



An Exelon Company

Legal Department
2301 Market Street / S23-1
P.O. Box 8699
Philadelphia, PA 19101-8699

Direct Dial: 215-841-6841

November 11, 2015

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

RE: Vito Satiro v. PECO Energy Company
PUC Docket No.: F-2015-2510660

Dear Ms. Chiavetta:

Enclosed for filing with the Commission is *Preliminary Objection of Respondent, PECO Energy Company* 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 horizontal flourish extending to the right.

Shawane Lee
Counsel for PECO Energy Company

SL/ab

cc: Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

VITO SATIRO	:	
Complainants	:	
v.	:	DOCKET NO. F-2015-2510660
	:	
PECO ENERGY COMPANY	:	
Respondent	:	

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 Objection 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 11, 2015.



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

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

VITO SATIRO	:	
Complainants	:	
v.	:	DOCKET NO. F-2015-2510660
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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 October 29, 2015, PECO Energy was served with a formal complaint filed by Vito Satiro (hereafter “Complainant”). A copy of the Complaint is attached hereto as Exhibit “1”.
2. In his Complaint, Complainant states that he owns a rental property located at 249 Broad Street, Spring City, PA that has six electric meters.
3. The Complainant states that PECO’s inspector determined a second floor hallway 40 watt bulb was connected to his tenant’s meter.
4. The Complainant states that he had his electrician correct the wiring within 48 hours.
5. The Complainant states the condition was not known to him but he still received a bill for \$1,439.98.

6. In his request for relief, the Complainant requests that the PUC order PECO to remove the \$1,439.98 bill transferred to him and redirect the bill to the tenant.

7. The Complainant states that the tenant enjoyed the full benefit of the electric service provided to him; therefore, he should be responsible for the \$1,439.98 bill.

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

9. 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).

10. Commission procedure regarding the disposition of preliminary objections is similar to that utilized in Pennsylvania civil procedure.¹

11. In deciding preliminary objections, the Public Utility Commission must determine, based on the factual pleadings of the petitioner, if relief or recovery is possible.²

12. A complaint must be able to recover under the law to survive a preliminary objection.³

13. All of the non-moving party's averments must be taken as true for the sake of deciding the preliminary objection.⁴

14. The court does not, however, need to accept, "unwarranted inferences from facts, argumentative allegations, or expressions of opinions."⁵

¹ *Equitable Small Transportation Interveners v. Equitable Gas Co.*, 1994 Pa.PUC LEXIS 69, Docket No. C-00935435 (July 18, 1994)

² 2006 Pa. PUC Lexis 111, *7.

³ *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").

⁴ *Id.* at 7-8.

⁵ *Feingold v. McNulty*, 2009 Phila. Ct. Com. Pl LEXIS 167, *3.

15. 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 of, in its opinion, a hearing is not necessary to the public interest.

16. 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.2nd 593 (Pa.Commw. Ct. 2003), petition for allowance of appeal denied, 836 A.2d 123 (Pa. 2003).

17. 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.

18. The Commission has held that a landlord must pay the utility for any account balance, including arrearages, once a foreign load or wiring has been found. 66 Pa. C.S. §§ 1529.1(a), (c); and Ace Check Cashing Inc. v. Phila. Gas Works, Final Order, (May 21, 2010). See also Santos v. Metro. Edison Co., No. C-00967757 (Pa. P.U.C. Aug. 7, 1997).

19. The Complainant is the owner of the rental property at issue. See Exhibit "1".

20. The Complainant avers that he is being held responsible for his tenant's balance that was transferred to him. The Complainant disputes responsibility for the balance transferred to him arising from the foreign wiring condition. See Complaint at Exhibit "1".

21. The Complainant seeks the following relief:

Order the utility to remove its claim against the appellant and redirect it to the tenant who enjoyed the full benefit of the electric provided to him.

See Complaint at Exhibit "1".

22. As previously explained by the Legislature and this Commission, upon discovering the existence of a foreign load a public utility is required to list the account, including any arrearages, in the name of the landlord. 66 Pa. C.S. §§ 1529.1(a), (c). See also Santos v. Metro. Edison Co., No. C-00967757 (Pa. P.U.C. Aug. 7, 1997). The landlord is responsible

for paying the utility bills until the foreign load is corrected. Santos at 16. Once the foreign load is corrected by the landlord and verified by the utility, the utility will place the account back in the name of the tenant and the arrearage, if any, will remain the landlord's responsibility. Id. To the extent any dispute regarding the financial responsibility of the parties exists, that is a matter to be resolved in the Court of Common Pleas as it is outside the Commission's jurisdiction. Edmund v. Corazzini v. UGI Penn Natural Gas, Inc., No. F-2009-2101282, Opinion and Order adopted July 15, 2010 at 7.

23. The Complainant does not allege that the property is not a rental property or that he is not the owner of the property.

24. The Complainant does not allege that PECO Energy incorrectly determined a foreign wiring condition at his property.

25. The Complainant does not allege that PECO Energy delayed investigating his tenant's foreign wiring concerns.

26. The Complainant does not allege that PECO Energy transferred an incorrect amount to his account.

27. The Complainant does not allege that PECO Energy delayed their field investigation to verify the foreign wiring had been corrected.

28. The Complainant's formal complaint simply alleges that foreign wiring was found at his property and he feels that he should not be held responsible for his tenant's balance arising from the foreign wiring because the 40 watt light bulb associated with the condition is minimal and the tenant skipped out on his rent.

29. Indeed, consistent with Ace Check Cashing, Inc. vs. Philadelphia Gas Works, Docket No. C-2008-2056428, the Commission cannot consider what the Complainant proposes

(i.e., to determine the portion of the foreign wiring that is attributable to the 40 watt hallway light).

30. In Ace Check Cashing, Inc., the Commission reversed the Initial Decision in Afshari v. PPL Electric Utilities Corporation, Docket No. C-20055547 (Order entered April 9, 2008) (Afshari) relating to foreign load situations.

31. In the Commission's decision, they stated:

The key determination in *Afshari* is that, when foreign load is found, per operation of Subsection (c), the landlord shall be responsible only for the portion of the tenant's arrearage that is related to foreign load. However, Commission precedent, such as *Elizabeth Santos v. Met Ed*, Docket No. C-00967757 (Order entered August 7, 1997), holds that Subsection (c) operates to place both current bills and all arrearages in the landlord's name if the landlord failed to provide the notice required by Subsection (a). In interpreting Subsection (c), the decision in *Afshari* sought to avoid an unreasonably harsh result for the landlord in that it does not require the owner to be responsible for the tenant's potentially large arrearages, especially where the foreign load is *de minimus*. However, the approach in *Afshari* lessens the incentive for the landlord to correct the foreign load situation that is due to a wiring, plumbing or piping problem for which the landlord is responsible. While the language in Subsection (c) can be viewed as ambiguous enough to allow some latitude for Commission interpretation, a determination that the landlord's financial responsibility for arrearages is strictly limited to the foreign load portion of the arrearage is problematic. This is because the statutory remedy for failure to provide notice provided in Subsection (c) refers back to Subsection (b) which clearly mandates that the landlord "shall thereafter be responsible for the payment for the utility services rendered [to the rental property]."

32. As stated above, the landlord shall be responsible for payment for the utility services rendered to the rental property.

33. PECO Energy properly transferred the tenant's utility account, including arrearages, to the Complainant's name.

34. PECO Energy's actions are consistent with Pennsylvania law.

35. The PUC is not the forum for the Complainant to raise what is essentially a dispute, regarding the foreign wiring balance that should be attributable to him as opposed to the amount attributable to his tenant.

36. As stated in Edmund v. Corazzini, supra that is a matter to be resolved in the Court of Common Pleas as it is outside the Commission's jurisdiction.

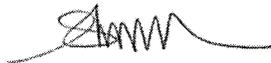
37. Because the Complaint relates to a dispute about the assignment of financial responsibility for a foreign load in a building he owns, this complaint should be dismissed as a matter of law.

38. Accordingly, PECO Energy requests that the Commission dismiss the Complaint for legal insufficiency.

REQUEST FOR RELIEF

WHEREFORE, for the reasons set forth above, PECO Energy Company respectfully requests that your Honorable Commission summarily dismiss the Complainants' 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**

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PECO ENERGY COMPANY	:	
Respondent	:	

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 11, 2015



Shawane L. Lee

**BEFORE THE
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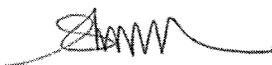
CERTIFICATE OF SERVICE

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:

Vito Satiro
P.O. Box 472
Parkerford, PA 19475

Ronald F. Brien, Esquire
808 Westfield Avenue
Spring City, PA 19475-1136

Dated at Philadelphia, Pennsylvania, November 11, 2015



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

Botak, Amy:(PECO)

From: eServe@pa.gov
Sent: Thursday, October 29, 2015 3:21 PM
To: Lee, Shawane L.:(PECO)
Cc: Botak, Amy:(PECO)
Subject: [EXTERNAL] PA PUC eServe Notice

Importance: High

Dear Shawane L Lee,

A(n) **Formal Complaint Form** has been served in this proceeding. This document is docketed as **F-2015-2510660**. You may view this document at [Formal Complaint Form](#)

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.*

PECO ENERGY
EXHIBIT **1**

RONALD F. BRIEN
Attorney At Law

808 WESTFIELD AVENUE
SPRING CITY, PA 19475-1136
(610) 948-9451
FAX (610) 948-6690

October 26, 2015
Secretary
PA Public Utility Commission
400 North Street
Commonwealth Keystone Bldg. 2nd Floor
Harrisburg, Pa 17120

RE: 249 Broad Street
Spring City, Pa 19475

RECEIVED

OCT 26 2015

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Dear Sir:

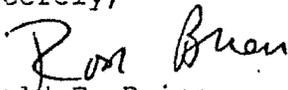
Attached is a signed copy of my client's customer complaint information.

To charge \$1,439.98 for a forty watt hallway bulb is a pretty draconian penalty. Landlord did not know anything about the wiring until he received notice from the tenant, who is no doubt familiar with these kinds of things. The matter was corrected within 48 hours and PECO received a copy of the electricians invoice. Tenant has been unjustly enriched by PECO because he knows how to play the game. He moved out when he received the first PECO bill and yes, he did not pay his rent.

Enclosed is an envelope for the return of a date stamped copy.

Thank you.

Sincerely,


Ronald F. Brien

PC: V. Satiro ✓

Must be returned by November 4, 2015

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Formal Complaint

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

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

1. Customer (Complainant) Information

Provide your name, mailing address, county, telephone number(s), e-mail address and utility account number: It is your responsibility to update the Commission with any changes to your address and to where you want documents mailed to you.

Name Vito + Antonina Satiro
Street/P.O. Box P.O. Box 472 Apt # _____
City Parkertown State PA Zip 19475
County Chesler

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

484 948-0796 (home) () (mobile)

RECEIVED

E-mail Address (optional): _____

OCT 26 2015

Utility Account Number (from your bill) _____ PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

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 Vito + Antonina Satiro
Street/P.O. Box 249 Broad St.
City Spring City State PA Zip 19475

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

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.

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. Appellant owns property with 6 electric meters. Inspector determined 2nd floor hallway 40 watt bulb was connected to tenants meter. Appellant had electrician correct wiring within 48 hours. The condition

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).

* was not known to them, He called PECO and supplied documentation, but still received bill for \$1439.98 tenant moved out without paying his rent, that amount should cover a forty watt bulb for about 50 years.

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.

Order the utility to remove its claim against the Appellant and redirect it to the tenant who enjoyed the full benefit of the electric provided to him. Appellant does not live at 249 Broad Street Spring City, PA 19475. The utility has his address and could have contacted him, but relied on a tenant who skipped out not paying his rent. It apparently used this ruse before.

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.

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 Ronald T. Brian
Street/P.O. Box 308 Westfield Ave
City Spring City State PA Zip 19475
Area Code/Phone Number 610-948-9451
E-mail Address (if known) ronbrien@verizon

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, Vito Satrio, hereby state that the facts above set forth are true and correct (or are true and correct to the best of my knowledge, information and belief) and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Vito Satrio 10.26.15
(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. Two Ways to File Your Formal Complaint

Electronically. You must create an account on the PUC's eFiling system, which may be accessed at <http://www.puc.pa.gov/efiling/default.aspx>.

Note: If you are appealing your Bureau of Consumer Services (BCS) decision, you must file your formal complaint by mail.

Mail. Mail the completed form with your original signature and any attachments, by certified mail, first class mail, or overnight delivery to this address:

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

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.

CERTIFIED MAIL™



7004 0750 0000 8358 5954



1000



17120

U.S. POSTAGE
PAID
PARKER FORD
19457
OCT 28 15
AMOUNT
\$6.96
R2305K141137-01

Ronald F. Brien, Esq.
808 Westfield Avenue
Spring City, PA 19475

RE

NOTICE REQUESTED

Secretary
PA Public Utility Commission
400 North Street
Commonwealth Keystone Bldg. 2nd Floor
Harrisburg, Pa 17120

171200078 0000

