



**Exelon Business Services Company**  
Legal Department  
2301 Market Street/S23 1  
Philadelphia, PA 19103  
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Direct Dial: 215.841.6841

December 3, 2013

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

**RE: Havana Banana Group v. PECO Energy Company**  
**PUC Docket No.: C-2013-2391061**

Dear Ms. Chiavetta:

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

—	Answer
—	Answer & New Matter
—	Motion Objecting to Continuance Request
<u>X</u>	<b>Motion for Judgment on the Pleadings</b>
-	Motion to Admit Exhibits
-	Motion to Consolidate
—	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: Havana Banana Group, c/o Nick Ventura

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

<b>HAVANA BANANA GROUP</b>	:	
<b>Complainant</b>	:	
	:	
v.	:	<b>DOCKET NO. C-2013-2391061</b>
	:	
<b>PECO ENERGY COMPANY</b>	:	
<b>Respondent</b>	:	

**NOTICE TO PLEAD**

Pursuant to 52 Pa. Code §§ 5.101 and 5.62(c), you are hereby notified that, if you do not file a written response denying or correcting the enclosed Motion for Judgment on the Pleadings of PECO Energy Company within 10 days from service of this notice, a decision may be rendered against you. All pleadings, such as a Reply to Motion for Judgment on the Pleadings, must be filed with the Secretary of the Pennsylvania Public Utility Commission, with a copy served to counsel for PECO Energy Company, Shawane L. Lee, and where applicable, the Administrative Law Judge presiding over the issue.

File with:  
Rosemarie Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, Second Floor  
Harrisburg, PA 17120

With a copy to:  
Shawane L. Lee, Esq.  
PECO Energy Company  
2301 Market Street, S-23  
Philadelphia, PA 19103

Dated at Philadelphia, PA, December 3, 2013



---

Shawane L. Lee  
Counsel for PECO Energy Company  
2301 Market Street S-23  
Philadelphia, PA 19101-8699  
215-841-6863  
Shawane.Lee@exeloncorp.com

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

<b>HAVANA BANANA GROUP</b>	:	
<b>Complainant</b>	:	
	:	
v.	:	<b>DOCKET NO. C-2013-2391061</b>
	:	
<b>PECO ENERGY COMPANY</b>	:	
<b>Respondent</b>	:	

**RESPONDENT, PECO ENERGY COMPANY'S  
MOTION FOR JUDGMENT ON THE PLEADINGS**

Respondent, PECO Energy Company ("PECO Energy"), pursuant to 52 Pa. Code § 5.102(a) respectfully petitions this Honorable Commission to dismiss the instant Complaint for the following reasons:

**I. PROCEDURAL HISTORY:**

1. On or about October 31, 2013, Complainant, Havana Banana Group filed a Formal Complaint with the Pennsylvania Public Utility Commission ("PUC").
2. On November 4, 2013, PECO Energy was served the above-mentioned Formal Complaint. A copy of Complainant's Formal Complaint is attached hereto as (Exhibit 1).
3. On November 12, 2013, PECO Energy filed an Answer & New Matter to the Formal Complaint. A copy of PECO Energy's Answer & New Matter is attached hereto as (Exhibit 2).
4. Pursuant to 52 Pa. Code § 5.63, Complainant had twenty days from the filing date of PECO's New Matter on November 12, 2013, to respond.

5. To date, over twenty (20) days have passed since PECO filed its New Matter on November 12, 2013. As Complainant has failed to timely respond to the New Matter, PECO is filing this Motion seeking Judgment on the Pleadings.

**II. RELEVANT FACTS:**

6. In its Complaint, the Complainant alleges that it operates a business (Havana Banana Group, Inc.) at 301 Chestnut Street, Philadelphia, PA.

7. The Complainant alleges that it has an account with PECO Energy for electric service under account number 86994-25000.

8. The Complainant alleges it is being billed for service for the entire building although there is another commercial tenant at the property operating a hotel.

9. The Complainant alleges that the commercial tenant operating the hotel uses approximately 70 percent of the power.

10. The Complainant alleges there are two meters at the property.

11. The Complainant requests that service be placed in the name of the hotel commercial tenant on one meter.

12. The Complainant requests that a deposit assessed to its account be removed.

13. The Complainant also requests that the Public Utility Commission (“PUC”) have PECO Energy issue Havana Banana Group a payment agreement on the adjusted balance.

### **III. LEGAL ARGUMENT**

#### **A. Standard of Review**

14. The Commission's regulations at 52 Pa. Code §5.102(a) permits any party to move for summary judgment or judgment on the pleadings after the pleadings are closed, but within such time as to not delay a hearing.

15. Under 52 Pa. Code §5.102(d)(1), the presiding officer will grant the motion if the pleadings, depositions, answers to interrogatories, admissions and affidavits show that there is no genuine issue as to a material fact and that the moving party is entitled to judgment as a matter of law.

16. The moving party bears the burden of showing that no genuine issue of material fact exists and that it is entitled to judgment as a matter of law. The Commission must view the record in the light most favorable to the non-moving party, giving that party the benefit of all reasonable inferences. First Mortgage Co. of Pennsylvania v. McCall, 459 A.2d 406 (Pa. Super. 1983).

17. The provision at 52 Pa. Code §5.102(c) serves judicial economy by avoiding a hearing where no factual dispute exists. If no factual issue pertinent to the resolution of the case exists, a hearing is unnecessary. Lehigh Valley Power Committee v. Pennsylvania Public Utility Commission, 563 A.2d. 557 (Pa. Cmwlt. 1989).

**B. The Complainant's Complaint should be dismissed because Havana Banana Group is a commercial customer; and the Complainant is required to be represented by counsel.**

18. The Complainant, Havana Banana Group is a commercial customer operating a restaurant at the service address at issue. See Philly.com article attached hereto as (Exhibit 3).

19. Havana Banana Group was incorporated in the Commonwealth of Pennsylvania on January 10, 2011. See Pennsylvania Department of State Corporation Search, attached hereto as (Exhibit 4).

20. The principal address listed for Havana Banana Group with the Pennsylvania Department of State is the service address – 301 Chestnut Street, Philadelphia, PA. See (Exhibit 4).

21. As a commercial customer and corporation, Complainant is required to be represented by counsel in adversarial proceedings before the Commission.

22. The proceedings become adversarial at the time when respondent files an Answer. A Complaint filed by a corporation will be dismissed for failure to be represented by an attorney in an adversarial proceeding. 52 Pa. Code §1.8; 1.21-§ 1.23; In Re: Checker Cab, 49 Pa. PUC 159, 160 (1975), Moore v. I. Berman and Cross, Inc., Pa. PUC 427, 428 (1975).

23. On November 12, 2013, PECO Energy filed an Answer with New Matter to the Complainant's Complaint. See (Exhibit 2).

24. Once PECO Energy filed the Answer with New Matter the current PUC matter became adversarial. See 52 Pa. Code §1.8; 1.21-§ 1.23; In Re: Checker Cab, 49 Pa. PUC 159, 160 (1975), Moore v. I. Berman and Cross, Inc.

25. To date, the Complainant Corporation has not had counsel enter an appearance for this matter.

26. Accordingly, PECO Energy requests that the Commission dismiss the Complainant's Complaint for failure to be represented by counsel.

**The Complainant's portion of the Complaint, requesting a payment agreement should be dismissed because it is a commercial customer and the PUC cannot issue payment agreements to commercial customers.**

27. In the Formal Complaint, the Complainant is requesting that the PUC order PECO Energy to provide Complainant with a payment agreement. See (Exhibit 1).

28. The Complainant states that "I would like a payment agreement for service that is our (sic)." See (Exhibit 1).

29. It is well-established law that commercial customers are not entitled to the payment agreement provisions codified under of 66 Pa.C.S §1405 and 52 Pa. Code.Chp 56.

30. While the Commission is authorized under the Public Utility Code to establish payment arrangements that provide for the eventual payment of a residential customer's entire outstanding balance, Mill v. Pa. Public Utility Commission, 67 Pa. Commonwealth Ct. 597, 602, n. 4, 447 A.2d. 1100 (1982), neither the Commission's regulations nor the Public Utility Code establishes a similar right for a commercial or industrial customer.

31. In this case, the Complainant is a corporation and commercial customer, requesting a payment agreement on an outstanding balance.

32. The Complainant's request for a payment agreement should be dismissed as the Complainant is a commercial customer and the PUC has no jurisdiction to order PECO Energy to give the Complainant a payment agreement.

33. PECO Energy avers that this Honorable Commission should decline to offer the Complainant a payment agreement, and dismiss that portion of the Complainant's Complaint.

#### **IV. CONCLUSION**

34. PECO Energy has not been served with a response to its New Matter, and therefore it requests that the facts stated therein be deemed admitted. 52 Pa.Code §5.63(b) (providing that facts in new matter may be deemed admitted if there is no reply).

35. The Complainant has had no attorney enter an appearance; and therefore, the Complaint should be dismissed.

36. The Complainant's request for a payment agreement should be dismissed as a matter of law.

37. Because no factual dispute exists and the Complaint fails to state a claim for which relief can be granted, PECO is entitled to judgment as a matter of law.

**WHEREFORE**, PECO Energy Company respectfully requests that your Honorable Commission dismiss the Complainant's Complaint because Complainant is not legally entitled to the relief requested.

Respectfully Submitted,



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Shawane L. Lee  
Counsel for PECO Energy Company  
2301 Market Street, S23-1  
P.O. Box 8699  
Philadelphia, PA 19101-8699  
(215) 841-6841  
Fax: 215.568.3389

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

<b>HAVANA BANANA GROUP</b>	:	
<b>Complainant</b>	:	
	:	
<b>v.</b>	:	<b>DOCKET NO. C-2013-2391061</b>
	:	
<b>PECO ENERGY COMPANY</b>	:	
<b>Respondent</b>	:	

---

**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.



Date: December 3, 2013

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Shawane L. Lee

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

<b>HAVANA BANANA GROUP</b>	:	
<b>Complainant</b>	:	
	:	
<b>v.</b>	:	<b>DOCKET NO. C-2013-2391061</b>
	:	
<b>PECO ENERGY COMPANY</b>	:	
<b>Respondent</b>	:	

---

**CERTIFICATE OF SERVICE**

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

Havana Banana Group  
Attention: Nick Ventura  
301 Chestnut Street  
Philadelphia, PA 19106

Dated at Philadelphia, Pennsylvania, December 3, 2013



---

Shawane L. Lee  
Counsel for PECO Energy Company  
2301 Market Street, S23-1  
P.O. Box 8699  
Philadelphia, PA 19101-8699  
(215) 841-6841  
Fax: 215.568.3389  
Shawane.Lee@exeloncorp.com

**EXHIBIT “1”**

PENNSYLVANIA PUBLIC UTILITY COMMISSION

SB-2371852

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 Havana Banana Gm

Street/P.O. Box 301 Chestnut St Apt #

City Phila State PA Zip 19104

County Phil USA

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

(215) 696-0059 (home) (267) 671-4294 (mobile)

E-mail Address (optional): hotelhar10@gmail

Utility Account Number (from your bill) 84994-2500

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

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.

PECO

PECO ENERGY EXHIBIT

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

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.

*for some that is over*

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).

*see attached*

**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.**

**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:**

I, Nicole Ventura, 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 15 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

 10/31/13  
(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 <sup>nd</sup> 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.**

**Pennsylvania Public Utility Commission**

**Bureau of Consumers Affairs**

**P.O. Box 3265**

**Harrisburg, PA 17105-3265**

## **COMPLAINT**

**Account #86994-25000**

**June 26, 2013**

**Havana Banana Group Inc.**

**301 Chestnut Street**

**Philadelphia, PA 19106**

**Please note that we are being over charged by Peco, we have called them and get no help. I was told that Peco does not investigate billing issues with business customers.**

**We are one tenant operating the first floor business; there are 3 floors above us. We are being billed for the entire building, plus they are trying to jam a Large deposit down our throat for power that we do not use.**

**There is no reason for this and we need your help to get this fixed.**

**The above floors are a hotel and the operator want to pay there portion on the bill. We both applied for service, but peco is only billing Havana.**

**The building has 2 meters which we are being charged for, 1 meter uses about 30% of the power which is our meter; the second meter runs up 70% of the power which is used by the Hotel tenant of the building. Our operation hours have been reduced by 75% since the winter set in so we are not using much power at all and the hotel is open 24/7 and is consuming power which is evident with the meter readings. Why is this so hard to get corrected? Why should I have to deal with this?**

**Why is it so difficult to put one meter in our name and the other meter in the name of the hotel? If this can't be**

**done then I want our name taken off all meters and place them in the Hotels name. I do not need to have all this debt placed on our company when we should not be charged for service that we are not consuming.**

**We need to correct this at once. We need to take the ridiculous deposit off the account and we need to set up a reasonable payment arrangement for our proportion amount of energy used. We are trying to pay for what we use, not the whole building.**

**Please contact Hotel at 215-965-9003 <Operator of floors 2,3 and 4 of the building>**

**Or call me at 215-696-069**

**Thank you for your help.**

**Nick Ventura & Co.**

**Havana Banana Grp.**

**EXHIBIT “2”**



**PENNSYLVANIA**  
PUBLIC UTILITY COMMISSION

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**eFiling Successfully Transmitted**



Your filing has been electronically received. Upon review of the filing for conformance with the Commission's filing requirements, a notice will be issued acknowledging such compliance and assigning a Docket Number. The matter will receive the attention of the Commission and you will be advised if any further action is required on your part.

Print this page for your records. The date filed on will be the current day if the filing occurs on a business day before or at 4:30 PM Harrisburg, PA time. It will be the next business day if the filing occurs after 4:30 PM Harrisburg, PA time or on weekends or holidays.

*If your filing exceeds 200 pages, you are required to submit one paper copy of the filing within 3 business days of submitting the electronic filing. This paper copy can be mailed to: Secretary, Pennsylvania Public Utility Commission, Commonwealth Keystone Building, 400 North Street, 2nd Floor, Harrisburg, PA 17120. Please print a copy of this page and attach it to the paper copy of your filing as the first page.*

eFiling Confirmation	
Docket Number:	C-2013-2391061
Description:	Havana Banana Group - Answer and New Matter of PECO Energy Company
Transmission Date:	11/12/2013 12:21:20 PM
Filed On:	11/12/2013 12:21:20 PM
eFiling Confirmation Number:	1530398

Uploaded File List

File Name	Document Class	Document Type
Havana Banana Group - Answer and New Matter.pdf	Communication	Answer to Formal Complaint

PECO ENERGY  
EXHIBIT 2



Exelon Business Services Company  
 Legal Department  
 2301 Market Street, S231  
 Philadelphia, PA 19103  
 215 568 3389 Fax  
 www.exeloncorp.com

Direct Dial: 215.841.6841

November 12, 2013

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

**RE: Havana Banana Group v. PECO Energy Company**  
**PUC Docket No.: C-2013-2391061**

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- 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

Scheduling Recommendation: Call of the Docket **X Not Call of the Docket**

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**HAVANA BANANA GROUP**  
**Complainant**

v.

**PECO ENERGY COMPANY**  
**Respondent**

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**NOTICE TO PLEAD**

Pursuant to 52 Pa. Code §§ 5.101 and 5.62(c), you are hereby notified that, if you do not file a written response denying or correcting the enclosed NEW MATTER of PECO Energy Company within 20 days from service of this notice, a decision may be rendered against you. All pleadings, such as a Reply to NEW MATTER, must be filed with the Secretary of the Pennsylvania Public Utility Commission, with a copy served to counsel for PECO Energy Company, Shawane L. Lee, and where applicable, the Administrative Law Judge presiding over the issue.

**File with:**

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

**With a copy to:**

**Shawane L. Lee, Esq.**  
**PECO Energy Company**  
**2301 Market Street, S-23**  
**Philadelphia, PA 19103**

**Dated at Philadelphia, PA, October 3, 2013**



---

**Shawane L. Lee**  
**Counsel for PECO Energy Company**  
**2301 Market Street S-23**  
**Philadelphia, PA 19101-8699**  
**215-841-6863**  
**Shawane.lee@exeloncorp.com**

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**HAVANA BANANA GROUP**  
**Complainant**

v.

**PECO ENERGY COMPANY**  
**Respondent**

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**DOCKET NO. C-2013-2391061**

**ANSWER & NEW MATTER OF RESPONDENT**  
**PECO ENERGY COMPANY**

PECO Energy Company ("PECO Energy"), pursuant to 52 Pa. Code § 5.61, responds to the Complaint and states:

1. Admitted.
2. Admitted.
3. Admitted.

Denied. Unless specifically admitted herein, PECO Energy denies all material allegations of fact and conclusions of law in the instant Complaint. In their formal complaint, the Complainant, Havana Banana Group alleges they are operating a restaurant at 301 Chestnut Street, Philadelphia. The Complainant states that there is another entity operating a hotel at the premises. The Complainant alleges that electric service for the entire building is solely in the name of the restaurant although the hotel uses the majority of the power. The Complainant requests that the meters and billing between the two entities be separated. The Complainant additionally requests that a deposit assessed be waived.

Preliminarily, PECO Energy avers that the Complainant, Havana Banana Group, Inc. is a commercial customer operating a business at the premises. As a commercial customer,

Complainant is required to be represented by counsel in adversarial proceedings before the Commission.<sup>1</sup> Accordingly, this formal complaint should be dismissed if counsel does not enter an appearance on behalf of the Complainant. PECO Energy avers that separation of the metering requires rewiring in the building, which is the property owner's or tenant's responsibility. PECO Energy also avers that the company's tariff permits it to assess a deposit.

### **I. Metering**

The property at 301 Chestnut Street is a commercial property operated as a hotel and restaurant under the name Society Hill Hotel. The hotel is leased by the entity JLM, LLC and the restaurant is separately leased by the entity, the Havana Banana Group. JLM, LLC entered into a Lease Agreement with the property owner Society Hill Hotel, L.P. and took possession of the property in March 2011. See Lease Agreement, attached hereto as Exhibit "1". The Complainant entered into a Lease Agreement and took possession of the property in March 2011. See Lease Agreement, attached hereto as Exhibit "2".

There are two meters at the property. They are meter numbers 004307303 and 004483053. The meters are a CH8 and CH9 meters that combine to measure electric and heat usage.

When the Complainant and JLM, LLC took possession of the property in March 2011, they did not immediately apply for service. As a result, a significant balance was incurred in the name of the former commercial tenant, Halfway to Concord in the amount of

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<sup>1</sup> The proceedings become adversarial at the time when respondent files an Answer. A Complaint filed by a corporation will be dismissed for failure to be represented by an attorney in an adversarial proceeding. 52 Pa. Code §1 8; 1.21-§ 1.23; In Re: Checker Cab, 49 Pa. PUC 159, 160 (1975), Moore v. I. Berman and Cross, Inc., Pa. PUC 427, 428 (1975). Accordingly, PECO request that the Commission establish a date certain by which Complainant is required to have an attorney enter an appearance in this matter.

\$17,984.66 for which the Complainant and JLM, LLC were responsible. Havana Banana Group applied for service on August 1, 2011. See Application for Service, attached hereto as Exhibit "3". PECO Energy established service for the Complainant under account number 86994-25000. See Account Activity Statement, attached hereto as Exhibit "4".

On November 5, 2012, the Complainant filed an informal complaint with the Bureau of Consumer Services ("BCS") at case number 003040518. See Case Details Report #003040518, attached hereto as Exhibit "5". In the informal complaint, Complainant alleged it used the first floor only at the service address; however, they were being billed for the entire building, including the hotel. See Exhibit "5". The Complainant also disputed the security deposit assessed. On January 9, 2013, the BCS issued a Decision Report, dismissing the complaint as follows:

**IT IS THE OWNER'S RESPONSIBILITY TO SEPARATE THE METERS AND ONCE JOB IS COMPLETED THE CU MUST CONTACT THE COMPANY TO INITIATE INSTALLATION OF NEW METERS. THE COMPANY WILL NOT WAIVE THE SECURITY DEPOSIT.**

See BCS Decision Report #003040518, attached hereto as Exhibit "6".

The Complainant filed a Small Business Request for Mediation with the Pennsylvania Public Utility Commission at SB-2371852. In response, to the Small Business Mediation, on August 27, 2012, PECO Energy sent a technician to the premises to verify that the meters were not separately wired and they were CH8 and CH9 meters. At that time, the company advised the Complainant that they had to separate the wiring at the premises and would need to obtain an electrical contractor for this purpose. PECO Energy also advised that once the wiring is completed at the premises, PECO Energy is willing to establish separate metering and billing.

On November 1, 2013, the Complainant's electric service was terminated through an underground dig for a past due balance of \$27,653.77. On November 7, 2013, PECO Energy received an affidavit from the Complainant and from JLM, LLC verifying that they ceased to operate, occupy or have any interest at 301 Chestnut Street. See Affidavits, attached hereto as Exhibit "7". To date, the service remains off.

## **II. Deposit**

On March 13, 2012, PECO Energy assessed a \$5,395.00. See Exhibit "4". PECO Energy avers that the \$5,395.00 security deposit is proper. 66 Pa.C.S. 1404(a), states:

In addition to the right to collect a deposit under any commission regulation or order, the commission shall not prohibit a public utility, prior to or as a condition of providing utility service, from requiring a cash deposit in an amount that is equal to one-sixth of the applicant's estimated annual bill, at the time the public utility determines a deposit is required.

Additionally, PECO Energy's Commission approved tariff provides in relevant part:

**5.3 GUARANTEE OF PAYMENTS.** The Company may charge a security deposit before it will render service to an applicant or before the Company will continue to render service to a customer for whom the Company provides Consolidated EDC Billing or Separate EDC Billing. The Company may charge deposits to applicants and customers if they have bad credit, lack creditworthiness or as otherwise permitted by Commission statutes, rules, regulations, and as required by Federal Bankruptcy Law. The applicant or customer may be required to provide a cash deposit, letter of credit, surety bond, or other guarantee, satisfactory to the Company. The Company will hold the deposit as security for the payment of final bills and in compliance with the Company's Rules and Regulations. ...

**5.4 AMOUNT OF DEPOSIT.** For residential customers the deposit will be equal to one-sixth of the applicant's or customer's estimated annual bill for Company charges, based on applicable rates. A deposit from a residential customer shall conform to the requirements of 66 Pa. C.S. 1404(c) and applicable Pennsylvania Public Utility Commission regulations. ...

**5.5 RETURN OF DEPOSIT.** Deposits secured from a residential customer shall either be applied with interest to the customer's account or returned to the customer with interest in accordance with 66 Pa. C.S. §1404(C) and applicable Pennsylvania Public Utility Commission regulations. In cases of discontinuance or termination of service, deposits will be returned with accrued interest upon payment of all service charges and guarantees or with deduction of unpaid accounts. ...

**See PECO Energy Tariff, Sections 5.3 – 5.5, attached hereto as Exhibit “8”.**

**In this case, PECO Energy determined that based on the Complainant’s credit history, and credit risk assessment, a deposit was required. PECO Energy properly assessed the deposit to the Complainant’s account. Accordingly, PECO Energy denies the Complainant’s allegations concerning the security deposit.**

**By way of further response, the Complainant requests that the PUC order PECO Energy to give the Complainant a payment agreement on the balance. It is well-established law that commercial customers are not entitled to the payment agreement provisions codified under of 66 Pa.C.S §1405 and 52 Pa. Code.Chp 56. While the Commission is authorized under the Public Utility Code to establish payment arrangements that provide for the eventual payment of a residential customer’s entire outstanding balance, Mill v. Pa. Public Utility Commission, 67 Pa. Commonwealth Ct. 597, 602, n. 4, 447 A.2d. 1100 (1982), neither the Commission’s regulations nor the Public Utility Code establishes a similar right for a commercial or industrial customer. Therefore, Complainant’s request for payment terms should be dismissed.**

**This paragraph is a request for relief and no answer is required.**

**4. Admitted.**

**5. Admitted.**

**8. PECO Energy neither admits nor denies the allegations in paragraph 8. PECO is without knowledge or information sufficient to form a belief as to the truth of this averment and, therefore, such allegation is deemed denied.**

**9. Paragraph 9 is a Verification and Signature to which no response is required.**

10. Paragraph 10 contains information regarding Filing, to which no response is required.

**NEW MATTER OF RESPONDENT, PECO ENERGY COMPANY**

PECO Energy, pursuant to 52 Pa. Code § 5.62(b), further responds to the Complaint and states:

1. The Complainant is a commercial customer who operated a business at 301 Chestnut Street Philadelphia, PA.
2. The Complainant is a Pennsylvania Corporation.
3. The Complainant has a commercial account with PECO Energy under account number 86994-25000. See Exhibit "4".
4. It is well-established law that commercial customers are not entitled to the payment agreement provisions codified under of 66 Pa.C.S §1405 and 52 Pa. Code.Chp 56. While the Commission is authorized under the Public Utility Code to establish payment arrangements that provide for the eventual payment of a residential customer's entire outstanding balance, Mill v. Pa. Public Utility Commission, 67 Pa. Commonwealth Ct. 597, 602, n. 4, 447 A.2d. 1100 (1982), neither the Commission's regulations nor the Public Utility Code establishes a similar right for a commercial or industrial customer.
5. Therefore, the Complainant's request for payment terms should be dismissed.
6. Likewise, as a commercial customer, the Complainant is required to be represented by counsel in adversarial proceedings before the Commission. The proceedings become adversarial at the time when respondent files its Answer.

7. A Complaint filed by a corporation will be dismissed for failure to be represented by an attorney in an adversarial proceeding. 52 Pa. Code §1.8; 1.21-§ 1.23; In Re: Checker Cab, 49 Pa. PUC 159, 160 (1975), Moore v. I. Berman and Cross, Inc., Pa. PUC 427, 428 (1975).

**WHEREFORE**, PECO Energy Company respectfully requests that your Honorable Commission establish a date certain by which Complainant is required to have an attorney enter an appearance in this matter. Additionally, the complaint should be dismissed because Complainant is not legally entitled to relief requested.

Respectfully Submitted,



---

Shawane L. Lee  
Counsel for PECO Energy Company  
2301 Market Street, S23-1  
P.O. Box 8699  
Philadelphia, PA 19101-8699  
(215) 841-6841  
Fax: 215.568.3389

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

<b>HAVANA BANANA GROUP</b>	:	
<b>Complainant</b>	:	
	:	
v.	:	<b>DOCKET NO. C-2013-2391061</b>
	:	
<b>PECO ENERGY COMPANY</b>	:	
<b>Respondent</b>	:	

---

**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.



Date: November 12, 2013

\_\_\_\_\_  
Shawane L. Lee

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

<b>HAVANA BANANA GROUP</b>	:	
<b>Complainant</b>	:	
	:	
v.	:	<b>DOCKET NO. C-2013-2391061</b>
	:	
<b>PECO ENERGY COMPANY</b>	:	
<b>Respondent</b>	:	

---

**CERTIFICATE OF SERVICE**

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

Havana Banana Group  
Attention: Nick Ventura  
301 Chestnut Street  
Philadelphia, PA 19106

Dated at Philadelphia, Pennsylvania, November 12, 2013.



---

Shawane L. Lee  
Counsel for PECO Energy Company  
2301 Market Street, S23-1  
P.O. Box 8699  
Philadelphia, PA 19101-8699  
(215) 841-6841  
Fax: 215.568.3389  
Shawane.Lee@exeloncorp.com



Exelon Business Services Company  
Legal Department  
2301 Market Street/5231  
Philadelphia, PA 19103  
215 568 3389 Fax  
www.exeloncorp.com

Direct Dial: 215 841-6841

November 12, 2013

Havana Banana Group  
Attention: Nick Ventura  
301 Chestnut Street  
Philadelphia, PA 19106

**RE: Havana Banana Group v. PECO Energy Company**  
**PUC Docket No.: C-2013-2391061**

Dear Mr. Ventura:

Enclosed is a copy of PECO Energy Company's response to the formal complaint filed in the above-referenced docket. The law requires PECO Energy to file an answer to your Public Utility Commission complaint. Keep these papers for your records. This is not a decision on your complaint. PECO's response may include a New Matter, Motion or Preliminary Objection. Please note that if you do not respond to a New Matter, Motion, or Preliminary Objection an unfavorable decision may be rendered against you. Responses to New Matters and Motions must be filed within 20 days. Responses to Preliminary Objections must be filed within 10 days. If there is no New Matter, Motion or Preliminary Objection included, no response is required.

Soon, the Public Utility Commission will schedule either a settlement conference or a hearing on your complaint. The Commission will let you know by mail whether there will be a conference or a hearing and will include instructions on what to do next. If the matter is set for hearing, the notice will provide you with information about the date, time and place of the hearing. If we are unable to resolve your complaint and have to proceed with a hearing, a judge will be at the hearing and will decide your complaint. You must call the Public Utility Commission if you have any questions about the hearing or if you cannot attend the hearing.

Thank you for your time and attention on this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read "Shawane Lee".

Shawane Lee  
Counsel for PECO Energy Company

SL/lo  
Encl.

**EXHIBIT “1”**

**301 Chestnut Street  
Hotel Lease**

**February 22, 2011**

**LEASE AGREEMENT**

**BETWEEN**

**SOCIETY HILL HOTEL, LP ("Landlord")**

**AND**

**JLA, LLC ("Tenant")**

**DATED: March 1, 2011**

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**COMMERCIAL LEASE AGREEMENT**

THIS LEASE AGREEMENT (this "Lease") is made as of the 1<sup>st</sup> day of March 2011, between SOCIETY HILL HOTEL, LP, a Pennsylvania limited partnership or its assignee with a business address at 1614 Lark Lane, Villanova, Pa. 19085 ("Landlord"), and JLM, LLC (Tenant) with a business address at 301 Chestnut Street, Philadelphia, Pa. 19106 (collectively, "Tenant").

**BACKGROUND**

Whereas, Landlord owns the property located at 301 Chestnut Street, Philadelphia, Pennsylvania (collectively the "301 Chestnut Street Property", Property or "Building"),

Whereas, Landlord desires to lease a portion of the 301 Chestnut Street Property to Tenant, and Tenant desires to lease said property from Landlord all on the terms and subject to the conditions hereinafter set forth,

NOW, THEREFORE, Landlord and Tenant, in consideration of the mutual promises contained herein and intending to be legally bound, covenant and agree as follows:

**1. Definitions**

Any reference in this Lease to the following subjects shall have the meanings given them in this Section.

**LANDLORD:** Society Hill Hotel, LP

**LANDLORD'S ADDRESS:** 1614 Lark Lane, Villanova, Pa. 19085

**TENANT:** JLM, LLC

**IPRANT'S ADDRESS:** 301 Chestnut Street, Philadelphia, Pa. 19106

**LEASED PREMISES:** Second, Third, and Fourth Floor of Premises located at 301 Chestnut Street, Philadelphia, PA.

**LEASE TERM:** Five Years plus two five year renewal options.

**COMMENCEMENT DATE:** March 1, 2011, subject to the contingencies in paragraph 2 below.

**ANNUAL FIXED RENT:** \$40,000.00 base annual rent in the first term, plus an additional \$1,000.00 per month (for eighteen (18) months) to be credited against the Purchase Price of the property as stated in Paragraph 42.

**EXHIBIT "2"**

**LEASE AGREEMENT**

**BETWEEN**

**SOCIETY HILL HOTEL, LP ("Landlord")**

**AND**

**HAVANA BANANA GROUP, INC. ("Tenant")**

**DATED: March 1, 2011**

**PECO ENERGY**  
**EXHIBIT - 2**

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**COMMERCIAL LEASE AGREEMENT**

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**BACKGROUND**

Whereas, Landlord owns the property located at 301 Chestnut Street, Philadelphia, Pennsylvania (collectively the "301 Chestnut Street Property", Property or "Building"),

Whereas, Landlord desires to lease a portion of the 301 Chestnut Street Property to Tenant, and Tenant desires to lease said property from Landlord all on the terms and subject to the conditions hereinafter set forth,

NOW, THEREFORE, Landlord and Tenant, in consideration of the mutual promises contained herein and intending to be legally bound, covenant and agree as follows

**1. Reference Data**

Any reference in this Lease to the following subjects shall have the meanings given them in this Section

<b><u>LANDLORD</u></b>	Society Hill Hotel, LP
<b><u>LANDLORD'S ADDRESS</u></b>	1614 Lark Lane, Villanova, Pa 19085
<b><u>TENANT</u></b>	Havana Banana Group, Inc
<b><u>TENANT'S ADDRESS</u></b>	301 Chestnut Street, Philadelphia, Pa 19106
<b><u>LEASED PREMISES</u></b>	First Floor and Basement of Premises located at 301 Chestnut Street, Philadelphia, PA
<b><u>LEASE TERM</u></b>	Five Years plus three five year renewal options
<b><u>COMMENCEMENT DATE</u></b>	March 1, 2011, subject to the contingencies in paragraph 2 below
<b><u>ANNUAL FIXED RENT</u></b>	\$72,000 00 base annual rent in the first term, plus an additional \$2,000 00 per month (for eighteen (18) months) to be credited against the Purchase Price of the property as stated in Paragraph 42

<b>PERMITTED USES</b>	Restaurant and bar with right to sell alcoholic beverages, malt or brewed beverages
<b>SECURITY DEPOSIT</b>	Three months' interest reserve for Royal Bank loan amounting to \$19,807.47
<b>BUILDOUT PERIOD</b>	The buildout period will be 30 days during which time Tenant will pay all rents due, however, rents paid during this period of time will also be credited against the Purchase Price of the Property

**2. Demise.** Landlord hereby demises and lets to Tenant and Tenant takes and hires from Landlord the first floor and basement of the 301 Chestnut Street Property (hereinafter "Leased Premises")

**3. Term.** A The initial term ("Initial Term") of this Lease shall commence as of March 1, 2011 ("Commencement Date"). All obligations and requirements of Tenant shall commence on the Commencement Date, the Initial Term shall be a Five (5) Year Lease from the Commencement Date and shall end on the last day of the 60<sup>th</sup> full calendar month after the Commencement Date, unless extended or sooner terminated as provided herein. The "Term" of this Lease shall include the Initial Term and any validly exercised Extension Period, and any other extension of the Term agreed between the parties.

B **Renewal Term.** Tenant shall have the right but not the obligation to extend the Term of this Lease for three (3) additional periods of five (5) lease years each (each "Extension Period," and if more than one, collectively, the "Extension Periods"), provided, (i) Tenant gives written notice of its election to exercise each Extension Period no earlier than fifteen (15) months and no later than nine (9) months prior to the proposed commencement of such Extension Period and (ii) no Event of Default on the part of the Tenant has occurred and remains uncured under this Lease.

**4. Holding Over.** If Tenant retains possession of the Leased Premises or any part thereof after the termination of this Lease by expiration of the Lease Term or otherwise, Tenant shall pay Landlord (A) as agreed liquidated damages for such holding over, an amount, calculated on a per diem basis for each day of such unlawful retention, equal to two hundred percent (200%) multiplied by the Annual Fixed Rent at the then current term for the time Tenant thus remains in possession, plus, in each case, all Additional Rent and other sums payable hereunder, and (B) all other damages, costs and expenses sustained by Landlord by reason of Tenant's holding over. Without limiting any rights and remedies of Landlord resulting by reason of the wrongful holding over by Tenant, or creating any right in Tenant to continue in possession of the Leased Premises, all Tenant's obligations with respect to the use, occupancy and maintenance of the Leased Premises shall continue during such period of unlawful retention.

**5. Rent.** Rent is payable by Tenant beginning on the Commencement Date in monthly installments, by the 1st of each month, of one-twelfth (1/12th) of the annual Fixed Rent, said monthly amount as set forth below in the rent schedule, without prior notice or demand, and without any set-off or deduction whatsoever, in advance, on the first day of each month at Landlord's address in Philadelphia, Pennsylvania or at such other place as Landlord may direct. Tenant's covenant to pay rent shall be independent of any other covenant in this Lease.

**EXHIBIT “3”**



**EXHIBIT “4”**

PECO Account Activity Statement

Date: 11/07/13  
Page: 1 of 2

\*\*\* Account Information \*\*\*

Account Number: 8594-25000  
Account Status: Active

Bill To:  
RAYANA SARANA GROUP INC  
301 CANTREY ST  
PHILADELPHIA PA 19106

Current Bill:  
Billid Price: \$28723.32  
Balance Due: \$29719.76  
Service Address:  
301 CANTREY ST  
PHILADELPHIA PA 19106

\*\*\* Current Account Status \*\*\*

Credit Amount: \$0.00  
Deposit Requested: \$3395.00  
Deposit On-Hand: \$1641.85  
Rate: Electric Commercial Serv CSM/S 0-100kW

DATE	CHANGE TYPE	BILLING PERIOD	READ	METER #	CHANGE AMOUNT	CREDIT AMOUNT	TOTAL BILL	BALANCE FORWARD	DOB DATE	DOB	CCP	NR
03/13/12	DEPOSIT	04/08/12	44339	004307303	\$3395.00							
04/09/12	ELE-ADDITIONAL METER	04/08/12	21052	004483053	\$791.88							
04/09/12	ELE-ADDITIONAL METER		44339	004307303								
04/09/12	CONNECTOR CHANGE - STANDARD				\$6.00							
04/09/12	Regular Bill	04/08/12	44482	004307303	\$960.17		\$6182.69		05/01	5400		27
05/09/12	ELE-ADDITIONAL METER	05/07/12	21122	004483053								
05/09/12	ELE-ADDITIONAL METER		44482	004307303								
05/09/12	Late Payment Charge				\$11.73							
05/21/12	Payment					\$1641.85		\$7064.59	05/30	6120		26
06/05/12	Late Payment Charge	06/06/12	44662	004307303	\$12.90							
06/07/12	ELE-ADDITIONAL METER	06/06/12	21231	004483053	\$1026.12							
06/07/12	ELE-ADDITIONAL METER		44662	004307303								
06/07/12	Regular Bill	06/06/12	44916	004307303	\$29.29		\$6431.75		06/29	6000		26
07/09/12	ELE-ADDITIONAL METER	07/08/12	21426	004483053	\$1177.99							
07/09/12	ELE-ADDITIONAL METER		44916	004307303								
07/09/12	Late Payment Charge	07/08/12	45106	004307303	\$1211.83		\$7656.03		07/31	10160		27
08/07/12	ELE-ADDITIONAL METER	08/06/12	21624	004483053								
08/07/12	ELE-ADDITIONAL METER		45186	004307303								
08/07/12	Regular Bill	08/06/12	45443	004307303	\$45.96							
09/05/12	Late Payment Charge	09/05/12	45443	004307303	\$64.14		\$8915.82		08/29	10800		26
09/06/12	ELE-ADDITIONAL METER	09/05/12	21808	004483053	\$1144.65							
09/06/12	ELE-ADDITIONAL METER		45443	004307303								
09/06/12	Regular Bill	09/05/12	45601	004307303	\$91.31		\$10134.61		09/30	10200		24
10/05/12	Late Payment Charge	10/04/12	45601	004307303	\$861.32							
10/05/12	ELE-ADDITIONAL METER	10/04/12	21928	004483053								
10/05/12	ELE-ADDITIONAL METER		45601	004307303								
10/05/12	Regular Bill	10/04/12	45780	004307303	\$971.56		\$11067.24		10/30	6320		24
11/05/12	ELE-ADDITIONAL METER	11/04/12	22045	004483053								
11/05/12	ELE-ADDITIONAL METER		45780	004307303								
11/06/12	Regular Bill											
11/09/12	Payment				\$2124.61	\$10134.61		\$12039.80	11/27	7160		32
11/09/12	Returned Check				\$8000.00			\$11067.24				
11/09/12	Returned Check											



DATE	CHARGE TYPE	BILLING PERIOD	MEMO	METER #	CHARGE AMOUNT	CREDIT AMOUNT	TOTAL BILL	BALANCE FORWARDED	DOB DATE	DOB	CCY	EW
12/04/12	ELECTRIC SERVICE	11/04/12 12/05/12	46113	004307303	\$1475.96		\$13314.78	\$12038.80	12/28			34
12/04/12	ELE-ADDITIONAL METER		22140	004483053								
12/04/12	ELE-ADDITIONAL METER		46113	004307303								
12/04/12	REGULAR BILL											
01/09/13	ELECTRIC SERVICE	12/05/12 01/06/13	46113	004307303	\$1961.09		\$13314.78	\$12038.80	12/28			34
01/09/13	ELE-ADDITIONAL METER		46336	004307303								
01/09/13	ELE-ADDITIONAL METER		22140	004483053								
01/09/13	ELE-ADDITIONAL METER		22264	004483053								
01/09/13	ELE-ADDITIONAL METER		46113	004307303								
01/09/13	ELE-ADDITIONAL METER		46336	004307303								
01/09/13	REGULAR BILL											
02/06/13	Late Payment Charge	01/06/13 02/07/13	46904	004307303	\$172.09		\$15475.87	\$13314.78	01/31	19920		41
02/06/13	ELECTRIC SERVICE		22384	004483053	\$3040.69							
02/06/13	ELE-ADDITIONAL METER		46904	004307303								
02/06/13	REGULAR BILL											
03/11/13	ELECTRIC SERVICE	02/07/13 03/10/13	47414	004307303	\$1945.40		\$17708.43	\$15447.96	03/04	17920		42
03/11/13	ELE-ADDITIONAL METER		22448	004483053								
03/11/13	ELE-ADDITIONAL METER		47414	004307303								
03/11/13	Late Payment Charge				\$303.00							
04/09/13	ELECTRIC SERVICE	03/10/13 04/08/13	47720	004307303	\$1695.88		\$19677.25	\$17911.65	04/02	17300		39
04/09/13	ELE-ADDITIONAL METER		22851	004483053								
04/09/13	ELE-ADDITIONAL METER		47720	004307303								
04/09/13	Late Payment Charge				\$232.48							
05/06/13	ELECTRIC SERVICE	04/08/13 05/07/13	47849	004307303	\$287.92		\$21805.61	\$20109.73	05/01	12240		36
05/06/13	ELE-ADDITIONAL METER		22648	004483053	\$785.06							
05/06/13	ELE-ADDITIONAL METER		47849	004307303								
05/06/13	REGULAR BILL											
06/04/13	Late Payment Charge	05/07/13 06/04/13	48026	004307303	\$249.70		\$22049.19	\$22043.53	05/30	5160		30
06/07/13	ELECTRIC SERVICE		22770	004483053	\$835.36							
06/07/13	ELE-ADDITIONAL METER		48026	004307303								
06/07/13	REGULAR BILL											
07/09/13	ELECTRIC SERVICE	06/04/13 07/08/13	48308	004307303	\$1205.02		\$23994.25	\$23116.89	07/01	7000		25
07/09/13	ELE-ADDITIONAL METER		22859	004483053								
07/09/13	ELE-ADDITIONAL METER		48308	004307303								
07/09/13	REGULAR BILL											
08/07/13	ELECTRIC SERVICE	07/08/13 08/06/13	48885	004307303	\$1216.92		\$25159.27	\$23954.25	07/31	11300		28
08/07/13	ELE-ADDITIONAL METER		23150	004483053								
08/07/13	ELE-ADDITIONAL METER		48885	004307303								
08/07/13	REGULAR BILL											
09/06/13	ELECTRIC SERVICE	08/06/13 09/05/13	48864	004307303	\$1277.58		\$26376.19	\$25159.27	08/29	11000		22
09/06/13	ELE-ADDITIONAL METER		23446	004483053								
09/06/13	ELE-ADDITIONAL METER		48864	004307303								
09/06/13	REGULAR BILL											
10/07/13	ELECTRIC SERVICE	09/05/13 10/04/13	49087	004307303	\$1069.55		\$27653.77	\$26376.19	09/30	11160		27
10/07/13	ELE-ADDITIONAL METER		23609	004483053								
10/07/13	ELE-ADDITIONAL METER		49087	004307303								
10/07/13	REGULAR BILL											
11/06/13	Late Payment Charge	10/04/13 11/01/13	49213	004307303	\$353.74		\$28723.32	\$27653.77	10/29	8920		27
11/06/13	ELECTRIC SERVICE		23607	004483053	\$642.08							
11/06/13	ELE-ADDITIONAL METER		49213	004307303								
11/06/13	REGULAR BILL											

**EXHIBIT "5"**

November 12, 2013

## Case Details Report

**BCS Case #:** 003040518 **BCS Bill Account #:** 888888888  
**Customer Name:** HAVANA BANANA GROUP INC  
**Service Address:** 301 CHESTNUT STREET

**Mailing Address:** PHILADELPHIA, PA 19106

**Home Phone:** 0 -  
**Business Phone:** (215) 925-1919  
**Business name:** NICK VENTURA  
**Alternate contact:** CELL # BELONGS TO NICK VENTURA

**Date Case Opened:** 2012-11-05 **Date Cut Out:** 9999-12-31  
**PAR Case:** N  
**Investigator Name:** CLEOTILDE FLORES  
**Investigator Phone:** (717) 772-4158 **Universal Service:** N  
**Service class:** C **Contact Type:** LETTER  
**Previous case #:** **Amount in Arrears:** \$0.00

**# Adults:** 0  
**# Children:** 0  
**Children Ages:**  
**Gross Income:** \$0.00  
**Miscellaneous Info:**  
CELL # BELONGS TO NICK VENTURA

**Complaint Reason:**  
BILLING DISPUTES (# 18)

**Customer Problem Description:**  
BILLING DISPUTE / COMMERCIAL ACCOUNT...THE CUSTOMER STATES THAT HE IS A TENANT OF THE 1ST FLOOR ONLY AND THERE ARE 3 UNITS ABOVE HIS BUSINESS AT THE PROPERTY... THE CUSTOMER STATES THAT HE HAS BEEN OVER CHARGED AS HE IS BEING BILLED FOR THE ENTIRE BUILDING AND HAS PAID A PORTION OF THE PREVIOUS TENANT'S BILL... THE CUSTOMER STATES THAT HE IS DISPUTING THE \$5000.00 SECURITY DEPOSIT THAT THE COMPANY IS REQUIRING...

# **Exelon.**

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**Company Position:**  
**LCC/ NOT MENTIONED**

**November 12, 2013**

**EXHIBIT “6”**



November 7, 2013

**BCS Decision Report**

BCS Case #: 003040518 Open Date: 2012-11-05  
Customer Name: HAVANA BANANA GROUP INC  
Service Address: 301 CHESTNUT STREET

PHILADELPHIA, PA 19106  
BCS Bill Account #: 8888888888 Previous Case #:  
Violation Type: NO Chapter Type:  
Decision Type: W Section / Rule:  
Investigator Name: CLEOTILDE FLORES

Decision Issued Date: 2013-01-09  
Case Closed Date: 2013-01-09

Letter Description:  
NO LETTER REQUIRED

Total Balance:	\$1914.19	Balance Date:	2012-11-14
Amount to Restore Service:	\$0.00	Amount to Continue Service:	\$0.00
Date Payment Due:		Regular Budget Amount:	\$1383.00
Special Budget Payment:	\$0.00	Final Bill Monthly Payment:	\$0.00
Plus Arrears Payment:	\$0.00	End of Month Payment:	\$0.00
Current Monthly Payment:	\$0.00		
Payment Terms:			

PAR Description:

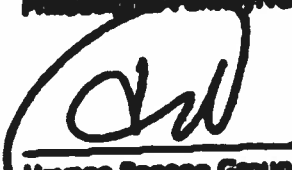
Resolution Description:  
COMMERCIAL ACCT. LIMITED JURISDICTION. ISSUED LETTER TO CUSTOMER ADVISING OF INFORMATION PROVIDED BY PECO. IT IS THE OWENER'S RESPONSIBILITY TO SEPARATE THE METERS AND ONCE JOB IS COMPLETED THE CU MUST CONTACT THE COMPANY TO INITIATE INSTALLATION OF NEW METERS. THE COMPANY WILL NOT WAIVE THE SECURITY DEPOSIT.

**EXHIBIT “7”**

### General Affidavit

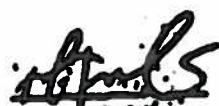
Before the undersigned, an officer duly commissioned by the laws of PA, on this 7 day of November, 2013, personally appeared Dominic DeLuca who having been first duly sworn depose and say:

I Nick Ventura, Corporate officer of Havana Banano Group Inc. has ceased to operate occupy or have any interest leasehold or otherwise in that property 301 Chestnut Street, Philadelphia-Pennsylvania 19106.

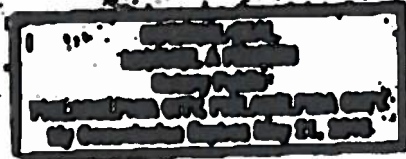


Havana Banano Group Inc.

Subscribed and sworn to before me this 7 day of November 2013.



Notary Public  
My Commission Expires on: 3/8/2016



**EXHIBIT “8”**

### General Affidavit

State of Pennsylvania  
County of Philadelphia

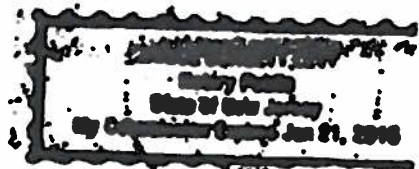
Before me undersigned, an officer duly commissioned by the laws of New Jersey, on this 7 day of November, 2012, personally appeared Mary Beth Galla, JLM LLC, who having been first duly sworn depose and say:

I Mary Beth Galla, sole Manager and owner of JLM LLC (a Pennsylvania Limited Liability Company) states under oath that JLM LLC and any individual or assigns of said limited liability company has caused to operate, occupy or have any interest leasehold or otherwise in that property 301 Chestnut Street, Philadelphia Pennsylvania 19106.

*Mary Beth Galla*  
Mary Beth Galla, Manager, JLM LLC

Subscribed and sworn to before me this 7 day of Nov, 2012.

*Mary Peltz*  
Mary Peltz  
My Commission Expires on: 6/21/16



**EXHIBIT "9"**

~~FERRO Return Document~~

~~UTILITY INFORMATION~~

**4.7 UNAUTHORIZED USE.** Unauthorized connection to the Company's facilities, and/or the use of service obtained from the Company without authority, or by any false pretense, may be terminated by the Company. The use of service without notifying the Company or the AMSP and causing them to read its meter will render the user liable for any amount due for service provided to the premises from the time of the last reading of the meter, immediately preceding the customer's occupancy, as shown by the Company's books.

**4.8 WITHDRAWAL OF APPLICATION.** In the event the customer (or potential customer) withdraws an application for either new or modified service, the customer will reimburse the Company for all reasonable costs incurred by the Company in anticipation of providing the new or modified service.

#### 5. CREDIT

**5.1 PAYMENT OBLIGATION.** For customers for whom the Company provides Consolidated EDC Billing or Separate EDC Billing, the provision of service for any purpose, at any location, is contingent upon payment of all charges provided for in this Tariff (and, for the same class of service (residential or non-residential) under the Company's Gas Service Tariff, if the customer also receives gas service at the same premises) as applicable to the location and the character of service.

The Company may, at its discretion, determine liability for a past due balance by:

- 1) Use of Company records that contain information previously provided to the Company;
- 2) Information contained on a valid mortgage, lease, deed or renter's license;
- 3) Use of commercially available public records databases;
- 4) Government and property ownership records.

(C)

**5.2 PRIOR DEBTS.** Service will not be furnished to former customers until any indebtedness to the Company for previous service of the same or similar classification has been satisfied or a payment arrangement has been made on the debt. This rule does not apply to the disputed portion of disputed bills under investigation. The Company will apply this rule to the disputed portion of disputed bills, if, and only if: (1) the Company has made diligent and reasonable efforts to investigate and resolve the dispute; (2) the result of the investigation is that the Company determines that the customer's claims are unsupported or invalid; (3) the Commission and/or the Bureau of Consumer Services has decided a formal or informal complaint in the Company's favor and no timely appeal is filed; and (4) the customer nevertheless continues to dispute the same matter in bad faith.

**5.3 GUARANTEE OF PAYMENTS.** The Company may charge a security deposit before it will render service to an applicant or before the Company will continue to render service to a customer for whom the Company provides Consolidated EDC Billing or Separate EDC Billing. The Company may charge deposits to applicants and customers if they have bad credit, lack creditworthiness or as otherwise permitted by Commission statutes, rules, regulations, and as required by Federal Bankruptcy Law. The applicant or customer may be required to provide a cash deposit, letter of credit, surety bond, or other guarantee, satisfactory to the Company. The Company will hold the deposit as security for the payment of final bills and in compliance with the Company's Rules and Regulations. In addition, the Company may require industrial and commercial customers for which it may provide Consolidated EDC Billing or Separate EDC Billing to post a deposit at any time if the Company determines that the customer is no longer creditworthy or has bad credit or as otherwise permitted by Commission statutes, rules, regulations and as required by Federal Bankruptcy Law. The Company retains the right to charge customers additional deposits based upon continued bad credit or lack of creditworthiness and increased usage.

**5.4 AMOUNT OF DEPOSIT.** For residential customers the deposit will be equal to one-sixth of the applicant's or customer's estimated annual bill for Company charges, based on applicable rates. A deposit from a residential customer shall conform to the requirements of 66 Pa. C.S. 1404(c) and applicable Pennsylvania Public Utility Commission regulations. For industrial and commercial accounts, the amount of the deposit shall be the Company's projection of the sum of the Company charges in the customer's two highest monthly bills in the 12 months following the deposit. The provisions of 11 U.S.C. (306(b) of the Federal Bankruptcy Code, or any successor statute or provision, shall, if inconsistent, supersede the provisions of this rule.

(C) Docket Change

**EXHIBIT “3”**

Thu  
Mar 10  
2011

## Society Hill Hotel To Become The Monkey Bar & Restaurant



The Havana Banana Group (Bill Curry and the people behind Cafe Nola and Copabanana) have bought the Society Hill Hotel at 301 Chestnut Street, one of two projects they have planned for the Old City neighborhood. This “special plan,” according to a masked representative from Havana Banana, will be a sort of high-end Copabanana, and they will try as much as possible to “compliment the hotel and the Old City neighborhood.”

The new restaurant, The Monkey Bar & Restaurant, will have a 1940s Havana-style design and (yah) outdoor seating. The hotel will keep the Society Hill Hotel name but will be outfitted with upgrades to bring it up to date as a “boutique hotel.” This spot has no relation to the late Monkey Bar of Rittenhouse.

# **EXHIBIT “4”**



**Corporations**

[Online Services](#) | [Corporations](#) | [Forms](#) | [Contact Corporations](#) | [Business Services](#)

- Search
- By Business Name
- By Business Entity ID
- Verify
- Verify Certification
- Online Orders
- Register for Online Orders
- Order Good Standing
- Order Certified Documents
- Order Business List
- My Images
- Search for Images

**Business Entity Filing History**

**Date:** 12/3/2013 (Select the link above to view the Business Entity's Filing History)

**Business Name History**

Name	Name Type
HAVANA BANANA GROUP, INC.	Current Name

**Business Corporation - Domestic - Information**

**Entity Number:** 4007017  
**Status:** Active  
**Entity Creation Date:** 1/10/2011  
**State of Business.:** PA  
**Registered Office Address:** 301 Chestnut Street  
 Philadelphia PA 19106  
 Philadelphia  
**Mailing Address:** No Address

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**PECO ENERGY**  
**EXHIBIT 4**