

CAPTION SHEET

SE MANAGEMENT SYSTEM

- 1. REPORT DATE: 00/00/00
- 2. BUREAU: ALJ
- 3. SECTION(S):
- 5. APPROVED BY:  
DIRECTOR:  
SUPERVISOR:
- 6. PERSON IN CHARGE:
- 8. DOCKET NO: C-20043717
- 4. PUBLIC MEETING DATE:  
00/00/00
- 7. DATE FILED: 09/19/04
- 9. EFFECTIVE DATE: 00/00/00

PARTY/COMPLAINANT: SMITH, SHARON

RESPONDENT/APPLICANT: PECO ENERGY COMPANY

COMP/APP COUNTY:

UTILITY CODE: 110550

ALLEGATION OR SUBJECT

COMPLAINANT STATES THAT A PECO EMPLOYEE CAUSED MAJOR ELECTRICAL DAMAGE IN HER HOME WHEN HE CHANGED A METER, RESULTING IN THE LOSS OF MUCH ELECTRICAL EQUIPMENT. ALSO, PECO NEVER RETURNED TO CHECK ON THE ELECTRICITY AS THEY PROMISED AND ARE TRYING TO BLAME THE PROBLEM ON HER METER BOARD. SHE WANTS PECO TO PAY FOR CORRECTING THE WIRING AND FOR THE EQUIPMENT THAT WAS DAMAGED.

DOCUMENT  
FOLDER

**DOCKETED**  
SEP 30 2004

ORIGINAL

C - 20043717

110550

RECEIVED

SEP 15 2004

Formal Complaint Form  
Pennsylvania Public Utility Commission

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S OFFICE

Please Print: (you may also type your answers directly onto the form as it appears on your screen)

1. Your name, mailing address and telephone number.

Name Sharon Smith

Street/P.O.Box 2545 N 28th St Apt # \_\_\_\_\_

City phila State PA Zip 19132

County \_\_\_\_\_ Area Code/Home Phone 215-227-6101  
Area Code/Work Phone \_\_\_\_\_

2. Name of company your complaint concerns: PECO

3. What is your complaint? (Use additional paper if need more space). in Dec 03 PECO left a card in my door saying they need to check my meter. I called and set up an appointment the appt was for 1-17-04. They came out and on 1-17-04 and the service man checked the meter and said, you have a bad meter. (meter is bad) I need to change your meter. I said oh o.k. Service man went to his truck and came back with the new meter in his hand. he went into the yard full of snow sat the

Please refer to letter

4. What do you want the Public Utility Commission to do about your complaint? (Use additional paper if need more space). I would like the PUC to order PECO to rectify this problem they caused and replace my personal belongs that was damaged due to their negligence. I would like the PUC to find PECO totally at fault with the findings of the evidence provided.

5. You must sign and date your complaint below.

The information I have placed on this form is true and correct to the best of my knowledge. I understand that I could be punished under Pennsylvania State Law if I purposely give false information.

Sharon D Smith  
Signature

9-20-04  
Date

Continued on next page

1

6. If you are represented by a lawyer you must provide your lawyer's name, address and telephone number.

Lawyer's Name \_\_\_\_\_

Street \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Area Code/Phone Number \_\_\_\_\_

**Mail to:**  
Secretary  
Pennsylvania Public Utility Commission  
P. O. Box 3265  
Harrisburg, PA 17105-3265

For more information, please contact the Secretary's Bureau at 717-772-7777.

*NO Lawyer at this time*

To Whom It May Concern:

In December 2003 PECO left a card in my door saying they need to check my meter because they felt they wasn't getting an accurate reading. I called and set up an appointment. The appointment was for January 17, 2004. They came out on January 17, 2004 and the service man checked the meter and said, you have a bad meter and that he needed to change it. I said ok. The serviceman went to his truck and came back with the new meter in his hand. He went in the yard full of snow and sat the new meter on the ground (snow) and took the old meter off the wall (board) by twisting it left to the right. I Sharon was standing in the back door talking with the service man about working in these weather conditions. The service man talked while working, he removed the old meter, put it down on the ground (snow) and picked up the new meter and put it in with no problem. (On the service board)

The service man then looked at the meter and started twisting the meter continuously left to right. I then asked him what's wrong? Why are you doing that? The service man then stated "bad connection I have to remove it," and he kept on twisting and turning on it. Then he began to pull back on it a couple of times. He then put one-foot back and the other against the wall and pulled hard.

The meter box started making popping noises like popping popcorn. Fire began to come from the wiring at the bottom and electric surge went up the wall wiring. The service man fell against the fence and started kicking it like he was trying to stomp the fire out. I slammed the back door closed and went running towards the living room. Where my son was putting out the fire in the living room from the surge protector. The service man ran past us (son and I) saying I have to get the fire extinguisher. I ran up stairs to disconnect my computers because of the surge cord protector catching on fire down stairs going to the fish tank.

After that we went looking for the service man. He was in the yard. He came in the house and said I (he) had to call for help at that point I had no electricity because of the service man's negligence in just trying to change a meter. The service man called for help. It took about an hour for help to arrive. When help finally came it was a supervisor. The supervisor and service man told me that, they had to run new wire in order for me to have electric and it would take a while. I asked the serviceman what happened? Why did that happen? He said I really don't know. I asked the supervisor and he said, "mam I couldn't tell you." So I said well, "my house isn't going to go up in smoke is it? He said no everything is going to be fine.

I was still worried about my house going up in smoke so I had my children walk throughout the house looking around at all the electric outlets to make sure everything was fine. I again asked the service man by himself, is my house going to go up in smoke because the electric surge cord caught on fire. He said no everything's going to be ok. I said are you sure he said don't worry. He also said it is going to take a few hours to run the wire to restore service.

After the service was restored, before they left the supervisor said someone would be out here next week to finish the wiring. I said ok. Is my electric going to be ok? He said the electric is fine; the wiring is fine they're just coming out next week to stabilize the wiring we put up. I then said ok were's my paper work don't I need to sign something letting them know you were here. Supervisor and serviceman said no, someone would be out next week. I said are you sure I don't get any paper work to sign even with him putting in a new meter? They both said no.

After the men left and my children calmed down from the shock of what happened we went on to do our normal daily routine. I went in my room to watch TV. only to discover my direct TV. cable box wasn't working. I then went and checked another cable box in the house it wasn't working. I decided to check my computers. My Gateway computer was working but my daughter's apple computer wasn't.

The electric charge (surge) that went through my house destroyed two cable boxes, an apple computer, a printer, a scanner, a stereo system with a cd player, a DVD player, a Nintendo 64, 3 surge protectors and some disco equipment including a mixer, an amp, a cd player, and a cd recorder.

I called the cable company (Direct TV.) told them what happened (electric surge went through boxes) caused by the electric company. Luckily I was under coverage, they sent me two new boxes and I had to send the broke ones back to them.

I called and reported to the electric company about the things they blew out. They kept giving me the run around from person to person that Monday the 19<sup>th</sup>. So I figured I'd wait until someone came out to stabilize the wiring. Nobody ever came out or called. I figured they didn't come because of the weather conditions and I didn't bother to call back at that time because my house was fine and I had electricity so I went on to handle my personal business with the courts and never got back with PECO about not coming back out to my house to stabilize the wiring. I was under a lot of stress with deaths and courts so it was put on the back burner for a while. PECO never came back out to my house even though they say they did, but they didn't cause someone's always at my house. I called PECO back in

April 2004 when things calmed down, told them what happened and they said they would send someone out in 24 hours.

In May of 2004 there were several PECO employees on 28<sup>th</sup> street working. I asked one of them to please come and look at what PECO had done and never came back to finish the job. The man so happened to be a Contracting Supervisor for PECO. I told him my problem and he went in the back yard and basement and looked and he told me that the wiring was temporary and there was no stabilizing to be done it had to be totally redone.

That's when I called customer service and spoke with Shanay. I told her my problem and she said the computer is saying that I had bad wiring. She then told me that the wiring is not PECO's responsibility it's the customer's responsibility. Then I asked her could she send someone out to fix the problem because this was my first time hearing about my wiring being bad. She said, "Well I don't know what to tell you." I then asked her could she send out a contacting supervisor to fix he problem. She then told me that PECO didn't have any contracting supervisors. I knew that was a lie because a PECO contracting supervisor was in my house while I was on the phone. When Shanay told me that the computer is stating that my wiring was bad the contracting supervisor went to my front door and got another employee and they went into my back yard again and told me that the wiring looked fine to them as well as the box. The contracting supervisor (that I got off the street) also told me that the servicemen was negligent and if he (the serviceman) felt something was wrong he should have shut the electricity off from the basement if he felt the wiring was bad, to replace the meter. The contracting supervisor also told me that if he (the serviceman) felt something was wrong with the wiring he was suppose to tell me and give me paperwork stating I had 30 days to rectify the problem. The contracting supervisor (that I got off the street) said it was the serviceman's fault that's probably why they didn't give me any paperwork and he said PECO would be back to stabilize the wiring. I then asked Shanay what should I do about the thing it blew out. She then transferred me to the claims dept.

On May 27,2004 Greg Lund called me from the claims dept. and I told him what happened. I also told him that I'm tired of PECO keep telling me they will send someone out and never do, and that I'm ready to call the television station. He told me he would send me a form in the mail for my claim and he asked me not to call the television stations please. After explaining to Mr. Lund what happened and what PECO later said, Mr. Lund said if my wiring was bad the serviceman should have told me and given me paper work to that effect and notified me that I had 30 days to rectify the

problem or PECO would have to discontinue my service until its fixed. He then went on to say someone would be in touch with you I promise.

Apparently Greg Lund contacted the supervisor of the serviceman contracted by PECO. On June 4, 2004 Joseph Kerwin called me and said his serviceman was not at fault for my problem it was caused because my service box fell apart. I told him that nothing was wrong with my service box or electric until one of his employees came out and started twisting, pulling and turning on it. The supervisor said well I don't find my man to be at fault. Your box fell apart it was bad. I then asked him how would he know what condition my box was in? He's not here. Also if my box was bad and did fall apart why didn't his employee tell me that when he was at my house and why didn't the supervisor say that when I asked him what caused that to happen, and why did they tell me someone would be out to stabilize my new wiring in a week. (What I believed to be the new wiring.)

After speaking with Joseph Kerwin the supervisor of the serviceman contracted by PECO I called back to Greg Lund and told him what was said. Mr. Lund at that point said Mr. Kerwin told him the same thing and there was nothing he could do for me at all. I never even received a claims form for my personal belongings.

I called P.U.C cause no one has been out to my house still. Even after I called them again in May and told them I'm reporting them, but they said someone would be out within 24 hours. Today is Sept. 14, 2004 and I'm still waiting. (My electric was working fine before the electric company decided to change my meter and sent a negligent service man to do so.)

PECO says my wiring is bad. The supervisor of technician says my meter board fell apart. But nobody came out to rectify the problem. Although I have asked many people from PECO to come and check out things thurly to find the cause. So I had to call an Electric Inspector Out on my own to detect the problem.

I would like for PECO to rectify this problem by correctly wiring my house, paying for an electrician to rectify this problem and to pay for all my damaged belongings caused by them PECO's negligent employee.

Sincerely,

Sharon D Smith

June 4, 2004

Ms. Sharon Smith  
2545 N 28<sup>th</sup> St  
Philadelphia, Pa 19132

Account Number 24-06-15-220029

Dear Ms. Smith:

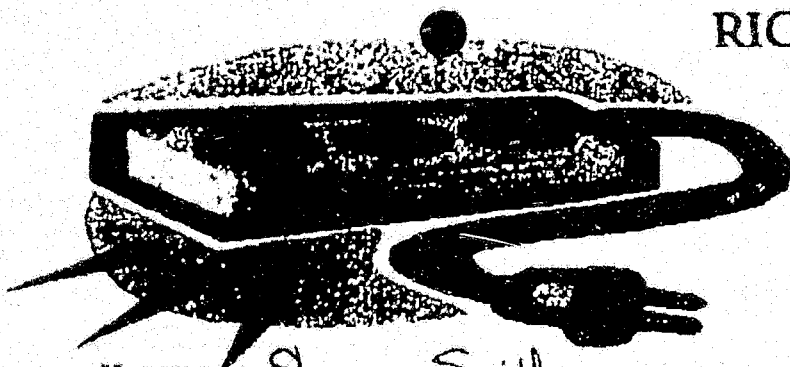
This letter is in reference to your claim that was filed with Peco Energy. After reviewing your claim, there is no clear evidence that the damage you incurred is a direct result from the meter change that was done on January 17, 2004. The cause of the damage was due to a bad meter board, which is the customer's responsibility.

The experience you had was unfortunate, if you have any further questions, please don't hesitate to call.

Sincerely,

Joseph Kerwin  
Field Supervisor  
267-446-2051

cc Bill Marron - PECO Energy  
Tom Rayer - Cellnet



RICHARD SIMMONS

ELECTRIC

1950 Butler Pike

Suite 112

Conshohocken, PA 19428

(610) 570-2434 OFFICE

(610) 260-0404 FAX

Homeowner: SHARON Smith.

Service Address: 2545 N 28<sup>th</sup> St.

Date: 9-10-04

PHONE NUMBER: FAX. 215-227-7371

100 Amp Service

1,850.<sup>00</sup>

Permit & Inspection

150.<sup>00</sup>

Tot. 2,000.<sup>00</sup>

# Code Inspections, Inc.

605 Horsham Road  
Horsham, PA 19044

A Full Service Agency Providing  
Professional Inspection Services

Phone: 215-672-9400  
800-288-2633  
Fax: 215-672-9736

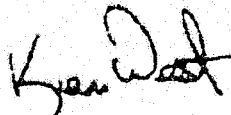
Simmons Electric  
1950 Butler Pike  
Suite 112  
Conshohocken, Pa 19428  
VIA Fax 610-260-0414

Re: Sharon Smith Residence  
2545 N 26<sup>th</sup> Street  
Philadelphia Pa 9132

9/10/2004

At your request, I conducted an inspection of damages to the electrical system at the above residence to determine the cause of damages to that system based on a statement made to your company by the homeowner. After a complete and thorough review of the situation, it is my professional opinion based on more than 26 years of electrical experience that the resulting fire damages were caused by the improper removal of the electrical meter. It is also my professional opinion that had "Standard Industry Practices" been followed by the contracted mechanic in the removal of said meter, while under "Full Load" no fire would have occurred. I am therefore advising you and your client, based on my inspection that the contracted mechanic failing to follow "Standard Industry Practices" is at fault for any and all damages that resulted from the incorrect removal of said meter.

If I can be of any assistance in the future, please do not hesitate to contact my office at the above numbers and address.



Inspector Ryan West  
Lic # 070

COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA PUBLIC UTILITY COMMISSION  
P O BOX 3265, HARRISBURG PA 17105-3265

DATE SERVED: SEPTEMBER 30, 2004

C-20043717

PECO ENERGY COMPANY  
C/O WARD L SMITH ASSOCIATE GENERAL COUNSEL  
P O BOX 8699  
PHILADELPHIA PA 19101-8699

DOCUMENT  
FOLDER

Dear Sir/Madam:

A complaint has been filed against you before the Pennsylvania Public Utility Commission by SHARON SMITH. To defend yourself against the claims stated in the following pages, you must act within twenty (20) days by filing in writing with the Commission, either personally or through your attorney, your defenses or objections to the claims stated against you. Or, you may satisfy the complaint by settling the matter with the Complainant and submitting proof of settlement to the Commission within twenty (20) days.

IF YOU FAIL TO RESPOND WITHIN TWENTY (20) DAYS, THE CASE MAY GO FORWARD IN YOUR ABSENCE AND A JUDGEMENT MAY BE ENTERED AGAINST YOU BY THE COMMISSION WITHOUT FURTHER NOTICE.

CUSTOMER OF A UTILITY

A payment schedule may be prescribed or a termination of utility services may be authorized. You may lose money or property or other rights important to you.

COMPANY/UTILITY

An Administrative Law Judge may revoke or suspend any certificate or permit held by you, or impose a fine, or any other appropriate penalty or remedy authorized by the Public Utility Code. You may lose money or property or other rights important to you.

SEPTEMBER 30, 2004

Detailed instructions on how to proceed are contained in the attached pages. You are advised to read them carefully.

Unless you are a corporation or other organization, you may proceed without a lawyer. However, if you want a lawyer and do not have one or cannot afford one, the office listed below can tell you where you can get legal help:

Pennsylvania Lawyer Referral Service  
Pennsylvania Bar Association  
P.O. Box 186  
Harrisburg, PA 17108  
(800) 692-7375

Very truly yours,

James J. McNulty  
Secretary

dbb

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

DATE SERVED: SEPTEMBER 30, 2004

SHARON SMITH

Complainant

VS.

PECO ENERGY COMPANY

Respondent

Complaint Docket

No: C-20043717

DOCUMENT  
FOLDER

**DOCKETED**

SEP 30 2004

FORMAL COMPLAINT NOTICE TO RESPONDENT TO ANSWER OR SATISFY

TO: PECO ENERGY COMPANY

TAKE NOTICE:

That a complaint in the above entitled matter, of which the attached is a true and correct copy, has been presented and filed of record with the Pennsylvania Public Utility Commission. Section 702 of the Public Utility Code, 66 Pa. C.S. Section 702, requires the Commission to serve on each party named in a complaint a copy of the complaint and notice calling upon each party to satisfy the complaint, or to answer the same in writing within a specified time; THEREFORE,

1. You have twenty (20) days from the date on which this complaint is served to either satisfy this complaint or to file with the Secretary of the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, an answer (original and three copies), in writing, under oath, which, as required by Section 5.61 of the Commission's Rules of Practice and Procedure, 52 Pa. Code Section 5.61, either affirms or specifically denies the allegations in this complaint. You must also serve a copy of the answer upon the complainant. The date of service is the mailing date as indicated by the date at the top of this Notice. Section 1.56(a) of the Commission's Rules of Practice and Procedure, 52 Pa. Code Section 1.56(a).

2. If you fail to either satisfy this complaint or to file answer or other responsive pleading within twenty (20) days, you will be deemed to have admitted all the allegations in this complaint in accordance with Section 5.61 of the Commission's Rules of Administrative Practice and Procedure, 52 Pa. Code Section 5.61. In that event, the Commission may, without hearing, enter an order which either revokes or suspends any certificate or permit held by you or which imposes a fine or any other appropriate penalty or remedy authorized by the Public Utility Code, 66 Pa. C.S. Section 101, et seq.; and, if you are a customer of a utility, an order may be entered which prescribes a payment schedule or which authorizes termination of utility services. The Commission is not limited to the relief sought by the complainant in paragraph 4 of the attached complaint.

3. If you elect to satisfy this complaint you must file, within twenty (20) days from the date on which this complaint is served, affidavits executed by each complainant that this

complaint has been satisfied. Such affidavits must describe the basis on which this complaint was satisfied; any settlement agreement between the parties must be reduced to writing and attached to the affidavit. Such affidavits are to be filed with the Secretary of the Commission at the address set forth in paragraph 1. Upon receipt of affidavits of satisfaction from all complainants, this complaint may be dismissed by the Commission in accordance with Section 703(a) of the Public Utility Code, 66 Pa. C.S. Section 703(a), unless the Commission determines that such dismissal would be contrary to the public interest, in which event the Commission may direct that hearings be held upon the complaint.

4. If you file an answer which admits the allegations in this complaint, or which fails to specifically deny the allegations in this complaint, the Commission may, without hearing, enter an order which either revokes or suspends any certificate held by you or which imposes a fine or any other appropriate penalty or remedy authorized by the Public Utility Code, 66 Pa. C. S. Section 101, et seq.; and, if you are a customer of a utility, an order may be entered which prescribes a payment schedule or which authorizes termination of utility services. The Commission is not limited to the relief sought by the complainant in paragraph 4 of the attached complaint.

5. If you file a timely answer which specifically denies the allegations in this complaint, or which raises material questions of law or fact, this matter shall be referred to the Office of Administrative Law Judge for hearing and decision. If, after hearing on the issues raised by that answer, you are found to have committed any of the violations alleged in the complaint, the Administrative Law Judge may render a decision which either revokes or suspends any certificate or permit held by you or which imposes a fine or any other appropriate penalty or remedy authorized by the Public Utility Code, 66 Pa. C. S. Section 101, et seq.; and, if you are a customer of a utility, an order may be entered which prescribes a payment schedule or which authorizes termination of utility services. In the imposition of a penalty after a hearing the Administrative Law Judge is not bound by the relief sought by the complainant in paragraph 4 of the attached complaint.

James J. McNulty  
Secretary

(SEAL)

Certified Mail  
Return Receipt Requested

ORIGINAL



Legal Department

Exelon Business Services Company  
2301 Market Street  
PO Box 8699  
Philadelphia, PA 19101

Telephone 215 841 3544  
www.exeloncorp.com

Business Services  
Company

DOCUMENT  
FOLDER

Direct Dial: 215 841 6841

October 20, 2004

FedEx

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

OCT 20 2004  
PAPER COPY BY CO...  
SECRETARY'S OFFICE

Sharon Smith v. PECO Energy Company  
Docket No. C-20043717

Dear Mr. McNulty:

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

- \_\_\_\_\_ Answer (original and 3 copies)
- X   Motion to Dismiss (original and 3 copies)
- \_\_\_\_\_ Petition (original and 3 copies)
- \_\_\_\_\_ Objections (original and 3 copies)
- \_\_\_\_\_ Amended Answer and New Matter (original and 3 copies)
- \_\_\_\_\_ Motion and Supporting Brief (original and 3 copies)
- \_\_\_\_\_ Exceptions (original and 9 copies)
- \_\_\_\_\_ Reply Exceptions (original and 9 copies)
- \_\_\_\_\_ Brief (original and 9 copies)
- \_\_\_\_\_ Reply Brief (original and 9 copies)

Also enclosed is an extra copy of this letter which I request that you date stamp and return to me in the envelope provided as proof of filing. I have enclosed a Certificate of Service showing that a copy of the above document was served on the interested parties.

Very truly yours,

Lisa A. Lutz  
Counsel for PECO Energy Company  
Enclosures

CCT 1

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

SHARON SMITH

v.

PECO ENERGY COMPANY

DOCKET NO. C-20043717

**NOTICE TO PLEAD**

Pursuant to 52 Pa. Code §§ 5.103, you are hereby notified that, if you do not file a written response denying or correcting the enclosed Motion to Dismiss of PECO Energy Company, within 10 days from service of this notice, the facts set forth by PECO Energy Company in the New Matter may be deemed to be true, thereby requiring no other proof. All pleadings, such as a Reply to Motion to Dismiss, must be filed with the Secretary of the Pennsylvania Public Utility Commission, with a copy served to counsel for PECO Energy Company, Lisa A. Lutz, and where applicable, the Administrative Law Judge presiding over the issue.

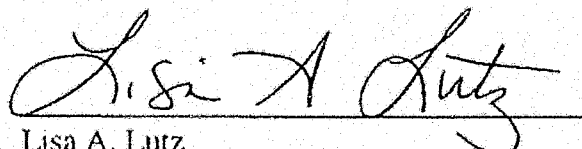
**File with:**

James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, Second Floor  
Harrisburg, PA 17120

**With a copy to:**

Lisa A. Lutz, Esq.  
PECO Energy Company  
2301 Market Street, S-23  
Philadelphia, PA 19103

Dated at Philadelphia, PA, October 20, 2004.



Lisa A. Lutz  
Counsel for PECO Energy Company  
2301 Market Street S-23  
Philadelphia, PA 19101-8699  
215-841-6841  
[lisa.lutz@excloncorp.com](mailto:lisa.lutz@excloncorp.com)

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

SHARON SMITH

v.

PECO ENERGY COMPANY

:  
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:  
:  
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DOCKET NO. C-20043717

**DOCKETED**  
OCT 28 2004

PECO ENERGY COMPANY'S MOTION TO DISMISS COMPLAINT

Respondent, PECO Energy Company ("PECO"), pursuant to 52 Pa. Code § 5.103 respectfully petitions this Honorable Commission to dismiss the instant Complaint for the following reasons:

1. On or about September 20, 2004, Complainant filed a formal complaint with the Pennsylvania Public Utility Commission for an award of damages from an alleged property damage claim.
2. On or about September 30, 2004, PECO Energy was served the above-mentioned formal Complaint.
3. In its formal complaint, Complainant requested payment for property damages involving an alleged claim relating from a service repair visit by a PECO representative to Complainant's residence on or about January 17, 2004.
4. On or about September 24, 2004, Complainant also filed a Municipal Court private action for the same claim and alleged damages in Philadelphia Municipal Court, First Judicial District of Pennsylvania, at matter number SC-04-09-24-6475.
5. In the instant matter, Complainant improperly brought this complaint before the Public Utility Commission. Complainant is requesting damages regarding a private action and

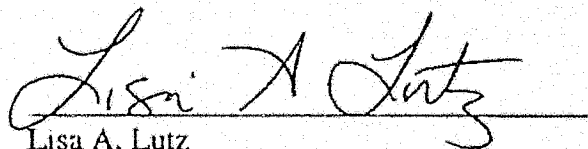
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the Pennsylvania Public Utility Commission is not authorized to award damages. Elkin v. Bell Tel. Co., 491 Pa. 123, 420 A.2d 371 (1980). Complainant's private action for alleged damages in Municipal Court will afford Complainant a forum in civil court.

By way of further answer, it is clear that the remedial and enforcement powers vested in the Public Utility Commission ("Commission") were designed to allow the Commission to enforce its orders and regulations, but not to empower the Commission to award damages or to litigate a private action for damages on behalf of a complainant. Poorbaugh v. Pennsylvania Public Utility Commission, 666 A.2d 744 (Pa. Cmwlth. 1995).

WHEREFORE, PECO Energy Company respectfully requests that your Honorable Commission dismiss the Complaint because the jurisdiction for damages from a private action is not properly before this Honorable Commission as Complainant is afforded a forum in civil court.

Respectfully Submitted,



Lisa A. Lutz  
Counsel for PECO Energy Company  
2301 Market Street, S23-1  
P.O. Box 8699  
Philadelphia, PA 19101-8699  
(215) 841-6841  
lisa.lutz@excloncorp.com

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

SHARON SMITH

v.

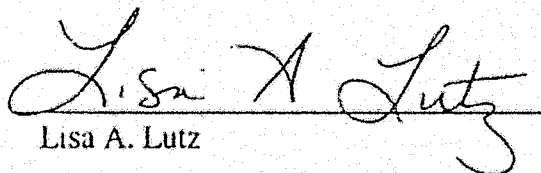
PECO ENERGY COMPANY

DOCKET NO. C-20043717

VERIFICATION

I, Lisa A. Lutz, hereby declare that I am an attorney representing 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: October 20, 2004

  
Lisa A. Lutz

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

OCT 20 2004  
PUBLIC UTILITY  
COMMISSION

SHARON SMITH

v.

PECO ENERGY COMPANY

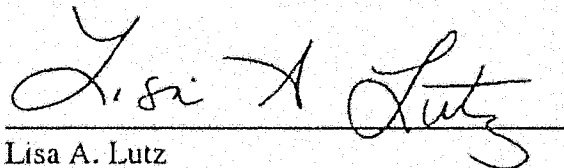
DOCKET NO. C-20043717

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of PECO Energy Company's Motion to Dismiss in the above matter upon all interested parties by mailing a copy thereof Certified mail, properly addressed and postage prepaid to:

Sharon Smith  
2545 N. 28<sup>th</sup> Street  
Philadelphia, PA 19132

Dated at Philadelphia, Pennsylvania, October 20, 2004.



Lisa A. Lutz  
Counsel for PECO Energy Company  
2301 Market Street, S23-1  
P.O. Box 8699  
Philadelphia, PA 19101-8699  
(215) 841-6841  
lisa.lutz@exeloncorp.com

ORIGINAL

Exelon<sup>SM</sup>

Legal Department

Telephone 215 841 5544  
www.exeloncorp.com

Business Services  
Company

Exelon Business Services Company  
2301 Market Street  
PO Box 8699  
Philadelphia, PA 19101

Direct Dial: 215 841 6841

October 20, 2004

FedEx

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

RECEIVED

OCT 20 2004

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

Sharon Smith v. PECO Energy Company  
Docket No. C-20043717

Dear Mr. McNulty:

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

- X   Answer (original and 3 copies)
- Motion to Dismiss (original and 3 copies)
- Petition (original and 3 copies)
- Objections (original and 3 copies)
- Amended Answer and New Matter (original and 3 copies)
- Motion and Supporting Brief (original and 3 copies)
- Exceptions (original and 9 copies)
- Reply Exceptions (original and 9 copies)
- Brief (original and 9 copies)
- Reply Brief (original and 9 copies)

Also enclosed is an extra copy of this letter which I request that you date stamp and return to me in the envelope provided as proof of filing. I have enclosed a Certificate of Service showing that a copy of the above document was served on the interested parties.

Very truly yours,

*Lisa A. Lutz*  
Lisa A. Lutz  
Counsel for PECO Energy Company  
Enclosures

DOCUMENT  
FOLDER

57

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

OCT 5

SHARON SMITH

v.

PECO ENERGY COMPANY

DOCKET NO. C-20043717

ANSWER OF RESPONDENT PECO ENERGY COMPANY

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

1. Admitted.
2. Admitted.
3. Admitted in part and denied in part. PECO admits that a service visit at

Complainant's residence was performed on or about January 17, 2004. PECO Energy is without sufficient knowledge to either confirm or deny the remaining statements of this Complainant. Therefore PECO Energy denies all such averments.

By way of further answer, this matter is duplicatively being claimed in a separate Municipal Court private claims action as filed on or about September 24, 2004, in Philadelphia Municipal Court, First Judicial District of Pennsylvania, at matter number SC-04-09-24-6475.

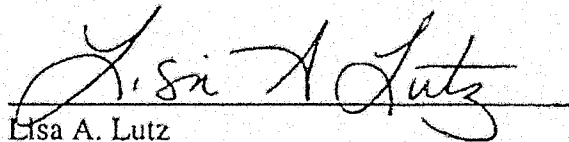
4. Paragraph No. 4 is a request for relief to which no response is required. This Complaint also contains requests for relief and to which no answer is required. By way of further response, the Pennsylvania Public Utility Commission is not authorized to award damages. Elkin v. Bell Tel. Co., 491 Pa. 123, 420 A.2d 371 (1980).

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

Respectfully Submitted,

A handwritten signature in cursive script that reads "Lisa A. Lutz". The signature is written in black ink and is positioned above a horizontal line.

Lisa A. Lutz

Counsel for PECO Energy Company

2301 Market Street, S23-1; P.O. Box 8699

Philadelphia, PA 19101-8699

Direct Dial: 215.841.6841; Fax: 215.568.3389

[lisa.lutz@exeloncorp.com](mailto:lisa.lutz@exeloncorp.com)

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

SHARON SMITH

v.

PECO ENERGY COMPANY

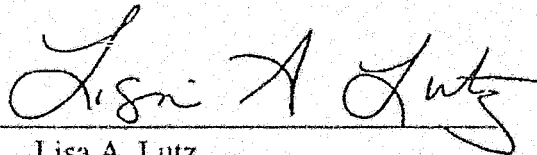
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DOCKET NO. C-20043717

VERIFICATION

I, Lisa A. Lutz, 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: October 20, 2004

  
\_\_\_\_\_  
Lisa A. Lutz

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

SHARON SMITH

v.

PECO ENERGY COMPANY

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DOCKET NO. C-20043717

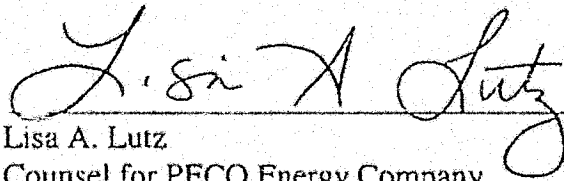
CERTIFICATE OF SERVICE

PAID  
001  
ON

I 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:

Sharon Smith  
2545 N. 28<sup>th</sup> Street  
Philadelphia, PA 19132

Dated at Philadelphia, Pennsylvania, October 20, 2004.



Lisa A. Lutz  
Counsel for PECO Energy Company  
2301 Market Street, S23-1  
P.O. Box 8699  
Philadelphia, PA 19101-8699  
Direct Dial: 215.841 6841  
Fax: 215.568.3389  
Lisa.lutz@exeloncorp.com



COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA PUBLIC UTILITY COMMISSION  
P.O. BOX 3265, HARRISBURG, PA 17105-3265

IN REPLY PLEASE  
REFER TO OUR FILE

October 28, 2004

In Re: C-20043717

(See attached list)

Sharon Smith v. PECO Energy Company

Service dispute.

Hearing Notice

This is to inform you that a hearing on the above-captioned case will be held as follows:

Type: Initial hearing

Date: Wednesday, March 2, 2005

Time: 10:00 a.m.

Location: In an available hearing room  
Philadelphia State Office Building  
Broad and Spring Garden Streets  
Philadelphia, Pennsylvania

Presiding: Administrative Law Judge Allison K. Turner  
1302 Philadelphia State Office Building  
1400 West Spring Garden Street  
Philadelphia, PA 19130  
Telephone: (215) 560-2105  
Fax: (215) 560-3133

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Attention: You may lose the case if you do not come to this hearing and present facts on the issues raised.

If you intend to file exhibits, 2 copies of all hearing exhibits to be presented into evidence must be submitted to the reporter. An additional copy must be furnished to the Presiding Officer. A copy must also be provided to each party of record.

Individuals representing themselves do not need to be represented by an attorney. All others (corporation, partnership, association, trust or governmental agency or subdivision) must be represented by an attorney. An attorney representing you should file a Notice of Appearance before the scheduled hearing date.

If you are a person with a disability, and you wish to attend the hearing, we may be able to make arrangements for your special needs. Please call the scheduling office at the Public Utility Commission:

- Scheduling Office: (717) 787-1399.
- AT&T Relay Service number for persons who are deaf or hearing-impaired: 1-800-654-5988.

pc: Judge Turner  
Susan Licon  
Beth Plantz  
Docket Section  
Calendar File