

January 6, 2015

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

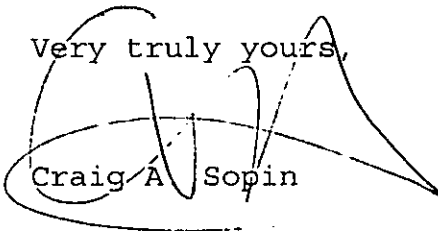
Re: Pat's Gourmet Deli, Inc. vs. PECO Energy Company  
PUC Docket No. C-2013-2394437

Dear Ms. Chiavetta:

Enclosed please find an original and one copy of Complainant's Response to PECO's Main Brief in the above matter. Would you kindly file the original and return a time-stamped copy to me in the stamped envelope enclosed?

Thank you for your attention to this matter.

Very truly yours,



Craig A. Sopin

CAS/do  
Enclosures  
cc: Honorable Angela T. Jones, w/enc.  
Shawane L. Lee, Esquire, w/enc.

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CRAIG A. SOPIN, ESQUIRE  
Identification No. 49587  
601 Walnut Street  
The Curtis Center, Suite 160-W  
Philadelphia, PA 19106  
(215)928-0300

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PAT'S GOURMET DELI, INC. :  
Complainant :  
vs. : DOCKET NO. C-2013-2394437  
PECO ENERGY COMPANY :  
Respondent :

COMPLAINANT'S RESPONSE TO PECO'S MAIN BRIEF

AND NOW comes Complainant, Pat's Gourmet Deli, Inc., by and through its attorney, Craig A. Sopin, Esquire, in accordance with the court's order of November 13, 2014 and in response to the Main Brief of PECO Energy Company submits the following:

**COUNTER ARGUMENT:**

PECO argues that this case begins with the Complainant tampering with the electric meter which caused PECO to receive sporadic readings. (PECO's Main Brief un-numbered 11th page).

First, there have been unsubstantiated allegations of tampering without any allegation of who purportedly tampered with the meters. Moreover, the meter which was removed was not physically examined by PECO or a forensic examiner and its chain of custody seems to have been lost. (TR. 163, 178-179, 180). Moreover, contrary to PECO's suggestion, this is not a meter tampering case. PECO has not raised an issue of meter tampering in any of its pleadings nor has PECO explained how it would appear to have gained

unfettered access to the original meter it claims was tampered with if alleged meter tampering had any actual bearing on this case. The issue of a purported meter tampering is a red herring serendipitously contrived by PECO for the first time during the course of litigation and raised for the first time at the time of the hearing in order to deflect the court's attention from PECO's own sloppy record keeping and other failures.

PECO presented the testimony of various witnesses who purported to attest to appointments made by PECO to gain access to the meter; however, PECO did not present the testimony of anyone who was assigned to inspect or maintain the meter or who actually came to the premises. Instead, PECO relied on various records and reports which complainant exposed, it is respectfully submitted, as deficient in what they purported to memorialize.

PECO argues in its Main Brief that Complainant did not provide evidence to support a claim that PECO, or its authorized representative, showed up after hours and in its Footnote 12 suggests that a negative inference may be drawn thereby. (PECO's Main Brief un-numbered 12th page). PECO did not request an adverse inference at the time of trial. If it had, Complainant would have objected on the basis that Mr. Holton, himself, testified in support of Complainant's allegation that PECO either failed to show up for scheduled appointments or arrived after hours. If there is any negative inference to be had, it should be against PECO for failing to produce direct evidence of any tampering with the removed electric meter, including the meter itself, if relevant.

**CONCLUSION:**

In view of the above, Complainant, Pat's Gourmet Deli, Inc. respectfully requests this Honorable Court to find Respondent, PECO Energy Company, in violation of its tariff rules and regulations; namely, Section 18.3 relating to termination of service, for terminating complainant's service without sufficient cause. Wherefore, this court should impose a reasonable fine upon PECO for its actions and provide any additional relief it deems reasonable and just under the circumstances.

Respectfully submitted:



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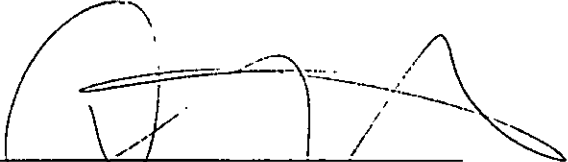
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Respondent :

PROOF OF SERVICE

Pat's Gourmet Deli, Inc., through its counsel, Craig A. Sopin, Esquire, does hereby certify that a copy of Complainant's Response to PECO's Main Brief in the above matter was mailed U.S. First Class Mail, postage prepaid, on January 6, 2015 as follows:

Honorable Angela T. Jones  
Administrative Law Judge  
PA Public Utility Commission  
801 Market Street  
4th Floor, Suite 4063  
Philadelphia, PA 19107

Shawane L. Lee, Esquire  
Exelon Business Services Company  
2301 Market Street, S23-1  
P.O. Box 8699  
Philadelphia, PA 19101-8699  
(two copies)

  
CRAIG A. SOPIN, ESQUIRE

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**Philadelphia, PA 19106**

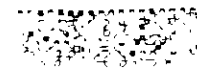
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