

August 13, 2013

Via Electronic Filing

Rosemary Chiavetta, Esquire
PA Public Utility Commission
Commonwealth Keystone Building, 2 North
P.O. Box 3265
Harrisburg, PA 17105-3265

**Re: Docket No. C-2013-2375420
Charles W. Yocum v. Penelec
Preliminary Objections of Pennsylvania Electric Company**

Dear Secretary Chiavetta:

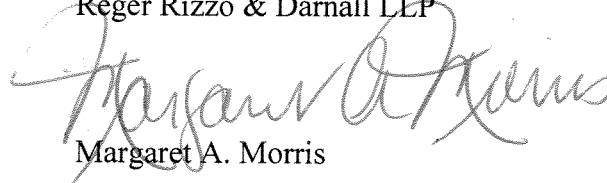
Attached for filing are the Preliminary Objections of Pennsylvania Electric Company to the Complaint of Charles W. Yocum.

As indicated on the certificate of service, a copy of the Preliminary Objections has been provided to the Complainant in the manner indicated.

If there are any questions, please do not hesitate to contact me.

Very truly yours,

Reger Rizzo & Darnall LLP



Margaret A. Morris

MAM/jmm
Enclosure

cc: Charles W. Yocum [w/enc.]
Tori Giesler, Esquire, FirstEnergy Service Company [w/enc.]

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Charles W. Yocum v. Penelec
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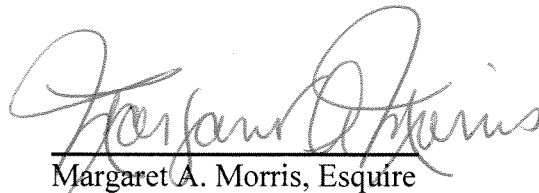
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been served upon the following persons, in the manner indicated, in accordance with the requirements of § 1.54 (relating to service by a participant).

Via First Class Mail

Charles W. Yocum
21 Chapel Drive
Lewistown, PA 17044

Dated: August 13, 2013


Margaret A. Morris, Esquire

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

CHARLES W. YOCUM

v.

PENNSYLVANIA ELECTRIC COMPANY

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Docket No. C-2013-2375420

NOTICE TO PLEAD

Pursuant to 52 Pa. Code § 5.101, you are hereby notified that, if you do not file a written response answering the enclosed Preliminary Objections of Pennsylvania Electric Company within ten (10) days from service of this notice, the facts set forth by Pennsylvania Electric Company in the Preliminary Objections may be deemed to be true, whereby requiring no other proof. All pleadings, such as an Answer to Preliminary Objections, must be filed with the Secretary of the Pennsylvania Public Utility Commission, with a copy served to counsel for Pennsylvania Electric Company, Margaret A. Morris, and where applicable the Administrative Law Judge presiding over the issue.

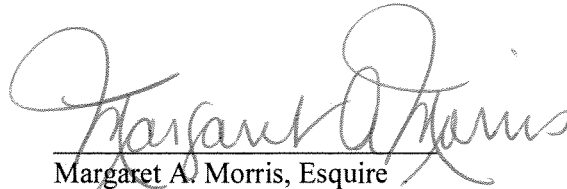
File with:

Rosemary Chiavetta
Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building – 2 North
P.O. Box 3265
Harrisburg, PA 17105

With a copy to:

Margaret A. Morris, Esquire
Reger Rizzo & Darnall LLP
Cira Centre, 13th Floor
2929 Arch Street
Philadelphia, PA 19104

Date: August 13, 2013



Margaret A. Morris, Esquire
Reger Rizzo & Darnall LLP
Cira Centre, 13th Floor
2929 Arch Street
Philadelphia, PA 19104
(215) 495-6524
(215) 495-6600
mmorris@regerlaw.com

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

CHARLES W. YOCUM :
 :
 :
 v. : Docket No. C-2013-2375420
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 :
 PENNSYLVANIA ELECTRIC COMPANY :

PRELIMINARY OBJECTIONS OF PENNSYLVANIA ELECTRIC COMPANY

Pennsylvania Electric Company (Respondent or Company), by and through its attorneys, Reger Rizzo & Darnall LLP, pursuant to 52 Pa. Code § 5.101, hereby submits its Preliminary Objections to Complaint filed by Charles W. Yocum (Complainant). In response thereto, Respondent avers and represents as follows:

1. On July 15, 2013, Complainant filed a Formal Complaint (1) seeking damages in the amount of \$1,000 for his “deductible and pay for item’s [sic] not covered by home owners” and (2) alleging services issues on behalf of his neighbors. A copy of the Formal Complaint is provided as Attachment 1.

Subject Matter Jurisdiction

2. As a creature of legislation, the Commission possesses only the authority the State Legislature has specifically granted to it in the Public Utility Code (the Code), 66 Pa.C.S. §§ 101, *et seq.*

3. The Commission's jurisdiction must arise from the express language of the pertinent enabling legislation or by strong and necessary implication therefrom. Feingold v. Bell of Pa., 477 Pa. 1, 383 A.2d 791 (1977); Allegheny County Port Authority v. Pa. P.U.C., 427 Pa. 562, 237 A.2d 602 (1967); Behrend v. Bell of Pa., 257 Pa. Superior Ct. 35, 390 A.2d 233 (1978); Harrisburg Taxicab & Baggage Co. v. Pa. P.U.C., 786 A.2d 288 (Pa. Cmwlth. 2001); and City of Erie v. Pa. Electric Co., 383 A.2d 575 (Pa. Cmwlth. 1978).

4. Parties to an action may not confer jurisdiction upon a tribunal where none exists. Roberts v. Martorano, 427 Pa. 581, 235 A.2d 602 (1967).

5. A challenge to subject matter jurisdiction is never waived; this jurisdictional question may be raised at any stage of the judicial process. Commonwealth v. Atlantic & Gulf Coast Stevedores, Inc., 422 Pa. 442, 221 A.2d 128 (1966).

6. The mere fact that a party to an action qualifies as a regulated utility does not automatically confer subject matter jurisdiction upon the Commission. DeFrancesco v. Western Pennsylvania Water Co., 499 Pa. 374, 453 A.2d 595 (1982).

7. As directed by Section 501 of the Code, 66 Pa.C.S. § 501, the Commission must "enforce, execute and carry out, by its regulations, orders or otherwise" all the provisions of the Code.

8. Section 701 of the Code, 66 Pa.C.S. § 701, allows any person, having an interest in the subject matter, to file a formal complaint in writing with the Commission setting forth any act or thing done or omitted to be done by any public utility in violation, or claimed violation, of any law which the Commission has jurisdiction to administer. *See also*, 52 Pa. Code § 5.21(a).

9. The Code does not confer jurisdiction upon the Commission to award monetary damages. The Commission possesses no jurisdiction to consider any implied request for reimbursement for property damage. *See*, DeFrancesco v. Western Pennsylvania Water Company, *supra*; Elkin v. Bell of Pa., 491 Pa. 123, 420 A.2d 371 (1980); Feingold v. Bell of Pa., *supra*.

Standing

10. The Complainant alleges reliability issues on behalf of his neighbors.

11. The Complainant lacks standing to file or to prosecute a complaint on his neighbors' behalf.

12. The Commission has held that a person or entity has standing when the person or entity has a direct, immediate and substantial interest in the subject matter of a proceeding. Joint Application of Pennsylvania-American Water Co. and Evansburg Water Co. for Approval of the transfer, by sale, of the water works property and rights of Evansburg Water Co. to Pennsylvania-American Water Co., A-212285F0046/47 and A-

210870F01 (Ordered entered July 9, 1998); William Penn Parking Garage, Inc. v. City of Pittsburgh, 464 Pa. 168, 346 A.2d 269 (1975); Landlord Service Bureau, Inc. v. Equitable Gas Co., 79 Pa. P.U.C. 342 (1993); Re Equitable Gas Co., 76 Pa. P.U.C. 23 (1992); Manufacturers' Association of Erie v. City of Erie - Bureau of Water, 50 Pa. P.U.C. 43 (1976); Waddington v. Pennsylvania Public Utility Commission, 670 A.2d 199 (Pa. Cmwlth. 1995), alloc. denied, 678 A.2d 368 (Pa. 1996) .

13. Requiring a person or entity to have a direct, immediate and substantial interest in the subject matter of a proceeding helps avoid frivolous, harassing lawsuits whose costs are ultimately borne, at least in part, by utility ratepayers. Pennsylvania Public Utility Commission v. National Fuel Gas Distribution Corp., 73 Pa. P.U.C. 552 (1990)

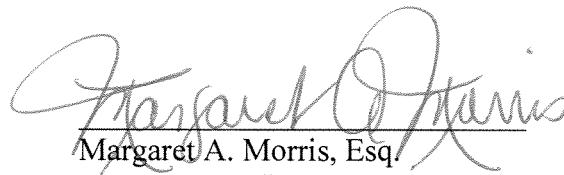
14. Complainant cannot assert a claim on behalf of his neighbors. Mere conjecture about possible future harm does not confer a direct interest in the subject matter of a proceeding. Official Court Reporters of the Court of Common Pleas of Philadelphia County v. Pennsylvania Labor Relations Board, 467 A.2d 311 (Pa. 1983).

WHEREFORE, Respondent, Pennsylvania Electric Company, requests that the request of Charles W. Yocum for damages be dismissed for lack of subject matter

jurisdiction and that the allegations on behalf of his neighbors be dismissed for lack of standing.

Respectfully submitted,

Dated: August 13, 2013



Margaret A. Morris, Esq.
Attorney I.D. # 75048
Cira Centre, 13th Floor
2929 Arch Street
Philadelphia, PA 19104
(215) 495-6524 (voice)
(215) 495-6600 (fax)
mmorris@regerlaw.com

Counsel for Pennsylvania Electric Company

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

CHARLES W. YOCUM
Complainant

v.

PENNSYLVANIA ELECTRIC COMPANY:
Respondent

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Case No. C-2013-2375420

VERIFICATION

I, Pamela T. Jordan, hereby state that the facts set forth above are true and correct to the best of my knowledge, information and belief and that I expect Pennsylvania Electric Company 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.

8-12-13

Date



Docket No. C-2013-2375420
Charles W. Yokum v Penelec

ATTACHMENT 1

Formal Complaint of Charles W. Yocum

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Formal Complaint

Filing this form begins a legal proceeding and you will be a party to the case. If you do not wish to be a party to the case, consider filing an informal complaint.

To complete this form, please type or print legibly in ink.

1. Customer (Complainant) Information

Provide your name, mailing address, county, telephone number(s), e-mail address and utility account number:

Name CHARLES W Yocum

Street/P.O. Box 21 CHAPEL DR. Apt #

City LEWISTOWN State PA. Zip 17044

County MIFFLIN

Telephone Number(s) Where We Can Contact You During the Day:

(717) 248-2491 (home) (717) 250-7581 (mobile)

E-mail Address (optional): CWY1949@VERIZON.NET

Utility Account Number (from your bill) 100 011 181 805

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

Name

Street/P.O. Box

City State Zip

RECEIVED 2013 JUL 15 AM 9:54 PA P.U.C. SECRETARY'S BUREAU

2. Name of Utility or Company (Respondent)

Provide the full name of the utility or company about which you are complaining. The name of your utility or company is on your bill.

Penelco

3. Type of Utility Service

Check the box listing the type of utility service that is the subject of your complaint (check only one):

- ELECTRIC WASTEWATER/SEWER
 GAS TELEPHONE/TELECOMMUNICATIONS (local, long distance)
 WATER MOTOR CARRIER (e.g. taxi, moving company, limousine)
 STEAM HEAT

4. Reason for Complaint

What kind of problem are you having with the utility or company? Check all boxes below that apply and state the reason for your complaint. Explain specifically what you believe the utility or company has done wrong. Provide relevant details including dates, times and places and any other information that may be important. If the complaint is about billing, tell us the amount you believe is not correct. Use additional paper if you need more space. Your complaint may be dismissed without a hearing if you do not provide specific information.

- The utility is threatening to shut off my service or has already shut off my service.
- I would like a payment agreement.
- Incorrect charges are on my bill. Provide dates that are important and an explanation about any amounts or charges that you believe are not correct. Attach a copy of the bill(s) in question if you have it/them.
- I am having a reliability, safety or quality problem with my utility service. Explain the problem, including dates, times or places and any other relevant details that may be important.

Other (explain). *MAY 28TH Power surrg. Lost ReFRig.*

*micro wave oven, garage door opener 3 TV'S 2 CLOCK Radio
Dish washer, surround sound STEREO and A HiFi VCR.*

Penelec checked my meter said it was OK.

Problem was in There Lines.

over →

They Replaced something in under ground Box
my Power was Restored

June 4th

neighbors called They had Power surg
Penelec Responded said Problem Fixed

June 8th

3 neighbors called Power surg's.

Penelec worked on a Pole at the end of Chapel
Drive. IN THE AFTERNOON NO Power 1/2 Power Fixed

same Day 7^o clock evening Penelec Returned
To Chapel Drive LEFT AT 8^o FINALLY Power
wa Fixed

Note: If your complaint is only about removing or modifying a municipal lien filed by the City of Philadelphia, the Public Utility Commission (PUC) cannot address it. Only local courts in Philadelphia County can address this type of complaint. The PUC can address a complaint about service or incorrect billing even if that amount is subject to a lien.

In addition, the PUC generally does not handle complaints about cell phone or Internet service, but may be able to resolve a dispute regarding voice communications over the Internet (including the inability to make voice 911/E911 emergency calls) or concerns about high-speed access to Internet service.

5. Requested Relief

How do you want your complaint to be resolved? Explain what you want the PUC to order the utility or company to do. Use additional paper if you need more space.

PAY my ^{\$}1000 deductible AND PAY FOR
ITEM'S NOT COVERED BY HOME OWNERS
SURROUND SOUND STEREO
2 T.V.'S
2 CLOCK RADIOS
1 HI FI V.C.R.

Note: The PUC can decide that a customer was not billed correctly and can order billing refunds. The PUC can also fine a utility or company for not following rules and can order a utility or company to correct a problem with your service. Under state law, the PUC cannot decide whether a utility or company should pay customers for loss or damages. Damage claims may be sought in an appropriate civil court.

6. Protection from Abuse

Has a court granted a "Protection from Abuse" order that is currently in effect for your personal safety or welfare? The PUC needs this information to properly process your complaint so that your identity is not made public.

Note: You must answer this 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 problem involving billing, 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

If your answer to the above question is "yes," attach a copy of the current Protection for Abuse order to this Formal Complaint form.

7. Prior Utility Contact

a. Is this an appeal from a decision of the PUC's Bureau of Consumer Services (BCS)?

YES

NO

Note: If you answered yes, move to Section 8. No further contact with the utility or company is required. If you answered no, answer the question in Section 7 b. and answer the question in Section 7 c. if relevant.

b. If this is not an appeal from a BCS decision, have you spoken to a utility or company representative about this complaint?

YES

NO

Note: You must contact the utility first if (1) you are a residential customer, (2) your complaint is against a natural gas distribution utility, an electric distribution utility or a water utility AND (3) your complaint is about a billing problem, a service problem, a termination of service problem, or a request for a payment agreement.

- c. If you tried to speak to a utility company representative about your complaint but were not able to do so, please explain why.

Note: Even if you are not required to contact the utility or company, you should always try to speak to a utility or company representative about your problem before you file a Formal Complaint with the PUC.

8. Legal Representation

If you are filing a Formal Complaint as an individual on your own behalf, you are not required to have a lawyer. You may represent yourself at the hearing.

If you are represented by a lawyer in this matter, provide your lawyer's name, address, telephone number, and e-mail address, if known. Please make sure your lawyer is aware of your complaint. If represented by a lawyer, both you and your lawyer must be present at your hearing.

Lawyer's Name _____

Street/P.O. Box _____

City _____ State _____ Zip _____

Area Code/Phone Number _____

E-mail Address (if known) _____

Note: Corporations, associations, partnerships, limited liability companies and political subdivisions are required to have a lawyer represent them at a hearing and to file any motions, answers, briefs or other legal pleadings.

9. Verification and Signature

You must sign your complaint. Individuals filing a Formal Complaint must print or type their name on the line provided in the verification paragraph below and must sign and date this form in ink. If you do not sign the Formal Complaint, the PUC will not accept it.

Verification:

CHARLES W Yocum, 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).

Charles W Yocum July 12 2013
(Signature of Complainant) (Date)

Title of authorized employee or officer (only applicable to corporations, associations, partnerships, limited liability companies or political subdivisions)

Note: If the Complainant is a corporation, association, partnership, limited liability company or political subdivision, the verification must be signed by an authorized officer or authorized employee. If the Formal Complaint is not signed by one of these individuals, the PUC will not accept it.

10. Filing

You may electronically file your Formal Complaint with the PUC. To do so, you need to establish an account on the PUC's eFiling system, which may be accessed at <http://www.puc.pa.gov/efiling/default.aspx>.

If you do not electronically file your Formal Complaint, mail the completed form (along with any attachments) to one of the addresses listed below:

If using U.S. Postal Service:

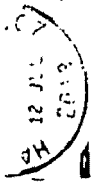
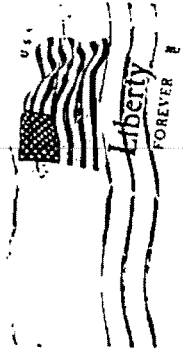
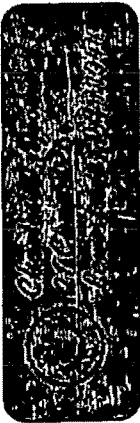
If using overnight delivery service:

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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Note: Formal Complaints sent by fax or e-mail 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 Formal Complaint for your records.



SECRETARY
 PENNA. PUBLIC UTILITY COMMISSION
 P.O. BOX 3265
 HARRISBURG, PA 17105-3265

171053265

