

CAPTION SHEET

CASE MANAGEMENT SYSTEM

1. REPORT DATE: 00/00/00	:	
2. BUREAU: ALJ	:	
3. SECTION(S):	:	
5. APPROVED BY:	:	4. PUBLIC MEETING DATE:
DIRECTOR:	:	00/00/00
SUPERVISOR:	:	
6. PERSON IN CHARGE:	:	7. DATE FILED: 01/25/06
8. DOCKET NO: C-20065806	:	9. EFFECTIVE DATE: 00/00/00

PARTY/COMPLAINANT: 3175 JFK ASSOCIATES, L.P.

RESPONDENT/APPLICANT: PECO ENERGY COMPANY

COMP/APP COUNTY:

UTILITY CODE: 110550

ALLEGATION OR SUBJECT

COMPLAINANT STATES THAT THEY STARTED ON OR ABOUT 6/19/01 UNDER PECO'S GENERAL SERVICE RATE ("RATE GS"). AT THE TIME THAT SERVICE WAS INITIATED NO ONE FROM PECO EXPLAINED THE DIFFERENT RATES THAT WERE AVAILABLE TO COMPLAINANT & PECO, WITHOUT ANY INPUT FROM COMPLAINANT, PLACED COMPLAINANT ON RATE GS. THEY HAVE REQUESTED PECO FOR REMUNERATION FOR ITS FAILURE TO PLACE THEM ON THE MOST ADVANTAGEOUS RATE, BUT PECO HAS FAILED AND REFUSED TO COMPENSATE THEM FOR FAILING TO ADHERE TO ITS POLICY AND PRACTICE OF INFORMING COMPLAINANT OF ITS RATE OPTIONS AND FOR FAILING TO PLACE COMPLAINANT ON THE MOST ADVANTAGEOUS RATE.

DOCUMENT  
FOLDER

**DOCKETED**  
JAN 25 2006

**HALBERSTADT CURLEY**  
ATTORNEYS AT LAW

January 23, 2006

James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2d Floor  
Harrisburg, PA 17120

**ORIGINAL**

**RE: 3175 JFK Associates, L.P. v. PECO Energy Company**

Dear Mr. McNulty:

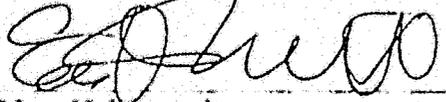
C-20065806

Enclosed please find an original and three (3) copies of the Complaint in the above referenced matter. Please file the original of record and return at time stamped copy to the undersigned in the envelope provided.

Thank you for your attention to this matter. Should you have any questions or concerns, please do not hesitate to contact me.

Very truly yours,

HALBERSTADT CURLEY LLC

By:   
Ethan Halberstadt

ENH/pk  
Encl.

**RECEIVED**  
2006 JAN 25 AM 9:09  
P.A.P.U.C.  
SECRETARY'S BUREAU

HALBERSTADT CURLEY LLC  
1100 E. HECTOR STREET  
SUITE 425  
CONSHOHOCKEN, PA 19428  
TEL. 610.834.8819  
FAX 610.834.8813  
WWW.HALBUR.COM

81

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

3175 JFK ASSOCIATES, L.P.,  
Complainant

v.

PECO ENERGY COMPANY  
Respondent

Docket No.

C-20065806

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

2006 JAN 25 AM 9:09

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COMPLAINT

1. Complainant is 3175 JFK Associates, L.P. ("Complainant"), a limited partnership organized under the laws of the Commonwealth of Pennsylvania with a registered office c/o Philadelphia Management and Companies, 1411 Walnut Street, 3d Floor, Philadelphia, Pennsylvania 19102.
2. The name and address of Complainant's attorney is:  
  
Ethan N. Halberstadt  
HALBERSTADT CURLEY LLC  
1100 E. Hector Street, Suite 425  
Conshohocken, PA 19428
3. Respondent is PECO Energy Company ("PECO"), a public utility authorized to do business in the Commonwealth of Pennsylvania with a principal place of business at 2301 Market Street, Philadelphia, Pennsylvania 19103.
4. At all times relevant hereto, Complainant was a commercial customer receiving electric service from PECO at its property at 3175 JFK Boulevard, Philadelphia, Pennsylvania 19104 (the "Property").
5. Complainant's PECO Account Number is 025-13-97-020032.

6. Complainant's account with PECO was started on or about June 19, 2001 under PECO's General Service Rate ("Rate GS"). At the time that service was initiated no one from PECO explained the different rates that were available to Complainant and PECO, without any input from Complainant, placed Complainant on Rate GS.

7. PECO has a policy and practice of discussing rate options with a customer prior to the customer initiating service. Contrary to PECO's policy and practice, and contrary to the manner in which other, similarly situated PECO commercial customers are treated, PECO failed to discuss the rate options that were available to Complainant.

8. At all relevant times Complainant owned and maintained a 13.2 KV high tension substation, which is required in order to qualify for PECO's rate HT. Since it owned and maintained its own substation, Complainant was analogous to a customer that could purchase its electricity at a "wholesale" rate, as the Complainant purchased electricity at a high tension voltage.

9. PECO's High Tension Rate, or "Rate HT," is analogous to PECO's wholesale electricity rate since the customer is responsible for its own transforming and switching. In addition, with a high tension substation, the metering is done on the primary side and the customer is required to pay for transformer losses.

10. At all relevant times PECO was aware that Rate HT was designed for customers served at 13 kV or higher voltage and that Complainant was a customer receiving such service.

11. PECO's Rate GS is analogous to PECO's "retail" electric rate as it is available for customers receiving secondary voltage under 600 volts. General Service

rate customers are not required to own or maintain their own primary transformers and/or switch gear. In addition, General Service customers do not experience primary transformer losses that High Tension customers experience.

12. In or about December, 2001, Complainant, through its authorized agent, submitted a Service and Metering Application to PECO together with copies of Complainant's plans to have the second service at the location energized. The foregoing placed PECO on notice of Complainant's service conditions and the fact that Rate HT would be the most advantageous rate available to the Complainant.

13. Despite being placed on notice of Complainant's service conditions, PECO failed to take any action to place Complainant on PECO's Rate HT, which was the most advantageous rate. At no time did PECO ever advise the Complainant that Rate HT was the most advantageous rate until Complainant advised PECO that it had been placed on the wrong rate and requested PECO to confirm same.

14. The analysis requested by Complainant and performed by PECO verified that rate HT was almost \$100,000.00 less per year than billing under rate GS.

15. Pursuant to Section 1303 of the Public Utility Code any public utility having more than one rate applicable to service rendered to a patron shall, after notice of service conditions, compute bills under the rate most advantageous to the patron.

16. Despite having express knowledge of Complainant's service conditions, PECO never advised Complainant that it should switch to Rate HT or placed Complainant on Rate HT.

17. Complainant has requested PECO for remuneration for its failure to place Complainant on the most advantageous rate, but PECO has failed and refused to

compensate Complainant for failing to adhere to its policy and practice of informing Complainant of its rate options and for failing to place Complainant on the most advantageous rate.

18. PECO has unjustly and unreasonably refused to credit or provide remuneration to Complainant for the overcharges it paid under Rate GS from the time that PECO was placed on notice of Complainant's service conditions.

19. As a result of the foregoing, Complainant was unlawfully discriminated against by PECO.

20. PECO will be unjustly enriched if it is permitted to retain the financial benefit of the excessive and unreasonable rates and charges it imposed by knowingly applying Rate GS on Complainant's account when it knew or should have known that Rate HT was the most advantageous rate. At all relevant times PECO was aware or should have been aware that Rate GS was causing Complainant to pay excessive utility charges but withheld this information from Complainant. It will be unjust and unreasonable if PECO is permitted to reap the financial benefit of its unlawful discrimination and negligence.

21. For the above reasons, Complainant requests that the Commission enter an Order directing PECO to refund and/or credit Complainant the difference between the rates and charges which were imposed under Rate GS and the rates and charges which should have been imposed under Rate HT from the date that PECO was put on notice of Complainant's service conditions or such other period as the Commission deems appropriate. Complainant also seeks pre-judgment interest, costs, and such other relief as the Commission deems appropriate.

WHEREFORE, Complainant requests that respondent PECO Energy Company be required to answer the above allegations and that, upon final hearing the Commission will make such Order as may be required.

HALBERSTADT CURLEY LLC

By:



Ethan N. Halberstadt

Date: 1-23-06



BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

DATE SERVED: JANUARY 26, 2006

3175 JFK ASSOCIATES, L.P.  
Complainant

v.

PECO ENERGY COMPANY  
Respondent

Complaint Docket  
No: C-20065806

DOCUMENT  
FOLDER

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FORMAL COMPLAINT NOTICE TO RESPONDENT TO ANSWER OR SATISFY

---

TO: PECO ENERGY COMPANY

TAKE NOTICE:

**DOCKETED**  
JAN 25 2006

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).

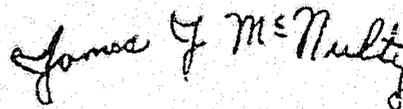
2. If you fail to either satisfy this complaint or to file answer or other responsive pleading within twenty (20) days, you will be deemed to have admitted all the allegations in this complaint in accordance with Section 5.61 of the Commission's Rules of Administrative Practice and Procedure, 52 Pa. 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



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

IN REPLY PLEASE  
REFER TO OUR FILE

DATE SERVED: JANUARY 26, 2006

C-20065806

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

DOCUMENT  
FOLDER

Dear Mr. Smith:

A complaint has been filed against you before the Pennsylvania Public Utility Commission by 3175 JFK ASSOCIATES, L.P.. 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.

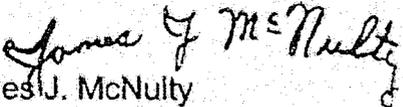
Detailed instructions on how to proceed are contained in the attached pages. You are advised to read them carefully.

JANUARY 26, 2006

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

JIH

Legal Department

Telephone 215 841 5544

Fax 215 568 3389

www.exeloncorp.com

Exelon Business Services Company

2301 Market Street / 523-1

PO Box 8699

Philadelphia, PA 19101-8699

Business Services  
Company

# ORIGINAL

Direct Dial: 215 841.6841

February 15, 2006

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

## RECEIVED

FEB 15 2006

Re: 3175 JFK Associates, L.P. v. PECO Energy Company  
PUC Docket No. C-20065806

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

Dear Mr. McNulty:

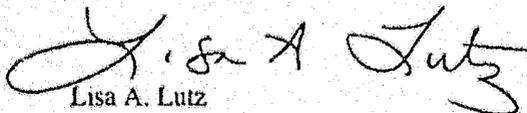
Enclosed for filing with the Commission are the following documents and copies in the matter referenced above.

<u>X</u>	Answer (original and 3 copies)
---	Petition (original and 3 copies)
---	Answer and Motion (original and 3 copies)
---	Motion to Dismiss (original and 3 copies)
---	Reply to Motion/Petition (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)

## DOCUMENT FOLDER

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

LAL/zr

Enc.

C: Ethan Halberstadt, Esquire - Counsel for Complainant

P231197



RECEIVED

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

FEB 16 2006

3175 JFK ASSOCIATES, L.P.

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

v.

DOCKET NO. C-20065806

PECO ENERGY COMPANY

ANSWER OF RESPONDENT, PECO ENERGY COMPANY

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

1. Admitted in part and denied in part. PECO admits that Complainant is a business, however, information regarding whether Complainant is authorized to conduct business in Pennsylvania is not reasonably available to PECO, and therefore, this averment is denied.

2. Admitted.

3. Admitted.

4. Admitted.

5. Admitted.

6. Admitted in part and denied in part. PECO admits that 3175 JFK ASSOCIATES,

L.P. ("3175 JFK"), through its authorized agent Philadelphia Management, initiated service about June 19, 2001 under PECO's General Service Rate ("GS"), which was a continuation of the rate treatment under which the prior tenant of this building was receiving service. Admitted that no one from PECO Energy "explained the different rates that were available to Complainant;" denied that Complainant did not have information regarding the different rates that were available to it. By way of further answer, the rates available to Complainant are

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FEB 16 2006

published in PECO Energy's Tariff for Electric Service, which is available on the Internet, at PECO's primary place of business, on the Commission's website and other places; consequently Complainant, which is a sophisticated commercial customer, knew or should have known the rates that were available to it. By way of further answer, PECO's Tariff Rule 11.1 places the obligation to choose the proper rate on the customer, not on PECO Energy. Denied that service was initiated without any input from Complainant. Denied that PECO placed Complainant on Rate GS without any input from Complainant; its request for a transfer of the existing Rate GS service constituted input into the rate.

7. Admitted in part and denied in part. PECO Energy admits it does discuss rate options with some customers prior to the customer initiating service. PECO denies that it has a policy and practice of discussing rate options with all customers prior to initiating service. By way of further answer, PECO discusses rate options with customers who request such assistance, sometimes before initiation of service and sometimes after initiation of service, pursuant to Rule 11.2 of its tariff, "Company Assistance." In addition, PECO sometimes has conversations with customers about rate options in the normal course of Account Executive conversations over time after service is initiated, but because the Account Executive is typically not assigned to the account until after service begins, such conversations do not occur prior to initiation of service. Admitted that PECO did not discuss rate options with the Complainant at the time service was initiated. Denied that this constituted "failure" by PECO to meet any of its obligations to Complainant.

8. Admitted in part and denied in part. Admitted that a 13.2 kV substation has been in place at 3175 JFK since at least the initiation of Complainant's service in 2001. Information regarding the ownership and operation of this substation is not reasonably available to PECO,

and therefore, these averments are denied and strict proof thereof is demanded at hearing if relevant. On belief and information, the substation is configured to receive dual service; however, at the time Complainant first took service the substation had water damage and therefore service could only be provided through one service to the building. To the extent that Complainant's rate analogies in Paragraph 8 contain any allegations of fact, they are denied and strict proof thereof is demanded at hearing if relevant. Denied that complainant is "analogous to a customer that could purchase electricity at a 'wholesale' rate, as the Complainant purchased electricity at a high tension voltage;" Complainant purchased its electric service as an end user and not for resale, and its purchase was therefore a retail sale, not a wholesale sale. PECO notes that, if the service to Complainant was actually wholesale in nature, the transaction would be under the jurisdiction of the Federal Energy Regulation Commission, not the Pennsylvania Public Utility Commission. By way of further answer, PECO's wholesale rates are on file at the Federal Energy Regulatory Commission and Complainant does not take service under any of those rates.

9. Admitted in part and denied in part. For the reasons stated in Paragraph 8 of this Answer, it is denied that "PECO's High Tension Rate, or 'Rate HT,' is analogous to PECO's wholesale electricity rate since the customer is responsible for its own transforming and switching." By way of further answer, it is denied that customer responsibility for transforming and switching has any relevance to the characterization of service as "wholesale" or "retail," and strict proof thereof is demanded at hearing if relevant. Admitted that, when a customer has a high tension substation, the metering is done on the primary side and the customer is required to pay for transformer losses.

10. Denied. Rate HT is available to customers on the conditions of availability listed in the tariff, which generally include customers receiving at 13 kV or higher voltage. However,

Rate HT is not the only rate available to such customers, nor is it always the most advantageous base rate or rate application for such a customer. The most advantageous rate also depends upon such factors as peak demand, usage, load profile, expansion plans, and other factors. By way of further answer, PECO avers that at the time of service initiation in 2001, whether the proper rate for Complainant was Rate HT or Rate GS depended, upon other things, upon Complainant's expected demand and usage at the time of service initiation, its expected demand and usage for the next several years over at least the 3-year Initial Contract Term for Rate HT, the likelihood that it would achieve its projected demand and usage expansion, Complainant's business risk tolerance, and other factors. Denied that Complainant was a "customer receiving such service." Customer had the capability to, and in fact did, receive transformed service under Rate GS for several years, as did the predecessor customer at this location.

11. Admitted in part and denied in part. Denied that Rate GS is "analogous" to retail service; Rate GS is retail service, as is all service provided under PECO's Electric Service Tariff, regardless of the rate under which the service is provided. Denied that the voltage class of service provided – whether 600 volts, or above or below that level – is relevant to a determination of whether the service is "retail," and strict proof thereof is demanded. Admitted that Rate GS customers are not required to own their own primary transformers and/or switch gear. Denied that "General Service customers do not experience primary transformer losses that High Tension customers experience." By way of further answer, customers that own transformation equipment are eligible for both Rate HT and Rate GS. When such customers take service under Rate GS, they experience primary transformer losses in the same way as Rate HT customers. Moreover, Rate GS customers who take transformed service (that is, customers who

do not own transformation equipment) also experience and pay for transformation losses through meter compensation.

12. Admitted in part and denied in part. PECO admits that about December 2001, Complainant submitted a Service and Meter Application with a notation that at that time, only one service was presently energized with plans that Complainant would "like second service energized." Denied that this constituted notice of Complainant's service conditions sufficient to determine the most advantageous rate for Complainant. By way of further answer, prior to December 2001 Complainant was receiving service through the energized half of its substation; the request to energize the second service did not constitute any change in service conditions. By way of further answer, in order to do a contemporaneous, December 2001 determination of the most advantages rate for Complainant, PECO would have needed additional information, including the complainant's demand and usage characteristics, its expected demand and usage for the next several years over at least the 3-year Initial Contract Term for Rate HT, the likelihood that it would achieve its projected demand and usage expansion, Complainant's business risk tolerance, and other factors. Complainant's December 2001 Service and Meter Application did not contain any information about future expected load, the expected timing of that load, or the other information needed to conduct a rate analysis. Finally, it should be noted that the December 2001 Service and Meter Application was later cancelled as the second service was not energized until May, 2004; Complainant submitted an additional Service and Meter Application to energize the second service (also in May 2004). As a consequence, information on service conditions provided by the December 2001 Service and Meter Application was not firm enough for planning purposes, in that the service change anticipated by the customer in December, 2001 did not take place until 29 months later, in May, 2004. By way of further notice, the May 2004

Service and Meter Application also did not contain any information about future expected load, the expected timing of that load, or the other information needed to conduct a rate analysis.

13. Admitted in part and denied in part. For the reasons set forth in Paragraph 12, denied that PECO had been placed on notice of Complainant's service conditions. PECO did not have sufficient information to determine whether, as of December 2001, Rate HT was "the most advantageous rate available to Complainant," because PECO did not have actual notice of Complainant's demand and usage characteristics at that time, nor did PECO have actual notice of Complainant's expected demand and usage for the next several years over at least the 3-year Initial Contract Term for Rate HT, the likelihood that it would achieve its projected demand and usage expansion, Complainant's business risk tolerance, and other factors. Moreover, since the December 2001 Service and Meter Application, regarding energizing the second service, was cancelled, the information contained in it was not firm enough for planning purposes and this served as notification that service conditions were not changing at that time. Admitted that PECO did not advise Complainant that Rate HT was the most advantageous rate for it. Admitted that, on or about February 21, 2005, Complainant requested PECO's assistance in selecting the most advantageous rate to it, but denied that Complainant "advised PECO that it had been placed on the wrong rate." By way of further answer, on or about February 21, 2005, Complainant's representative, Annette Billups, requested a one-year analysis comparing the cost of electricity under the GS and HT rate. Ms. Billups also requested an analysis for the electric heat demand forgiveness option. Upon notice in February, 2005, an analysis revealed that at that time, given Complainant's demand and usage characteristics at that time, electric service would be less expensive under Rate HT. By way of further answer, upon receipt of this information

Complainant requested that PECO place it on Rate HT, which PECO did retroactive to February 2005.

14. Denied. The analysis performed by PECO demonstrated that, given a certain set of assumptions about Complainant's current and expected demand and usage characteristics, service under Rate HT would be approximately \$100,000 less expensive than service under Rate GS for the hypothetical 12-month period analyzed. Denied that this cost differential would exist under a different set of billing determinants, including different assumptions of demand and usage.

15. Paragraph 15 is a statement of law to which no response is required.

16. Admitted in part and denied in part. Admitted that PECO had notice, in December 2001, that Complainant had requested that its second service be energized. Since the December 2001 Service and Meter Application to energize the second service was cancelled, the information contained in it was not firm enough for planning purposes and this served as notification that service conditions were not changing at that time. Denied that PECO had express knowledge of Complainant's service conditions. Admitted that PECO did not advise Complainant to switch to Rate HT or place it on Rate IIT prior to February 2005.

17. Admitted in part and denied in part. PECO admits that Complainant requested retroactive adjustment after the requested rate analysis; PECO denies that any remuneration is warranted prior to the time the Complainant initially requested the rate analysis in February, 2005. For the reasons set forth in Paragraph 7, PECO denies that it has a policy and practice as set forth in the Complaint.

18. PECO denies that its treatment of Complainant is unjust and unreasonable. PECO denies that it had notice of Complainant's service conditions as averred in the Complaint. PECO denies that Complainant was overcharged.

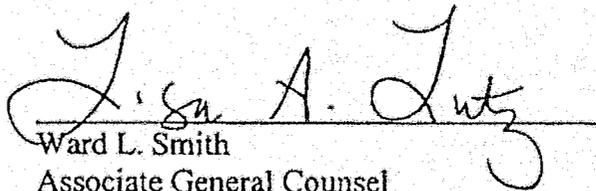
19. PECO denies that Complainant is being unlawfully discriminated against.

20. PECO denies that it has been or will be unjustly enriched if permitted to retain charges billed to Complainant under Rate GS. PECO denies that it knew or should have known that Rate HT was the most advantageous rate for Complainant. PECO denies that it was aware or should have been aware that Rate GS was causing Complainant to pay excessive utility charges but withheld this information from Complainant. PECO denies that it has unlawfully discriminated or that it has been negligent.

21. Paragraph 21 is a request for relief to which no response is required.

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

Respectfully Submitted,



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

Ward L. Smith  
Associate General Counsel  
Exelon Business Services Company  
2301 Market Street  
Philadelphia, PA 19101-8699  
215.841.6863  
ward.smith@exeloncorp.com

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

RECEIVED

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

FEB 15 2006

3175 JFK ASSOCIATES, L.P.

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PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

v.

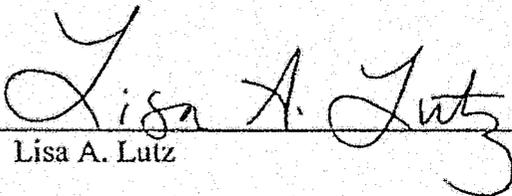
DOCKET NO. C-20065806

PECO ENERGY COMPANY

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: February 15, 2006

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

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PENNSYLVANIA PUBLIC UTILITY COMMISSION

3175 JFK ASSOCIATES, L.P.

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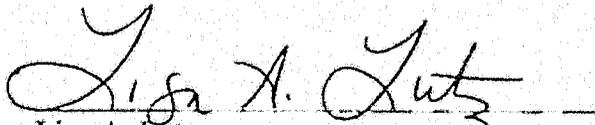
CERTIFICATE OF SERVICE

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

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:

Ethan N. Halberstadt  
Halberstadt Curley LLC  
1100 E. Hector Street, Suite 425  
Conshohocken, PA 19428

Dated at Philadelphia, Pennsylvania, February 15, 2006.



Lisa A. Lutz  
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