



U = 2013-2390094

Direct Dial: 215-841-4901
Direct Fax: 215-841-4474

October 2, 2013

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

RE: Lease Agreement between the Borough of East Greenville and PECO Energy Company

Dear Ms. Chiavetta:

Enclosed for filing and approval pursuant to §507 of the Public Utility Code is an original and one copy of the Lease Agreement between PECO Energy Company and the Borough of East Greenville regarding the construction and location of data monitoring equipment on the property described in Exhibits A and B.

Kindly advise me of the Commission's approval thereof. Enclosed for your convenience is a self-addressed envelope, postage prepaid. Thank you for your assistance in this matter.

Very truly yours,

Maryellen T. White
Paralegal

Enclosure

RECEIVED
2013 OCT 24 AM 11:18
PA.P.U.C.
SECRETARY'S BUREAU

RECEIVED

2013 OCT 24 AM 11:19

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

THIS LEASE AGREEMENT (the "Lease"), made this 24th day of September, 2013 by and between the Borough of East Greenville, a Pennsylvania political subdivision with its principal offices located at 206 Main Street, East Greenville, Pennsylvania 18041 (the "Owner") and PECO ENERGY COMPANY, a Pennsylvania corporation with its principal offices located at 2301 Market Street, N3-3, Philadelphia, Pennsylvania 19103 (the "Tenant").

BACKGROUND

- A.** Owner owns that certain water tower and related improvements located at 442 Washington Street, East Greenville, Montgomery County, Pennsylvania 18041 and further identified in Montgomery County records with Tax Map ID of 06007-037 and Parcel ID of 06-00-04128-006 ("Owner's Property");
- B.** *Tenant desires to construct and locate its data monitoring equipment and facilities at Owner's Property;*
- C.** Owner is desirous of permitting Tenant the right to use Owner's Property, and to furnish Tenant with electrical service;

NOW, THEREFORE, the parties intending to be legally bound hereby and in consideration of the terms, provisions and covenants herein contained, agree as follows:

- 1. Use of Premises.** Owner, for the term set forth herein and subject to the terms and conditions of this Lease, hereby leases to Tenant that portion of the Owner's Property as set forth on Exhibit "A" (the "Premises") for installation of certain antennas and associated equipment as specified in Exhibit "B" ("Tenant Facilities"). The Premises, along with the right of access thereto, may be used by Tenant for the installation, construction, operation, maintenance, repair and removal of mobile/wireless communications equipment and facilities including radio frequency transmitting and receiving equipment, batteries, emergency and backup power equipment, transmission lines, radio frequency transmitting and receiving antennas and supporting structures, cabinets and other appurtenant and necessary equipment placed by or on behalf of Tenant, and for no other purpose.
- 2. Term.** The initial term of this Lease shall be five (5) full years commencing on the first day of the month in which Tenant commences the payment of rent (the "Rent Commencement Date") and terminating at midnight on the last day of the initial term (the "Initial Term").
- 3. Renewal.** Tenant shall have the right to extend this Lease for three (3) additional and successive terms of five (5) years each (each a "Renewal Term") on the same terms and conditions as set forth herein. This Lease shall automatically renew for each successive Renewal Term unless Tenant provides Owner with written notice of its intention not to renew this Lease, at least thirty (30) days prior to the expiration of the Initial Term or any Renewal Term. If

Tenant shall remain in possession of the Premises after the expiration of the Term of this Lease or any Renewal Term without a written agreement, such tenancy shall be deemed a month-to-month tenancy under the same terms and conditions of this Lease. Said month-to-month tenancy may be terminated at any time by either party upon thirty (30) days written notice to the other.

4. Rent.

- a) The Rent Commencement Date, except as modified herein, is defined as the earlier of either: the first day of the month in which Tenant has (a) delivered equipment or commenced installation of the Tenant Facilities or (b) the first day of the month following ninety (90) days from the Effective Date.
- b) From and after the Rent Commencement Date, Tenant shall pay to Owner each month during the Initial Term of this Lease monthly fees for rent and electrical service ("Rent") as follows:

	ANNUAL	MONTHLY
First-Full-Twelve-Month-Period:	\$12,000.00	\$1,000.00
Second-Full-Twelve-Month-Period:	\$12,360.00	\$1,030.00
Third Full-Twelve-Month-Period:	\$12,730.80	\$1,060.90
Fourth-Full-Twelve-Month-Period:	\$13,112.72	\$1,092.73
Fifth-Full-Twelve-Month-Period:	\$13,506.10	\$1,125.51

- c) From and after the Rent Commencement Date, Tenant shall pay monthly to Owner or owner's designee, in accordance with the schedule set forth in 4(b) above. The Rent shall increase annually by three percent (3%) over the Rent of each preceding lease year throughout the Initial Term and any Renewal Terms. The first payment of Rent shall be due within twenty (20) days following the Rent Commencement Date and thereafter Rent will be payable monthly in advance by the fifth day of each month to Owner at the address specified in Section 10 below. If the Lease is terminated for any reason (other than a default by Tenant) at a time other than on the last day of the month, Rent shall be prorated as of the date of termination and all prepaid Rent shall be immediately refunded to Tenant. Tenant reserves the right to make payment for Rent for each Twelve Month Period in annual lump sums subject to the same terms and conditions contained herein.

5. Interference. Tenant shall not use the Premises in any way which interferes with the use of the Owner's Property by Owner or lessees or licensees of Owner with rights in the Owner's Property prior in time to Tenant's (subject to Tenant's rights under this Lease, including, without limitation, non-interference). Similarly, Owner shall not use, nor shall Owner permit its lessees, licensees, employees, invitees or agents to use, any portion of the Property in any way which interferes with the operations of Tenant. Such interference shall be deemed a material breach by the interfering party, who shall, upon written notice from the other, be responsible for terminating said interference. In the event, any such interference does not cease promptly, the parties acknowledge that continued interference may cause irreparable injury and, therefore, the

injured party shall have the right, in addition to any other rights that it may have at law or in equity, to bring a court action to enjoin such interference or to terminate this Lease immediately upon written notice.

6. Improvements; Electrical Service; Access.

- a) Tenant shall have the right, at its expense, to erect and maintain on the Premises improvements, personal property and facilities necessary to operate its communications system. Tenant shall have the right to alter, replace, expand, enhance and upgrade the Tenant Facilities at any time during the term of this lease, subject to written approval of the Owner, which approval shall not be unreasonably withheld. The Tenant Facilities shall remain the exclusive property of Tenant and shall not be considered fixtures. Tenant shall have the right to remove the Tenant Facilities at any time during and upon the expiration or termination of this Lease. Tenant shall remove the Tenant Facilities and restore the property in good usable condition, normal wear and tear and casualty excepted within sixty (60) days of the expiration or termination of this Lease.
- b) Tenant shall have the right to connect to Owner's electrical service. The cost of Tenant's electrical service usage is included in the Rent specified in 4(b) above. Owner shall diligently correct any variation, interruption or failure of electrical service.
- c) Owner shall provide Tenant with access to the Premises during normal business hours throughout the Initial Term of this Lease and any Renewal Terms, at no charge to the Tenant.

7. Termination. Except as otherwise provided herein, this Lease may be terminated, without any penalty or further liability as follows:

- a) Upon thirty (30) days' written notice by Owner if Tenant fails to cure a default for payment of amounts due under this Lease within such thirty (30) day period;
- b) Upon thirty (30) days' written notice by Tenant if Tenant determines that the Premises or the Tenant's Facilities are inappropriate or unnecessary for Tenant's operations for economic or technological reasons;
- c) Immediately upon written notice by Tenant if the Premises or the Tenant Facilities are destroyed or damaged so as in Tenant's reasonable judgment to substantially and adversely affect the effective use of the Tenant Facilities. In such event, all rights and obligations of the parties shall cease as of the date of the damage or destruction, and Tenant shall be entitled to the reimbursement of any Rent prepaid by Tenant. If Tenant elects to continue this Lease, then all Rent shall abate until the Premises and the Tenant Facilities are restored to the condition existing immediately prior to such damage or destruction.

8. Default and Right to Cure. Notwithstanding anything contained herein to the contrary and without waiving any other rights granted to it at law or in equity, each party shall have the

right, but not the obligation, to terminate this Lease on written notice pursuant to Section 10 hereof, to take effect immediately, if the other party fails to perform any covenant or commits a material breach of this Lease and fails to diligently pursue a cure thereof to its completion after thirty (30) days' written notice specifying such failure of performance or default.

9. Insurance and Indemnification.

- a) Insurance. Except as otherwise permitted herein, Tenant shall obtain and maintain, at its sole cost, throughout the Lease Term, the following insurance: (1) Commercial General Liability with limits of four million and no/100 dollars (\$4,000,000.00) per occurrence, (2) Automobile Liability with a combined single limit of one million and no/100 dollars (\$1,000,000.00) per accident, (3) Workers Compensation as required by law, (4) Employer's Liability with limits of one million dollars (\$1,000,000.00) per occurrence, and (5) standard form property insurance ("All Risk" coverage) equal to 100% replacement cost covering Tenant's property. Tenant may satisfy the above requirements through an umbrella policy. Tenant shall name Owner as an additional insured with respect to the above Commercial General Liability insurance. Tenant waives any rights of recovery against Owner for injury or loss due to hazards covered by its insurance and Tenant shall require such insurance policies to contain a waiver of recovery against Owner, its parent, affiliates and its and their directors, officers, and employees. All insurance policies carried by Tenant shall be with companies that have a general policy holder's rating of not less than "A" and a financial rating of not less than Class "X" in the most current edition of Best's Insurance Reports. Tenant shall furnish Owner within twenty (20) days of the date of this Lease written evidence of insurance as required above to Owner's reasonable satisfaction, including a statement providing for written notification to Owner by the insurer not less than thirty (30) days prior to cancellation or reduction of any required coverage. Notwithstanding the foregoing, Tenant has represented to Owner that Tenant provides its own self-insurance for one or more of the types of coverage specified above. Owner agrees to accept Tenant's program of self-insurance (with respect to Tenant only), provided that if at any time Tenant is no longer self-insured, then Tenant shall acquire and maintain insurance as otherwise set forth herein with respect to the type(s) of coverage for which Tenant is no longer self-insured and provide to Owner a certificate of insurance evidencing its acquisition of such insurance coverage required herein.
- b) Indemnification. Tenant shall protect, defend, indemnify and hold Owner and its directors, officers, employees, successors and assigns free and harmless from and against any and all injury, damage, loss, liability, lien, penalty, claim or expense ("Liabilities") including without limitation, attorneys' fees, suffered by reason of any claim, cause of action, suit or judgment, Liabilities as a result of injury to or death of any person, of damage to or loss or destruction of any property, which arises out of, is occasioned by or in any way attributable to (i) a breach of Tenant's obligations under this Lease, (ii) the use or occupancy of the Premises or any part of Owner's Property, or (iii) the acts or omissions of Tenant, its agents or contractors, except to the extent caused by the active negligence or willful misconduct of Owner, its agents or contractors. This indemnification obligation shall survive the expiration or termination of the Lease.

- c) **No Liability.** Owner shall not be liable to Tenant for any loss or damage to persons or property including but not limited to loss or damage resulting from earthquake, lightning, fire, explosion, steam, gas, electricity, water or rain which may leak from any part of the Premises, or from the pipes, appliances or plumbing works therein or from the roof, street or subsurface or whatsoever, unless caused by the negligence or willful misconduct of Owner, its agents or contractors.

10. Notices. All notices, requests, demands and other communications shall be in writing and are effective three (3) days after deposit in the U.S. mail, certified and postage paid, or upon receipt if personally delivered or sent by next-business-day delivery via a nationally recognized overnight courier to the addresses set forth below. Owner or Tenant may from time to time designate any other address for this purpose by providing written notice to the other party.

If to Tenant:

Director, Real Estate & Facilities
PECO Energy Company
2301 Market Street, N3-3
Philadelphia, PA 19103

If to Owner:

Borough Manager
East Greenville Borough
206 Main Street
East Greenville, PA 18041

RE: PECO File No. RP923

Send Rent Payments to:

Treasurer
East Greenville Borough
206 Main Street
East Greenville, PA 18041

11. Quiet Enjoyment, Title and Authority. Owner covenants and warrants to Tenant that (i) Owner has full right, power and authority to execute this Lease; (ii) it has good and unencumbered title to the Property free and clear of any liens or mortgages, except those disclosed to Tenant and which will not interfere with Tenant's rights to or use of the Premises; and (iii) execution and performance of this Lease will not violate any laws, ordinances, covenants, or the provisions of any mortgage, lease, or other agreement binding on Owner. Owner covenants that at all times during the term of this Lease, Tenant's quiet enjoyment of the Premises or any part thereof shall not be disturbed as long as Tenant is not in default beyond any applicable grace or cure period.

12. Environmental Laws. Owner represents that it has no knowledge of any substance, chemical, or waste (collectively, "Hazardous Substance") on the Property this is identified as hazardous, toxic or dangerous in any applicable federal, state or local law or regulation. Owner and Tenant shall not introduce or use any Hazardous Substance on the Property in violation of any applicable law. Owner shall be responsible for, and shall promptly conduct any investigation and remediation as required by any applicable environmental laws, all spills or other releases of any Hazardous Substance not caused by Tenant, that have occurred or which may occur on the Property.

13. **Miscellaneous.**

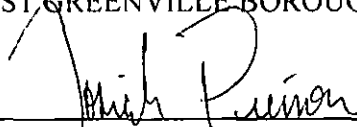
- a) This Lease constitutes the entire agreement and understanding of the parties, and supersedes all offers, negotiations and other agreements with respect to the subject matter and property covered by this Lease. Any amendments to this Lease must be in writing and executed by both parties.
- b) If any term of this Lease is found to be void or invalid, the remaining terms of this Lease shall continue in full force and effect. Any questions of particular interpretation shall not be interpreted against the drafter, but in accordance with the fair meaning thereof. No provision of this Lease will be deemed waived by either party unless expressly waived in writing by the waiving party. No waiver shall be implied by delay or any other act or omission of either party. No waiver by either party of any provision of this Lease shall be deemed a waiver of such provision with respect to any subsequent matter relating to such provision.
- c) The persons who have executed this Lease represent and warrant that they are duly authorized to execute this Lease in their individual or representative capacities as indicated.
- d) Tenant shall file a copy of this Lease with the Pennsylvania Public Utility Commission promptly upon the execution hereof, the 33rd day after such filing shall be the effective date hereof, unless prior to such date proceedings are instituted as provided in Section 507 of the Pennsylvania Public Utility Law, Title 66, and in the event of the institution of such proceedings, this Agreement shall become effective as to Tenant only after approval by the Pennsylvania Public Utility Commission.

(Executed by the Owner & Tenant on the next page)

The effective date of this lease is the date of execution by the last party to sign (the "Effective Date").

OWNER

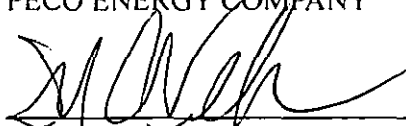
EAST GREENVILLE BOROUGH





By: Josiah Pierson
Title: Council President
Date: 9/24/2013

TENANT

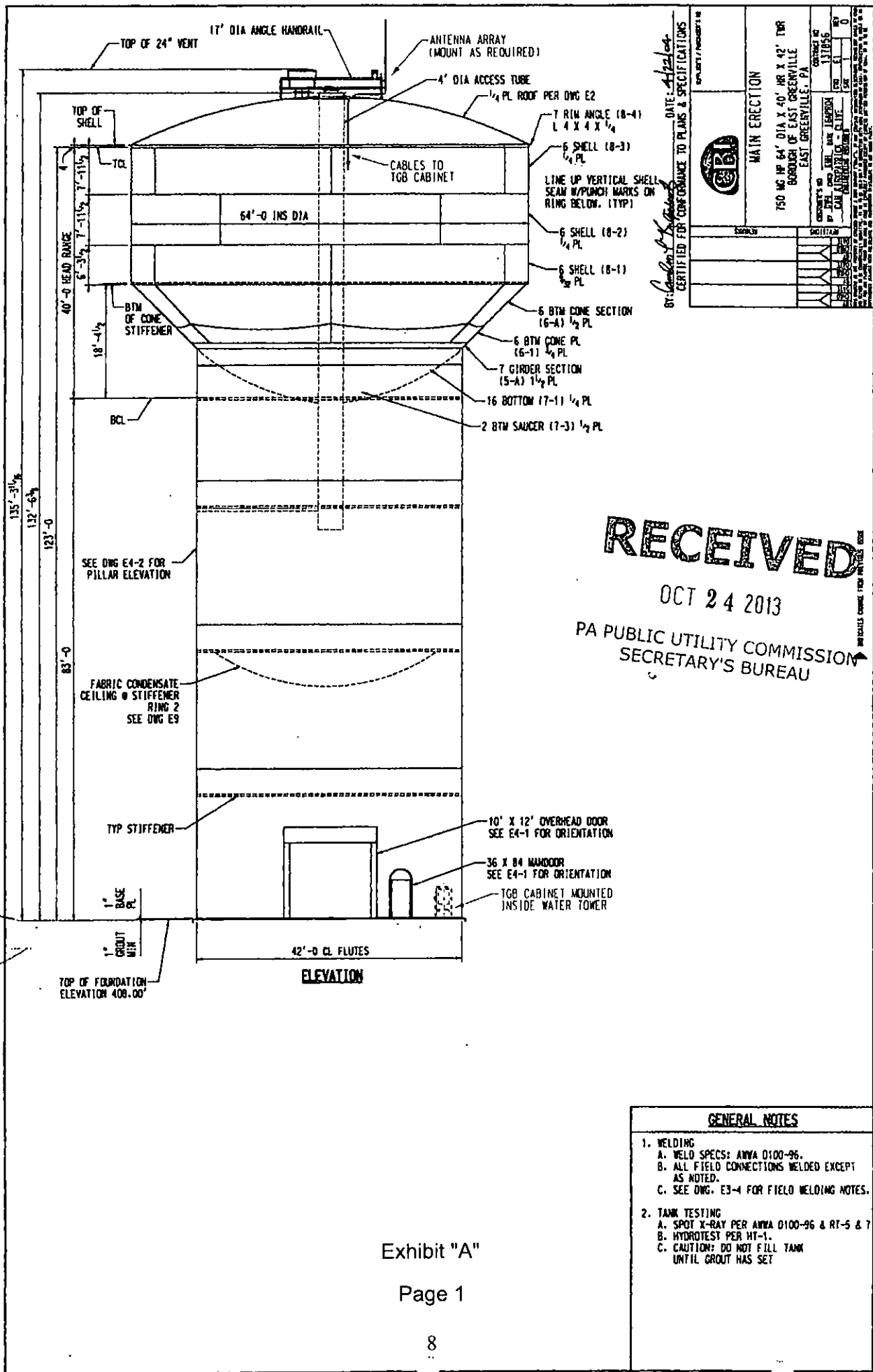
PECO ENERGY COMPANY



By: M.A. Williams
Title: Director, Real Estate & Facilities
Date: 10-1-2013

APPROVED	
R	
E	
F	
O	
R	
M	

RECEIVED
2013 OCT 24 AM 11:19
PA.P.U.C.
SECRETARY'S BUREAU



DATE: 4/22/04
 CERTIFIED FOR CONFORMANCE TO PLANS & SPECIFICATIONS
 BY: *[Signature]*
 EXPIRES / RENEWS IN: _____

C&R

MAIN ERECTION

750 W 64' DIA X 40' HR X 42' TWR
 BOROUGH OF EAST GREENVILLE
 EAST GREENVILLE, PA

CONTRACT NO. 137856
 SHEET NO. 11717A

BY: *[Signature]*
 DATE: 4/22/04
 CERTIFIED FOR CONFORMANCE TO PLANS & SPECIFICATIONS

RECEIVED
 OCT 24 2013
 PA PUBLIC UTILITY COMMISSION
 SECRETARY'S BUREAU

- GENERAL NOTES**
- WELDING
 - WELD SPECS: ANVA D100-96.
 - ALL FIELD CONNECTIONS WELDED EXCEPT AS NOTED.
 - SEE DWG. E3-4 FOR FIELD WELDING NOTES.
 - TANK TESTING
 - SPOT X-RAY PER ANVA D100-96 & RT-5 & 7
 - HYDROTEST PER HT-1.
 - CAUTION: DO NOT FILL TANK UNTIL GROUT HAS SET

EXHIBIT "B" - "Tenant Facilities"			
ANTENNA SPECIFICATIONS			
	Antenna 1	Antenna 2	Antenna 3
Equipment Type:	PANEL	OMNI	OMNI
Manufacturer:	RuggedCom	Amphenol	Trimble
Model Number:	RuggedMax WIN5235	BCDHV-87077	Bullet III
Dimensions (HxWxD):	12" x 12" x 0.6"	141.3" x 2.5"	3.05" x 2.61"
Weight:	2.6 lbs.	26.5 lbs.	6.0 oz.
Location:	Water Tank	Water Tank	Water Tank
Mount Height (ft.):	140	140	140
Equipment Quantity:	1	1	1
Tx/Rx Frequency Units:	GHz	MHz	MHz
Tx Frequency:	3.65	940	None
Rx Frequency:	3.65	901	1575.42
Using Unlicensed Frequencies:	Yes	No*	Yes
Number of Line Types:	Single	Single	Single
Line Type:	CAT5	7/8" coax	LMR195
Total Number of Lines:	1	1	1
Line Diameter/Size:	0.27" Cat5e	0.875"	0.5"
Comments:	Integrated Radio Antenna - Single Unit	*PECO owns Frequency Spectrum	GPS Antenna

RECEIVED

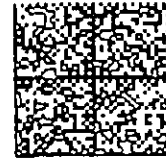
OCT 24 2013

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

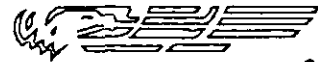


Exelon®

Exelon Business Services Company
Legal Department
2301 Market Street/S23-1
Philadelphia, PA 19103



U.S. POSTAGE >>> PITNEY BOWES



ZIP 19103 \$001.72⁰
02 1W
0001375901 OCT 21 2013

RECEIVED

2013 OCT 24 AM 11:19

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

Rosemary Chirrotta, Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, Pa 17105-3265