



**Exelon Business Services Company**  
Legal Department

2301 Market Street/S23-1  
Philadelphia, PA 19103

215 568 3389 Fax  
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Direct Dial: 215 841-6841

November 12, 2014

Art Larson  
176 Hart Avenue  
Doylestown, PA 18901

**RE: Art Larson v. PECO Energy Company**  
**PUC Docket No.: C-2014-2451754**

Dear Mr. Larson:

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", with a stylized flourish at the end.

Shawane Lee  
Counsel for PECO Energy Company  
SL/lo  
Encl.



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November 12, 2014

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

**RE: Art Larson v. PECO Energy Company**  
**PUC Docket No.: C-2014-2451754**

Dear Ms. Chiavetta:

Enclosed for filing with the Commission are *PECO Energy Answer and New Matter to Formal Complaint* with regard to the matter referenced above.

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,

A handwritten signature in black ink, appearing to read "Shawane Lee", with a long, sweeping underline.

Shawane Lee  
Counsel for PECO Energy Company

Scheduling Recommendation: **NOT CALL OF THE DOCKET**

s/LO

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

<b>ART LARSON</b>	:	
<b>Complainant</b>	:	
<b>v.</b>	:	<b>DOCKET NO. C-2014-2451754</b>
	:	
<b>PECO ENERGY COMPANY</b>	:	
<b>Respondent</b>	:	

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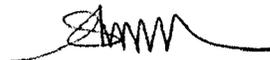
**NOTICE TO PLEAD**

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 within 10 days from service of this notice, a ruling may be entered against you. Your response 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:  
Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, Second Floor  
Harrisburg, PA 17120

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

Dated at Philadelphia, PA, November 12, 2014



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Shawane L. Lee  
PECO Energy Company  
2301 Market Street, S-23  
Philadelphia, PA 19103  
(215) 841-6481  
[Shawane.Lee@exeloncorp.com](mailto:Shawane.Lee@exeloncorp.com)

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

<b>ART LARSON</b>	:	
<b>Complainant</b>	:	
<b>v.</b>	:	<b>DOCKET NO. C-2014-2451754</b>
	:	
<b>PECO ENERGY COMPANY</b>	:	

**ANSWER OF RESPONDENT,**  
**PECO ENERGY COMPANY**

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On November 6, 2014, PECO Energy Company ("PECO Energy") was served with a formal complaint filed by Art Larson (hereafter "Complainant"). Pursuant to 52 Pa. Code § 5.61, PECO Energy responds to the Complaint and states:

1. Admitted
2. Admitted.
3. Admitted.
4. Denied. Unless specifically admitted herein, PECO Energy denies all material allegations of fact and conclusions of law in the Complaint.

In his Complaint, Complainant is opposing installation of PECO Energy's smart meter. The Complainant alleges that PECO Energy is threatening to terminate his service because he refuses to have the meter installed. PECO Energy's records reveal the following:

The Complainant established service at 176 Hart Avenue, Doylestown, PA 18901. PECO Energy sent correspondence or made telephone calls to the Complainant, requesting access to install an AMI meter at his residence on the following dates: March 15, 2014, April 8, 2014, August 27, 2014, October 23, 2014, October 27, 2014, October 28, 2014, October 30,

with complying with this law, PECO must install AMI meters for all current AMR customers by the end of 2014. In order to comply with Act 129 and deployment plans filed with the Pennsylvania Public Utility Commission, PECO is terminating service to customers who, after repeated requests, do not give the company access to install the meter.

PECO has the right to terminate a customer's service for failure to permit access to install the Smart Meter. Pursuant to Section 10.5, PECO Energy has a right to access the premises of a customer at all reasonable times for the purpose of installing, removing or changing any or all equipment belonging to the company. See Section 10.5 of PECO Electric Service Tariff. Section 18.3 of PECO Energy's tariff, permits the company to terminate a customer for cause if access to the meter is refused. See Section 18.3 of PECO Electric Service Tariff. PECO Energy's Commission approved tariff is prima facie reasonable and has the full force and effect of law. 66 Pa.C.S. § 316; *Kossmann v. PA PUC*, 694 A.2d 1147 (Pa Cmwlft 1997); *Brockway Glass Co. v. PA. PUC*, 437 A.2d 1067 (Pa. Cmwlft 1981). In this case, the Complainant is refusing the installation of the Smart Meter; therefore, he is subject to termination consistent with Section 10.5 and 18.3 of PECO's tariff.

The Complainant's Complaint should be dismissed as a matter of law as set forth in the company's New Matter and accompanying Preliminary Objection.

5. Denied.
6. Admitted.

7. Admitted.

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

1. The Complainant has requested that he be permitted to "opt out" of the smart meter installation at his residence.

2. PECO Energy's Smart Meter installation plan was approved by the Pennsylvania Utility Commission on May 6, 2010, as a part of the Smart Meter Technology Procurement and Installation Plan, ("Smart Meter/Smart Grid Plan") at docket number M-2009-2123944.

3. By way of background, Governor Edward Rendell signed Act 129 of 2008 into law on October 15, 2008. The Act took effect 30 days thereafter on November 14, 2008, and amended Section 2807 of the Public Utility Code. Among other things, the Act specifically directed that electric distribution companies (such as PECO Energy) with more than 100,000 customers file smart meter technology procurement and installation plans with the Commission for approval. See 66 Pa. C.S. § 2807(f).

4. The statute does not provide customers with an option to "opt out" of smart meter installation.

5. On June 18, 2009, the Commission adopted a Smart Meter Procurement and Installation Implementation Order (“Implementation Order”) to establish the standards each plan must meet and to provide guidance on the procedures to be followed for submittal, review and approval of all aspects of each smart meter plan. See Smart Meter Procurement and Installation Implementation Order, entered on June 24, 2009, at Docket No. M-2009-2092655.

6. The Commission’s Order does not have a provision for customers to “opt out” of the smart meter installation.

7. On August 14, 2009, PECO Energy filed with the Commission its Petition of PECO Energy Company for Approval of its Smart Meter/Smart Grid Plan.

8. By Order entered May 6, 2010 at Docket No. M-2009-2123944, the Commission approved PECO Energy’s Smart Meter/Smart Grid Plan.

9. The Commission’s Order approving PECO Energy’s plan does not provide an “opt out” provision.

10. In conjunction with the Commission’s Implementation Order; the Commission-approved Smart Meter/Smart Grid Plan and continuing compliance with Act 129, PECO Energy has deployed over 194,000 Advanced Metering Infrastructure (“AMI”) meters in customer’s homes and businesses.

11. Act 129, the Commission’s Implementation Order; and PECO Energy’s Commission-approved Smart Meter/Smart Grid Plan do not provide customers the ability to “opt out” of having a smart meter installed in their homes or businesses. See 66 Pa. C.S. § 2807(f). See also Smart Meter Procurement and Installation Implementation Order, at Docket No. M-2009-2092655. See PECO Energy’s Smart Meter/Smart Grid Plan at docket number M-2009-2123944.

12. The absence of an “opt out” provision in the existing statute; Implementation Order; and Smart Meter/Smart Grid Plan is underscored by a recent bill introduced at the General Assembly.

13. House Bill 2188, which was introduced on February 8, 2012, seeks to change the existing law by adding a “opt out” provision. Specifically, House Bill 2188 reads as follows:

*Section 2807(f) of Title 66 of the Pennsylvania Consolidated Statutes is amended by adding a clause to read:*

*§ 2807. Duties of electric distribution companies.*

*\* \* \**

*(2) Electric distribution companies shall furnish smart meter technology as follows:*

*(iii) In accordance with a depreciation schedule not to exceed 15 years.*

*(iv) Customers may request to opt out of receiving smart meter technology under subparagraph (iii) by notifying, in writing, the electric distribution company. Meters for customers who opt out will be replaced according to a useful life depreciation schedule.*

14. House Bill 2188 attempts to address individual customer concerns about the smart meter (such as the Complainant’s concerns) by allowing individual customers to “opt out” of receiving smart meter technology on the mandatory schedule established by Act 129.

15. The “opt out” provision; however, has not been scheduled for a vote by the General Assembly, and the ability to opt out of smart meter installation is not currently permissible under the law.

16. Accordingly, the Complainant’s formal complaint, requesting the ability to “opt out” of smart meter installation should be dismissed as a matter of law.

17. The Complainant’s Complaint does not allege that PECO Energy has improperly installed the meter in any way contrary or inconsistent with the Commission-approved Smart Meter/Smart Grid Plan.

18. The Complainant simply alleges that he does not want the meter installed.

19. Assuming that everything the Complainant alleges in his Complaint is true, PECO Energy is operating under the basis of Act 129 and the specific direction given to the company by the legislature and the Commission through the Commission's Implementation Order.

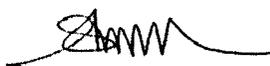
20. Further, as the law currently stands, pursuant to Act 129 and the Commission's Implementation Order, customers do not have the ability to "opt out" of smart meter installation.

21. Because PECO Energy's smart meters are being deployed in compliance with the Commission-approved Smart Meter/Smart Grid Plan, and the law does not provide for the Complainant to "opt out" of smart meter installation, there is no legal basis for the Complainant's Complaint.

22. For the reasons set forth above, the Complainant's Complaint should be dismissed as a matter of law.

**WHEREFORE**, PECO Energy Company respectfully requests that your Honorable Commission dismiss the instant Complaint.

Respectfully Submitted,



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

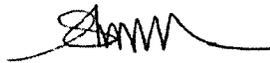
**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

<b>ART LARSON</b>	:	
<b>Complainant</b>	:	
<b>v.</b>	:	<b>DOCKET NO. C-2014-2451754</b>
	:	
<b>PECO ENERGY COMPANY</b>	:	

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**VERIFICATION**

I, Shawane 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, 2014

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

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

<b>ART LARSON</b>	:	
<b>Complainant</b>	:	
<b>v.</b>	:	<b>DOCKET NO. C-2014-2451754</b>
	:	
<b>PECO ENERGY COMPANY</b>	:	

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**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:

Art Larson  
176 Hart Avenue  
Doylestown, PA 18901

Dated at Philadelphia, Pennsylvania, November 12, 2014



---

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



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November 12, 2014

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

**RE: Art Larson v. PECO Energy Company**  
**PUC Docket No.: C-2014-2451754**

Dear Ms. Chiavetta:

Enclosed for filing with the Commission are *PECO Energy Company's Preliminary Objections to Formal Complaint* with regard to the matter referenced above.

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,

A handwritten signature in black ink, appearing to read "Shawane Lee", with a stylized flourish at the end.

Shawane Lee  
Counsel for PECO Energy Company

Scheduling Recommendation: **NOT CALL OF THE DOCKET**

s/LO

PENNSYLVANIA PUBLIC UTILITY COMMISSION

ART LARSON :  
Complainant :  
v. : DOCKET NO. C-2014-2451754  
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 Preliminary Objections 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 Preliminary Objections, 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, November 12, 2014



---

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>ART LARSON</b>	:	
<b>Complainant</b>	:	
v.	:	<b>DOCKET NO. C-2014-2451754</b>
	:	
<b>PECO ENERGY COMPANY</b>	:	
<b>Respondent</b>	:	

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**PRELIMINARY OBJECTION OF RESPONDENT,  
PECO ENERGY COMPANY**

Respondent, PECO Energy Company (“PECO Energy”), pursuant to 52 Pa. Code § 5.101(a)(4) respectfully petitions this Honorable Commission to dismiss the instant Complaint as legally insufficient.

1. On November 6, 2014, PECO Energy was served with a formal complaint filed by Art Larson. (hereafter “Complainant”). A copy of the Complaint is attached hereto as Exhibit “1”.

2. In his Complaint, the Complainant alleges that PECO Energy is threatening to terminate his service.

See Exhibit “1”.

3. In his request for relief, the Complainant states:

**Stop threats to shut off Utilities Bills are paid due to disallow them to install smart meter.**

See Exhibit “1”.

4. In essence, the Complainant is requesting to “opt out” of smart meter installation at his home and refuses to have the meter installed. The Complainant disputes his pending service termination for failure to give PECO access to install the meter.

5. PECO Energy simultaneously filed an Answer and the instant Preliminary Objection.

6. Pursuant to 52 Pa. Code § 5.101, preliminary objections may be filed against a complaint and dismissed for legal insufficiency. 52 Pa. Code § 5.101(a)(4).

7. Commission procedure regarding the disposition of preliminary objections is similar to that utilized in Pennsylvania civil procedure. Equitable Small Transportation Intervenors. v. Equitable Gas Co., 1994 Pa.PUC LEXIS 69, Docket No. C-00935435 (July 18, 1994).

8. In deciding preliminary objections, the Public Utility Commission must determine, based on the factual pleadings of the petitioner, if relief or recovery is possible. Roc v. Flaherty, 527 A.2d 211 (Pa. Cmwlth 1985).

9. A complaint must be able to recover under the law to survive a preliminary objection. Milliner v. Enck, 709 A.2d 417, 418 (Pa. Super. Ct. 1998) (“preliminary objection should be sustained only where it appears with certainty that, upon the facts averred, the law will not allow the plaintiff to recover”).

10. All of the non-moving party’s averments must be taken as true for the sake of deciding the preliminary objection. County of Allegheny v. Commw. of Pa., 490 A.2d 402 (Pa. 1985).

11. The court does not, however, need to accept, “unwarranted inferences from facts, argumentative allegations, or expressions of opinions.” Feingold v. McNulty, 2009 Phila. Ct. Com. Pl LEXIS 167, \*3.

12. Section 703 of the Public Utility Code, 66 Pa. C.S.A. § 703(b) provides that the Commission may dismiss any complaint without a hearing if, in its opinion, a hearing is not necessary to the public interest.

13. A hearing is required only when there is a disputed question of fact, and is not required to resolve questions of law. Dee-Dee Cab, Inc. v. Pa.Pub. Util. Comm’n, 817 A.2<sup>nd</sup> 593 (Pa.Commw. Ct. 2003), petition for allowance of appeal denied, 836 A.2d 123 (Pa. 2003).

14. Here, there are no genuine issues of fact and PECO Energy is entitled to judgment as a matter of law with respect to all of the allegations in the Complaint.

#### **I. Legal Insufficiency – Prior Commission Approval of Smart Meter Installation**

15. The Complainant has requested that he be permitted to “opt out” of the smart meter installation at his residence. PECO Energy’s Smart Meter installation plan was approved by the Pennsylvania Utility Commission on May 6, 2010, as a part of the Smart Meter Technology Procurement and Installation Plan, (“Smart Meter/Smart Grid Plan”) at docket number M-2009-2123944.

16. By way of background, Governor Edward Rendell signed Act 129 of 2008 into law on October 15, 2008. The Act took effect 30 days thereafter on November 14, 2008, and amended Section 2807 of the Public Utility Code. Among other things, the Act specifically directed that electric distribution companies (such as PECO Energy) with more than 100,000 customers file smart meter technology procurement and installation plans with the Commission

for approval. See 66 Pa. C.S. § 2807(f). The statute does not provide customers with an option to “opt out” of smart meter installation.

17. On June 18, 2009, the Commission adopted a Smart Meter Procurement and Installation Implementation Order (“Implementation Order”) to establish the standards each plan must meet and to provide guidance on the procedures to be followed for submittal, review and approval of all aspects of each smart meter plan. See Smart Meter Procurement and Installation Implementation Order, entered on June 24, 2009, at Docket No. M-2009-2092655.

18. Specifically, the Commission’s Implementation Order states:

Act 129 requires EDCs to furnish smart meter technology (1) upon request from a customer that agrees to pay the cost of the smart meter at the time of the request, (2) in new building construction, and (3) in accordance with a depreciation schedule not to exceed 15 years. 66 Pa.C.S. § 2807(f)(2).

\*\*\*\*\*

The Commission believes that it was the intent of the General Assembly to require all covered EDCs to deploy smart meters system-wide when it included a requirement for smart meter deployment “in accordance with a depreciation schedule not to exceed 15 years.”

**THEREFORE,  
IT IS ORDERED:**

1. That the Commission establishes specific smart meter technology minimum capabilities and procedures for submittal, review and approval of all aspects of each smart meter plan to include cost recovery.
2. That electric distribution companies with greater than 100,000 customers adhere to the guidelines for smart meter technology procurement and installation identified in this Implementation Order.
3. That the Director of Operations convene a stakeholder meeting no later than July 17, 2009, to discuss issues related to the costs and benefits associated with the Commission imposed smart meter capability requirements.

4. That all electric distribution companies that are required to file a smart meter technology procurement and installation plan file such a plan consistent with the directives contained in this order by August 14, 2009.

See id.

19. The Commission's Order does not have a provision for customers to "opt out" of the smart meter installation.

20. Through its Implementation Order and policies, the Commission has approved the smart meter implementation process required by Act 129.

21. Indeed, Pennsylvania PUC Chairman, Robert F. Powelson stated:

Act 129 of 2008 has really paved the way for the rollout of smart meters, also referred to as Advanced Metering Infrastructure (AMI), and the implementation of Act 129 continues to benefit Pennsylvania customers. As I see it, smart meter technology is a "win-win" situation for the Commonwealth – both electricity customers and electricity providers alike reap the benefits of advanced meters.

See PaPUC Chairman Powelson on Smart Meters and Pennsylvania's Energy Future at <http://www.smartgridlegalnews.com/interviews/papuc-chairman-powelson-on-smart-meters-and-pennsylvanias-energy-future/>

22. On August 14, 2009, PECO Energy filed with the Commission its Petition of PECO Energy Company for Approval of its Smart Meter/Smart Grid Plan.

23. Amongst other things, PECO Energy's Petition requested that the Commission approve the deployment of up to 600,000 smart meters. See PECO Energy's Smart Meter/Smart Grid Petition.

24. As a part of PECO Energy's meter deployment plan, the company committed to deploy 600,000 meters by March 2013, upon receiving American Recovery and Reinvestment Act funding from the Department of Energy. See id.

25. PECO Energy's Implementation plan does not give customers the option to "opt out" of smart meter installation.

26. By Order entered May 6, 2010 at Docket No. M-2009-2123944, the Commission approved PECO Energy's Smart Meter/Smart Grid Plan.

27. The Commission's Order approving PECO Energy's plan does not provide an "opt out" provision.

28. In conjunction with the Commission's Implementation Order; the Commission-approved Smart Meter/Smart Grid Plan and continuing compliance with Act 129, PECO Energy has deployed over 194,000 Advanced Metering Infrastructure ("AMI") meters in customer's homes and businesses.

29. Act 129, the Commission's Implementation Order; and PECO Energy's Commission-approved Smart Meter/Smart Grid Plan do not provide customers the ability to "opt out" of having a smart meter installed in their homes or businesses. See 66 Pa. C.S. § 2807(f). See also Smart Meter Procurement and Installation Implementation Order, at Docket No. M-2009-2092655. See PECO Energy's Smart Meter/Smart Grid Plan at docket number M-2009-2123944.

30. The absence of an "opt out" provision in the existing statute; Implementation Order; and Smart Meter/Smart Grid Plan is underscored by a recent bill introduced at the General Assembly.

31. House Bill 2188, which was introduced on February 8, 2012, seeks to change the existing law by adding a "opt out" provision. Specifically, House Bill 2188 reads as follows:

*Section 2807(f) of Title 66 of the Pennsylvania Consolidated Statutes is amended by adding a clause to read:*

*§ 2807. Duties of electric distribution companies.*

\* \* \*

(2) *Electric distribution companies shall furnish smart meter technology as follows:*

(iii) *In accordance with a depreciation schedule not to exceed 15 years.*

(iv) *Customers may request to opt out of receiving smart meter technology under subparagraph (iii) by notifying, in writing, the electric distribution company. Meters for customers who opt out will be replaced according to a useful life depreciation schedule.*

32. House Bill 2188 attempts to address individual customer concerns about the smart meter (such as the Complainants' concerns) by allowing individual customers to "opt out" of receiving smart meter technology on the mandatory schedule established by Act 129.

33. The "opt out" provision; however, has not been scheduled for a vote by the General Assembly, and the ability to opt out of smart meter installation is not currently permissible under the law.

34. Accordingly, the Complainants' formal complaint, requesting the ability to "opt out" of smart meter installation should be dismissed as a matter of law.

35. Administrative Law Judge Joel H. Cheskis reached a similar conclusion in the matter Maria Povacz v. PECO Energy, Docket No. C-2012-2317176 (Order entered September 28, 2012). In that case, the Complainant, Maria Povacz requested to "opt out" of installation of the smart meter at her residence. Id.

36. ALJ Cheskis issued an Initial Decision wherein he determined:

To the extent that Ms. Povacz desires the ability to opt out of the smart meter installation, she should advocate for such ability before the General Assembly.....The formal Complaint process against one Electric Distribution Company, PECO, is not the appropriate avenue for this issue to be addressed.

Id.

37. On January 24, 2013, the Commission issued a Final Order, adopting ALJ Cheskis' Initial Decision. In the Order, the Commission specifically addressed whether a PECO customer could "opt out" of meter installation at their property as follows:

There is no provision in the Code, the Commission's Regulations or Orders that allows a PECO customer to "opt out" of smart meter installation, as the Complainant desires to do. Accordingly, unless and until House Bill 2188, supra, passes the General Assembly, or some other provision is put in place that specifically allows customers to opt out of smart meter installation, PECO has not violated any provision of the Code, any Commission Order or Regulation or any Commission-approved Company tariff by prohibiting the Complainant from opting out.

See Maria Povacz v. PECO Energy, Docket No. C-2012-2317176 (Order adopted January 24, 2013).

38. The PUC precedent for formal complaints filed against PECO Energy in similar cases, requesting smart meter "opt out" have been dismissed on Preliminary Objection as a matter of law. See e.g. Theresa Gavin v. PECO Energy, Docket No. C-2012-2325258 (Order entered January 24, 2013); Jeff Morgan v. PECO Energy, Docket No. C-2013-2356606 (Final Order entered July 23, 2013); Thomas McCarey v. PECO Energy, Docket No. C-2013-2354862 (Final Order entered September 26, 2013); Renney Thomas v. PECO Energy, Docket No. C-2012-2336225 (Final Order entered December 31, 2013); Ellen Donnelly v. PECO Energy, Docket No. F-2013-2330663 (Final Order Entered March 18, 2014).

39. Like the formal complaints filed in the Maria Povacz, Theresa Gavin and Jeff Morgan, Thomas McCarey, Renney Thomas, and Ellen Donnelly matters, objecting to the installation of the smart meter and requesting an "opt out", this case should be dismissed as a matter of law.

40. The Complainant's formal complaint alleges that he does not want the meter installed.

41. Assuming that everything the Complainant alleges in his Complaint is true, PECO Energy is operating under the basis of Act 129 and the specific direction given to the company by the legislature and the Commission through the Commission's Implementation Order.

42. The Complainant's Complaint, objecting to the installation of a smart meter at his residence, does not allege a violation of any order, law or tariff that can be the basis of any finding against PECO Energy.

43. Further, as the law currently stands, pursuant to Act 129 and the Commission's Implementation Order, customers do not have the ability to "opt out" of smart meter installation.

44. Because PECO Energy's smart meters are being deployed in compliance with the Commission-approved Smart Meter/Smart Grid Plan, and the law does not provide for the Complainants to "opt out" of smart meter installation, there is no legal basis for the Complainant's Complaint.

45. Further, PECO has the right to terminate a customer's service for failure to permit access to install the Smart Meter.

46. Pursuant to Section 10.5, PECO Energy has a right to access the premises of a customer at all reasonable times for the purpose of installing, removing or changing any or all equipment belonging to the company. See Section 10.5 of PECO Electric Service Tariff.

47. Section 18.3 of PECO Energy's tariff, permits the company to terminate a customer for cause if access to the meter is refused. See Section 18.3 of PECO Electric Service Tariff.

48. PECO Energy's Commission approved tariff is prima facie reasonable and has the full force and effect of law. 66 Pa.C.S. § 316; *Kossmann v. PA PUC*, 694 A.2d 1147 (Pa Cmwlft 1997); *Brockway Glass Co. v. PA. PUC*, 437 A.2d 1067 (Pa. Cmwlft 1981).

49. In this case, the Complainant is refusing the installation of the Smart Meter; therefore, he is subject to termination consistent with Section 10.5 and 18.3 of PECO's tariff.

50. Therefore, the Complainant is not entitled to relief under the law.

51. For the reasons set forth above, the Complainant's Complaint should be dismissed as a matter of law.

#### **REQUEST FOR RELIEF**

WHEREFORE, for the reasons set forth above, PECO Energy Company respectfully requests that your Honorable Commission summarily dismiss the Complainant's formal complaint, and all issues which were raised in the Complaint.

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  
Shawane.Lee@exeloncorp.com

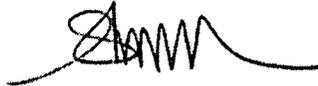
**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

<b>ART LARSON</b>	:	
<b>Complainant</b>	:	
<b>v.</b>	:	<b>DOCKET NO. C-2014-2451754</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, 2014

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

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

<b>ART LARSON</b>	:	
<b>Complainant</b>	:	
<b>v.</b>	:	<b>DOCKET NO. C-2014-2451754</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:

Art Larson  
176 Hart Avenue  
Doylestown, PA 18901

November 12, 2014



---

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”**

**O'Neill, Leslie:(BSC)**

---

**From:** eServe@pa.gov  
**Sent:** Thursday, November 06, 2014 4:02 PM  
**To:** Lee, Shawane L.:(BSC)  
**Cc:** O'Neill, Leslie:(BSC)  
**Subject:** PA PUC eServe Notice

**Importance:** High

Dear Shawane L Lee,

A(n) **Formal Complaint** has been served in this proceeding. This document is docketed as **C-2014-2451754**. You may view this document at **Formal Complaint**

You are receiving this email because you are a(n) **Respondent** for this case and have agreed to be served electronically. By selecting electronic service (eService), you have agreed that this notification constitutes valid service. Electronic service of any and all documents will be in place of paper service.

Thank You,  
Public Utility Commission  
Commonwealth of Pennsylvania

*\* Please do not respond to this automatically generated email.*

FBCO ENERGY  
EXHIBIT 1

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.

RECEIVED  
2014 NOV -3 AM 11:06  
PA P.U.S. BUREAU  
SECRETARY'S BUREAU

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. It is your responsibility to update the Commission with any changes to your address and to where you want documents mailed to you.

Name: Art Larson

Street: 176 Hart Ave Apt #

City: Doylestown State: PA Zip: 18901

County: Bucks

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

(215) 668-6698 (home) ( ) (mobile)

E-mail Address (optional): dssinc@voicenet.com

Utility Account Number (from your bill)

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.

Exelon/PECO 2301 Market St, N1-12 Philadelphia PA 19103

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).

**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.

Stop threats to shut off Utilities Bills are paid due to disallow them to install smart meter.

**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 (PFA)**

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 From 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.

However, if you are interested in receiving legal representation, you may contact the Widener Harrisburg Civil Law Clinic located at 3605 Vartan Way, Harrisburg, PA 17110, by phone at 717-541-0320 or via email at [lawclinicb@mail.widener.edu](mailto:lawclinicb@mail.widener.edu).

For additional information see Widener Harrisburg's Civil Law Clinic's website <http://law.widener.edu/Academics/ClinicalProgramsandProfessionalTraining/Clinics/HarrisburgCivilLawClinic.aspx>. Based on your income, legal representation may be available to you at no cost or a reduced fee.

If you are already 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.





An Exelon Company

PECO  
2301 Market Street  
N1-12  
Philadelphia, PA 19103

www.peco.com

RECEIVED  
2014 NOV -3 AM 11:06  
PA P.U.C.  
SECRETARY'S BUREAU

T1 P1 4 .....ALL FOR AADC 190

ARTHUR LARSON  
176 HART AVE  
DOYLESTOWN, PA 18901-5724



October 29, 2014

Dear ARTHUR LARSON:

During the past few months you have received several letters and telephone calls from us about our meter replacement project. We are replacing the meters in your area and it is important that you contact us immediately to schedule an appointment.

When we replace our meter you will experience a brief service interruption – typically less than a minute. And, if you are home, we'll let you know before we begin working to make sure you are aware.

In the future, these new meters will help us provide more information to help you understand how you use energy, and how to save energy and money. They will also help us provide faster and more convenient service, detect problems faster and provide the platform for new products and services.

PECO is installing these meters as part of Pennsylvania state law, PA Act 129, requiring utilities state-wide to install new metering technology for customers. **Customers who do not accept their new meter could face service termination.**

We are committed to doing everything we can to educate customers and help them understand this new technology, its similarities to our current metering system, and its advantages. For more information please call 215-841-4000 or visit [www.peco.com/technology](http://www.peco.com/technology).

**Please call 215-841-5950 immediately to schedule your appointment.**

Sincerely,

PECO Meter Installation Team

PHILADELPHIA  
PA 191  
31 OCT '14  
PM 7 L

176 Hart Ave Doylestown PA 18901

Secretary  
Pennsylvania Public Utility Commission  
400 North Street  
Harrisburg, Pennsylvania 17120

\$0.699  
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**PENNSYLVANIA**  
PUBLIC UTILITY COMMISSION

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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 250 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.***

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Description:	Art Larson - PECO Energy Company Preliminary Objections
Transmission Date:	11/12/2014 11:19:06 AM
Filed On:	11/12/2014 11:19:06 AM
eFiling Confirmation Number:	1571627

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