



An Exelon Company

Legal Department  
2301 Market Street / S23-1  
P.O. Box 8699  
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Direct Dial: 215-841-6841

May 4, 2016

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

**RE: Alfred Ottaviano v. PECO Energy Company**  
**PUC Docket No.: F-2016-2542081**

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, sweeping underline.

Shawane Lee  
Counsel for PECO Energy Company

SL/ab

cc: Certificate of Service

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**ALFRED F. OTTAVIANO**

**Complainant**

v.

**PECO ENERGY COMPANY**

**Respondent**

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**DOCKET NO. F-2016-2542081**

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**NOTICE TO PLEAD**

Pursuant to 52 Pa. Code §§ 5.61(a)(2), 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 10 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, May 4, 2016.



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Shawane L. Lee  
Counsel for PECO Energy Company  
2301 Market Street S-23  
Philadelphia, PA 19101-8699  
215-841-6841  
Shawane.Lee@exeloncorp.com

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

<b>ALFRED F. OTTAVIANO</b>	:	
<b>Complainant</b>	:	
<b>v.</b>	:	<b>DOCKET NO. F-2016-2542081</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 April 27, 2016, PECO Energy was served with a formal complaint filed by Alfred F. Ottaviano (hereafter "Complainant"). A copy of the Complaint is attached hereto as Exhibit "1".
2. In his Complaint, the Complainant states "the utility is threatening to shut off my service unless I have a smart meter (which is not underwriter approved) installed in our home at 341 So. 4<sup>th</sup> Street, Phila., PA 19106. See Exhibit "1".
3. In his request for relief, the Complainant states:

**I am being harassed and threatened by PECO with shut off notices of service if I do not allow them to replace my current electrical meter with a so called AMI/Smart Meter. According to a well-documented article in February 2014, a smart meter caught fire and apparently exploded in Bensalem, Pennsylvania. The subsequent fire resulted in significant damage to an apartment building. This fire represents one of the best documented instances of a smart meter on record in**

**terms of damage, havoc, injury and potential loss of life that can be caused by smart meters.**

**Other issues involving health, safety and exposure to certain levels of radiation have appeared in The Philadelphia Inquirer and in many newspapers throughout the United States and Canada. Another issue worth mentioning is that smart meters are generally NOT CERTIFIED by Underwriters Laboratories. As you are aware almost all electrical products sold have a UL tag on them. This demonstrates that smart meters have been deployed without proper consideration for the safety of the homeowner and why has the PUC of Pennsylvania allowed this to happen?**

**If the PUC will forward to me a guarantee of safety that no harm will or can occur from the installation of a smart meter then I will comply with the PECO installation, otherwise I will not compromise my family's safety, health and privacy while at the same time I am being coerced to paying additional charges for PECO's Equipment at the same time they are receiving government subsidies. I want my complaint resolved by the PUC by having the installation of the AMI/Smart Meter deferred until a ruling on the pending Act 129 legislative provision introduced as customer Opt-Out is ruled upon by the PUC.**

See Exhibit "1".

4. In essence, the Complainant is requesting to "opt out" of smart meter installation at his residence because he believes it will have an effect on his family's safety, health and privacy and refuses to have the meter installed.

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 because he believes the meter will have an effect on his family’s safety, health and privacy. 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/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 394, which was introduced on February 9, 2015, seeks to change the existing law by adding a "opt out" provision. Specifically, House Bill 394 reads as follows:

*Section 1. Section 2807(f)(2)(iii) of Title 66 of the Pennsylvania Consolidated Statutes is amended to read:*

*§ 2807. Duties of electric distribution companies.*

*(f) Smart meter technology and time of use rates.-*

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

*(iii) In accordance with a depreciation schedule not to exceed 15 years. Customers may opt out of receiving smart meter technology under this subparagraph by notifying, in writing, the electric distribution company. The following shall apply:*

*A) The electric distribution company shall provide an opt-out form to consumers upon request and may provide a method for consumers to opt out electronically through the electric distribution company's Internet website.*

32. House Bill 394 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.

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. 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.

35. 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.

36. 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).

37. The issue of smart meters and a customers' ability to "opt out" of meter installation due to concerns about health effects has been specifically addressed and rejected by the Commission.

38. On September 3, 2015, the Commission entered an Opinion and Order in the Smart Meter health "opt out" case Susan Kreider v. PECO, Docket No. P-2009-2495064 (Opinion and Order entered, September 3, 2015). In that case, the Commission determined that the "law does not prohibit [the Commission] from considering or holding a hearing on issues related to the safety of smart meters."

39. Since the Kreider Order, the Commission has narrowed the cases that will proceed to hearing. For instance, in Alexander Solowij v. PECO, Docket No. F-2015-2491428 (Opinion and Order entered April 7, 2016), the Complainant objected to the installation of the Smart Meter because he believed if the meter were installed it would aggravate a health condition. PECO terminated Mr. Solowij's service for his failure to permit installation of the meter. Administrative Law Judge Joel H. Cheskis ("ALJ Cheskis") granted PECO's Preliminary Objection and dismissed the complaint.

40. In his Initial Decision, ALJ Cheskis pointed out:

Since the complainant in this case does not allege that [PECO] installed a smart meter at the Complainant's residence and does not allege that the Complainant has suffered specific physical symptoms resulting from the installation of a smart meter, Kreider is not applicable to this case. This conclusion is supported by the Commission's statement in Kreider that its decision was not intended to create a broad reaching precedent.

See Alexander Solowij v. PECO, supra.

41. Administrative Law Judge Steven K. Haas reached a similar conclusion in Andrew Starr v. PECO Energy Company, Docket No. C-2015-2516061 (Initial Decision entered

January 14, 2016). In that case, the Complainant objected to the installation of a smart meter because he claimed it would have an effect on his health.

42. ALJ Haas granted PECO's Preliminary Objection and dismissed the case as matter of law. In his Initial Decision, he noted:

In the present case, installation of the smart meter has not yet occurred, since the Complainant has refused to provide his consent to PECO. Therefore, no actual ill health effects have been or could be claimed. The Complainant has not alleged any act done or omitted to be done by the Respondent that constitutes a violation of a statute, Commission regulation or order. Accordingly, the Formal Complaint is legally insufficient and this complaint is dismissed. As there is no legally justiciable claim, a hearing is not necessary in the public interest. 66 Pa.C.S. §703(b).

See Andrew Starr supra.

43. More recently, Administrative Law Judges Darlene D. Heep and Christopher P. Pell reached the same conclusion in Fugo Eye Institute v. PECO Energy Company, Docket No. C-2015-2519763 (Initial Decision entered March 10, 2016). In that case, the Complainant alleged that installation of the smart meter would have a negative health effect on their patients and staff.

44. ALJ Heep and ALJ Pell dismissed the Complainant's formal complaint on PECO's Preliminary Objection stating:

The Fugos have made no specific factual averments regarding health or other effects experienced after a smart meter was installed. Complainants have not permitted installation of a smart meter at the medical facility. They state, speculatively, that the smart meter "will" have a negative impact on their staff and patients if installed and as relief want keep the old meter. They did not provide any details regarding the alleged future health effects.

See Fugo Eye Institute v. PECO Energy Company supra.

45. In the case Antonio Romeo v. PECO Energy Company, Docket No. the Complainant C-2015-2479260 (Opinion and Order entered Mar. 3, 2016), the Complainant refused to have a smart meter installed because he feared it would cause fires and affect his safety and health.

46. The Commission adopted Administrative Law Judge Elizabeth H. Barnes' Initial Decision and determined:

There are some cases, such as this case, however, where a hearing would not alter the inevitable conclusion that this Commission cannot provide the Complainant the relief requested. *See, Floyd v. Verizon Pennsylvania LLC*, Docket No. C-2012-2333157 (Order entered April 4, 2013). Mr. Romeo has not presented a claim to which he could personally testify that would support a finding that a smart meter was responsible for any fire or damage or other specific safety or health affects he experienced within his home. For these reasons, we find *Carlock* distinguishable from the case now before us and agree with the ALJ's dismissal.

47. The case at bar is similar to the Solowij, Starr, Fugo and Romeo cases. The Complainant does not have a meter installed and alleges he does not want the meter because he fears it will affect his family's privacy, health and safety. The Complainant has not made any specific factual averments of a health effect experienced. The Complainant speculatively suggests that the meter will have an effect on his family and cannot personally testify that a smart meter was responsible for a fire that affected his home. As the Complainant has not averred a specific health effect or safety issue caused by the meter, the Complainant's formal complaint must be dismissed as a matter of law.

48. PECO Energy is required by law to install smart meters throughout its service territory, and there is no provision providing customers with an option of "opting out."

49. 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.

50. 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.

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

52. 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.

53. 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.

54. 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 Cmwlct 1997); *Brockway Glass Co. v. PA. PUC*, 437 A.2d 1067 (Pa. Cmwlct 1981).

55. 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.

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

57. 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.

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

59. Therefore, the Complainant is not entitled to relief under the 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,



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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  
Shawane.Lee@exeloncorp.com

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**ALFRED F. OTTAVIANO**  
**Complainant**

v.

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**Respondent**

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**DOCKET NO. F-2016-2542081**

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**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: May 4, 2016



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Shawane L. Lee

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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**Complainant**

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**DOCKET NO. F-2016-2542081**

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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 Preliminary Objection in the above matter upon all interested parties by mailing a copy, properly addressed and postage prepaid to:

Alfred F. Ottaviano  
34 South 4<sup>th</sup> Street  
Philadelphia, PA 19106  
*Via First Class Mail*

May 4, 2016



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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  
Shawane.Lee@exeloncorp.com

# **EXHIBIT 1**

**Botak, Amy:(PECO)**

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**From:** eServe@pa.gov  
**Sent:** Wednesday, April 27, 2016 2:01 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-2016-2542081**. 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

**RECEIVED**

**2016 APR 27 AM 10:16**

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

**341 So. 4<sup>th</sup> Street  
Philadelphia, Pa. 19106  
April 25, 2016**

**Rosemary Chiavetta - Secretary  
Pennsylvania Public Utility Commission  
400 North Street, Commonwealth Keystone Building, 2<sup>nd</sup> Floor  
Harrisburg, Pa. 17120**

**Subject: Ref: Submittal of Formal Complaint - BCS 3396369  
PECO AMI/Smart Meter Complaint**

**Dear Rosemary Chiavetta:**

**Please find enclosed copies of documentation concerning my Formal Complaint against PECO filed this date with the Pennsylvania Public Utility Commission. The documents reflect my opposition to the installation of an AMI/Smart Meter at my property and the Requested Relief that I and my family seek from The PUC. Please note this is an issue which affects the safety, health, privacy and quality of life of thousands of customers who are provided electrical / distribution services by PECO.**

**Sincerely,**



**Alfred F Ottaviano**

**Phone No. 215-925-2544  
Email-dadottav@verizon.net**

**copy: Hon. Michael H. O'Brien - Pennsylvania  
House of Representatives**

Timely

BCS: 339650  
PECO ENERGY

Must be returned by May 13, 2016

### 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 print 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 ALFRED E. OTTAVIANO

Street/P.O. Box 341 So. 4<sup>TH</sup> ST. Apt 0

City PHILADELPHIA State PA. Zip 19106

County PHILADELPHIA

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

(215) 926 2644 (home) ( ) (mobile)

E-mail Address (optional): \_\_\_\_\_

Utility Account Number (from your bill) 7153500103

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

RECEIVED  
2016 APR 27 AM 10:16  
P.U.C.  
SECRETARY'S BUREAU

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 to drop my service~~.  
**UNLESS I HAVE A SMART METER (WHICH IS NOT UNDERWRITER APPROVED) INSTALLED IN OUR HOME.  
AT 341 So 4TH ST. PHILA., PA 19106**

I would like a payment agreement.

N/A

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 them.

N/A

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.

N/A

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.**

N/A

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.

N/A

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.**

I am being harassed and threatened by Peco with shut off notices of service if I do not Allow them to replace my current electrical meter with a so called AMI/Smart Meter. According to a well-documented article in February 2014, a smart meter caught fire and Apparently exploded in Bensalem, Pennsylvania. The subsequent fire resulted in significant damage to an apartment building. This fire represents one of the best documented instances of a smart meter on record in terms of damage, havoc, injury and potential loss of life that can be caused by smart meters.

Other issues involving health, safety and exposure to certain levels of radiation have appeared in The Philadelphia Inquirer and in many newspapers throughout the United States and Canada. Another issue worth mentioning is that smart meters are generally NOT CERTIFIED by Underwriters Laboratories. As you are aware almost all electrical products sold have a UL tag on them. This demonstrates that smart meters have been deployed without proper consideration for the safety of the homeowner and why has the PUC of Pennsylvania allowed this to happen?

If the PUC will forward to me a guarantee of safety that no harm will or can occur from the installation of a smart meter then I will comply with the PECO installation, otherwise I will not compromise my family's safety, health and privacy while at the same time I am being coerced to paying additional charges for PECO's Equipment at the same time they are receiving government subsidies. I want my complaint resolved by the PUC by having the installation of the AMI/Smart Meter deferred until a ruling on the pending Act 129 legislative provision introduced as customer Opt-Out is ruled upon by the PUC.

**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. *N/A*

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  - AEL

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 \_\_\_\_\_

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 ALFRED F. OTTAVIANO, 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).



(Signature of Complainant)

7/20/16  
(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.

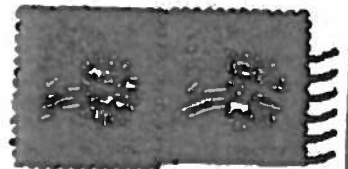
If you have any questions about filling out this form, please contact the Secretary's Bureau at 717-772-7777.

Keep a copy of your Formal Complaint for your records.

A.F. Ottaviano  
341 So. 4th Street  
Philadelphia, Pa. 19106

PHILADELPHIA PA 190

25 APR 2016 PM 3 L



Rosemary Chivetta - Secretary  
Pennsylvania Public Utility Commission  
400 North Street, Commonwealth Keystone  
Building, 2nd Floor  
Harrisburg, Pa. 17120

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