the foregoing pleading are true and correct to the best of his knowledge, information and belief, this verification being subject to the penalties of 18 Pa. C. S. §4904, relating to unsworn falsification to authorities.

April 10, 2013

  
\_\_\_\_\_  
Martin J. King


**CERTIFICATE OF SERVICE**

Martin J. King, counsel for New Delaware Bookshop, certifies that he caused a true and correct copy of the foregoing pleading to be served upon PECO Energy Co. by first class United States mail deposited on the date and addressed as follows::

April 10, 2013

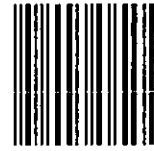
Shawane L. Lee  
Counsel for PECO Energy Co.  
2301 Market St., S23-1  
P.O. Box 8699  
Philadelphia, PA 19101 – 8699

BY :

  
\_\_\_\_\_  
Martin J. King



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**KINGSLAW** llc

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New Hope, PA 18938

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Roemarie Chiavetta, Secretary  
PA Public Utility Commission  
Commonwealth Keystone Bldg.  
400 N. Street, Second Floor  
Harrisburg, PA 17120

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