

June 21, 2017

**Via Electronic Filing**

Rosemary Chiavetta, Esquire  
Secretary  
PA Public Utility Commission  
Commonwealth Keystone Building, 2 North  
P.O. Box 3265  
Harrisburg, PA 17105-3265

**Re: Docket No. C-2016-2565520  
Howard Weightman v. Pennsylvania Electric Company  
Motion to Compel of Penelec**

Dear Secretary Chiavetta:

Attached for filing is the Motion of Pennsylvania Electric Company (Penelec), to Compel Discovery Responses of Howard Weightman (Complainant) in the above referenced proceeding.

A copy of the Motion to Compel has been forwarded to the Complainant in the manner indicated on the attached Certificate of Service.

If there are any questions, please contact me.

Very truly yours,

Reger Rizzo & Darnall LLP

  
Margaret A. Morris

MAM/jmm  
Attachment

cc: The Honorable Mary D. Long, PA Public Utility Commission [w/enc.]  
Lauren Lepkoski, Esquire, FirstEnergy Service Company [w/enc.]  
Howard Weightman [w/enc.]

**Re: Docket No. C-2016-2565520  
Howard Weightman v. Pennsylvania Electric Company  
Motion to Compel of Penelec**

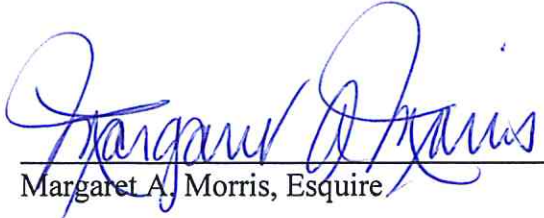
**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing documents has been served upon the following person(s), in the manner indicated, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

**Via Electronic and First Class Mail**

Howard Weightman  
3192 Main Road  
Bedford, PA 15522  
[Howard.weightman1023@gmail.com](mailto:Howard.weightman1023@gmail.com)

Dated: June 21, 2017

  
Margaret A. Morris, Esquire

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

HOWARD WEIGHTMAN

v.

PENNSYLVANIA ELECTRIC COMPANY

:  
:  
:  
:  
:

Docket No. C-2016-2565520

**NOTICE TO PLEAD**

Pursuant to 52 Pa.Code § 5.103, you are hereby notified that if you do not file a written response answering the enclosed Motion to Compel of Pennsylvania Electric Company within five (5) days from service of this notice, the facts set forth by Pennsylvania Electric Company in the Motion may be deemed to be true, whereby requiring no other proof. All pleadings, such as a Reply to Motion, must be filed with the Secretary of the Pennsylvania Public Utility Commission, with a copy served to counsel for Pennsylvania Electric Company, Margaret A. Morris, Esq., and to Administrative Law Judge Mary D. Long.

**File with:**

Rosemary Chiavetta, Esq.  
Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building – 2 North  
P.O. Box 3265  
Harrisburg, PA 17105

**With a copy to:**

Margaret A. Morris, Esq.  
Reger Rizzo & Darnall LLP  
Cira Centre, 13<sup>th</sup> Floor  
2929 Arch Street  
Philadelphia, PA 19104

The Hon. Mary D. Long  
PA Public Utility Commission  
Piatt Place, Suite 220  
301 Fifth Avenue  
Pittsburgh, PA 15222

Date: June 21, 2017



Margaret A. Morris, Esq.  
Attorney ID No. 75048  
Reger Rizzo & Darnall LLP  
Cira Centre, 13<sup>th</sup> Floor  
2929 Arch Street  
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(215) 495-6600 fax  
[mmorris@regerlaw.com](mailto:mmorris@regerlaw.com)

*Counsel for Pennsylvania Electric Company*

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

HOWARD WEIGHTMAN	:	
	:	
v.	:	Docket No. C-2016-2565520
	:	
PENNSYLVANIA ELECTRIC COMPANY	:	

**MOTION OF PENNSYLVANIA ELECTRIC COMPANY  
TO COMPEL RESPONSES TO INTERROGATORIES  
AND DOCUMENT REQUESTS**

Pennsylvania Electric Company (Penelec or Respondent) by and through its attorneys, Reger Rizzo & Darnall LLP, and pursuant to 52 Pa. Code §§ 5.371-5.372, hereby files this Motion to Compel Howard E. Weightman (Complainant) to provide full and complete responses to Interrogatories and document requests issued by Penelec on May 31, 2017. In support thereof, Penelec avers as follows:

**Relevant Procedural History**

1. On September 6, 2016, the Complainant filed a Formal Complaint with the Pennsylvania Public Utility Commission (Commission) checking the every box on the formal complaint form.

2. On September 27, 2016, Penelec filed its Answer and New Matter, which denied the material allegations. Penelec asserted the Complainant raised the identical issue(s) in his Complaint at Docket No. F-2015-2513602, which was previously dismissed with prejudice by the Commission. See, Docket No. F-2015-2513602 (*Final Order* entered June 8, 2016).

3. By *Interim Order On Motion In Limine And Scheduling Further Hearing*, dated May 23, 2017, (*Interim Order*) Administrative Law Judge Mary D. Long (Judge Long) ruled that the Complainant is barred from contesting any of the bills or charges, which accrued up to November 12, 2015, when his first Complaint was filed. However, he is not barred from challenging the accuracy of bills or his meter after November 12, 2015, up to the point that he filed his second Complaint on September 6, 2016. *Interim Order* at 5.

4. On May 31, 2017, in accordance with 52 Pa. Code § 5.341, Penelec forwarded to the Complainant Interrogatories and document requests (Discovery Requests) *via* electronic and first class mail. In its Discovery Requests, Penelec sought information regarding, *inter alia*, the alleged incorrect charges and alleged reliability, safety or quality problem with his service. A copy of the Discovery Requests of Penelec is provided as Attachment 1.

5. Objections to Penelec's Discovery Requests were due on or before June 12, 2017; Answers to the Discovery Requests were due on or before June 20, 2017.

6. The Complainant did not file any objection to the Discovery Requests and has not provided any responses or the requested documents by the due date. Accordingly, and prior to filing this Motion to Compel, counsel for Penelec contacted the Complainant *via* email on June 19, 2017 reminding him of the due date for the responses. A copy of the email is provided as Attachment 2. A follow-up phone call<sup>1</sup> was placed June 20, 2017 advising that the responses were overdue. The Complainant has not responded to the email or the voice message.

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<sup>1</sup> A Voice Message was left at approximately 6 PM at 814-979-7717.

7. On June 7, 2017, the continued telephonic hearing was scheduled for July 19, 2017 before Judge Long.

**Motion To Compel**

8. The Commission’s regulations permit the discovery of “any matter, not privileged, which is relevant to the subject matter involved in the pending action.” 52 Pa. Code § 5.321 (c).

9. Generally speaking, this Commission applies a standard of relevance, which is less restrictive than that required by parties to present information into the evidentiary record. It is not grounds for objection that the information sought will be inadmissible at hearing if the information sought appears reasonably calculated to lead to the discovery of admissible evidence. 52 Pa. Code § 5.321(c).

10. Discovery may be obtained regarding any matter relevant to the subject matter. Relevant evidence is evidence that tends to make an act at issue more or less probable. Moreover, evidence is relevant if it advances the inquiry in some degree and, thus, has probative value. Although the law does not furnish an absolute test of relevancy, the Pennsylvania Supreme Court follows a two–part analysis for determining relevance. In *Commonwealth v. Stewart*, 461 Pa. 274, 336 A.2d 282 (1975), the Court held that “[i]t must be determined first if the inference sought to be raised by the evidence bears upon a matter at issue in this case and, second, whether the evidence renders the desired inference more probable than it would be without the evidence. *Id.* at 284.

11. The information sought here by Penelec is relatively simple and straightforward. It is directly relevant and material to the issues as defined by the *Interim Order*. Penelec is entitled to the requested information to enable it to fully prepare for the scheduled hearing in this proceeding.

12. The Commission's Regulations at 52 Pa. Code § 5.371 address the consequences of a participant's failure to comply with the Commission's discovery regulations. Section 5.371 provides that:

(a) The Commission or the presiding officer may, on motion, make an appropriate order if one of the following occurs:

(1) A party fails to appear, answer, file sufficient answers, file objections, make a designation or otherwise respond to discovery requests, as required under this subchapter.

13. Section 5.372 provides that the presiding officer may impose appropriate sanctions upon a party found to be found in violation of the obligations set forth in the Commission's Regulations.

14. Penelec requests that the Complainant be directed to provide full and complete responses to the Discovery Requests to be received by the undersigned counsel to Penelec within five (5) days after entry of an Order Granting the Motion to Compel so that it may prepare for the scheduled telephonic hearing on July 19, 2017.

15. Administrative agencies, such as the Commission, are required to provide due process to the parties appearing before them. *Schneider v. Pa. Pub.Util. Comm'n.*, 479 A.2d 10 (Pa.

Cmwlth. 1984). The Commission, as an administrative body, is also bound by principle of common fairness doctrine. Among the requirements of due process are notice and an opportunity to be heard on the issues, to be apprised of the evidence submitted, to cross-examine witnesses, to inspect documents and to offer evidence in explanation or rebuttal. *Hess v. PA PUC*, 107 A.3d 246 (2014). The Courts have recognized that the fundamental requirement of due process is the opportunity to be heard at a meaningful time and in a meaningful manner. *Barasch v. PA PUC*, 521 A.2d 482, 496 (1987).

16. The case law is well-settled. The Commission's regulation is clear. Penelec has an absolute right to be made aware of the allegations **before** the July 19, 2017 hearing and the absolute right to respond and defend its actions.

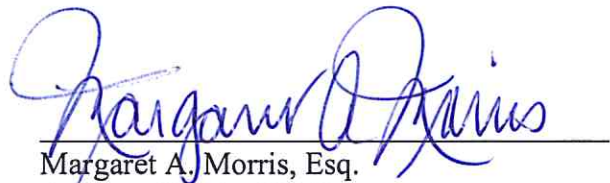
17. In the event the Complainant is directed by the Commission but fails to respond to the Discovery Requests, Penelec requests that the Complaint against Penelec be dismissed in its entirety and the scheduled July 19, 2017 hearing be cancelled.

**WHEREFORE**, Pennsylvania Electric Company respectfully requests that presiding Judge Long issue an Order: (a) compelling the Complainant to fully and completely respond to the Discovery Requests such that the responses are received by counsel for Penelec

no later than five (5) calendar days after entry of an Order on the Motion to Compel; and (b) in the event the Complainant is directed by the Commission but fails to respond to Penelec's requests, dismiss in its entirety the Complaint of Howard E. Weightman and cancel the scheduled July 19, 2017 hearing.

Respectfully submitted,

Date: June 21, 2017



---

Margaret A. Morris, Esq.  
Attorney ID No. 75048  
Reger Rizzo & Darnall LLP  
Cira Centre, 13<sup>th</sup> Floor  
2929 Arch Street  
Philadelphia, PA 19104  
(215) 495-6524 tel.  
(215) 495-6600 fax  
mmorris@regerlaw.com

*Counsel for Pennsylvania Electric Company*

Docket No. C-2016-2565520  
Howard Weightman v. Pennsylvania Electric Company

## Attachment 1

Discovery Request of Penelec

May 31, 2017

**Via Electronic and First Class Mail**

Howard Weightman  
3192 Main Road  
Bedford, PA 15522  
[Howard.weightman1023@gmail.com](mailto:Howard.weightman1023@gmail.com)

**Re: Docket No. C-2016-2565520  
Howard Weightman v. Pennsylvania Electric Company  
Interrogatories and Requests for Production of Documents of Penelec**

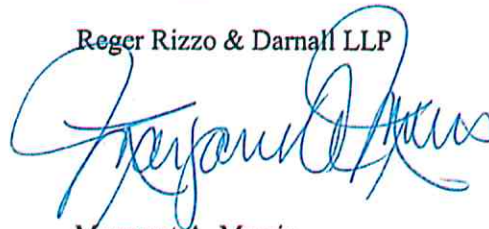
Dear Mr. Weightman:

Enclosed are the Interrogatories and Requests for Production of Documents of Pennsylvania Electric Company in the above referenced proceeding. Pursuant to 52 Pa. Code §§ 5.321 and 5.349 et seq. any Objections are due within **ten (10) days** of service of this letter or June 12, 2017; your Answers are due within **twenty (20) days** of service of this letter or June 20, 2017.

Please note that you must send a cover letter and Certificate of Service for your responses to Administrative Law Judge Mary D. Long and Rosemary Chiavetta, Esquire, Secretary of the PA Public Utility Commission (PUC). **You do not file your response with the PUC.**

Very truly yours,

Reger Rizzo & Darnall LLP



Margaret A. Morris

MAM/jmm  
Enclosures

cc: The Honorable Mary D. Long, PA Public Utility Commission [Cert. of Service only]  
Rosemary Chiavetta, Esquire, PA Public Utility Commission [Cert. of Service only]  
Lauren Lepkoski, Esquire, FirstEnergy Service Company [w/encls.]



**PENNSYLVANIA**  
PUBLIC UTILITY COMMISSION

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Print this page for your records. The date filed on will be the current day if the filing occurs on a business day before or at 4:30 PM Harrisburg, PA time. It will be the next business day if the filing occurs after 4:30 PM Harrisburg, PA time or on weekends or holidays.

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eFiling Confirmation	
Docket Number:	C-2016-2565520
Description:	Howard Weightman v. Pennsylvania Electric Company
Transmission Date:	5/31/2017 6:33:36 PM
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eFiling Confirmation Number:	1679606

### Uploaded File List

File Name	Document Class	Document Type
disc cert of service - weightman.pdf	Other Filing	Certificate of Service

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**Re: Docket No. C-2016-2565520  
Howard Weightman v. Pennsylvania Electric Company  
Interrogatories and Requests for Production of Documents of Penelec**

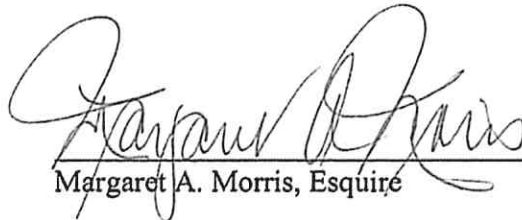
**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing document has been served upon the following person(s) listed below, in the manner indicated, in accordance with the requirements of 52 Pa.Code § 1.54 (relating to service by a participant).

**Via Electronic and First Class Mail**

Howard Weightman  
3192 Main Road  
Bedford, PA 15522  
Howard.weightman1023@gmail.com

Dated: May 31, 2017

  
\_\_\_\_\_  
Margaret A. Morris, Esquire

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

HOWARD WEIGHTMAN :  
 :  
 v. : Docket No. C-2016-2565520  
 :  
 PENNSYLVANIA ELECTRIC COMPANY :

**PENNSYLVANIA ELECTRIC COMPANY’S INTERROGATORIES AND REQUEST  
FOR DOCUMENTS TO COMPLAINANT, HOWARD WEIGHTMAN**

Now comes Pennsylvania Electric Company, by and through its undersigned attorneys, and hereby requests that Howard Weightman answer fully, in writing and under oath, the following interrogatories (questions )and request for documents pursuant to the 52 Pa. Code §§ 5.321 and 5.349 *et seq.*

Pursuant to 52 Pa. Code § 5.342, you must send your objections to me within ten (10) days (**June 12, 2017**) and answers within twenty (20) days (**June 20, 2017**). Your answers and objections should not be filed with the Pennsylvania Public Utility Commission. **You should only file the cover letter and certificate of service, with the Commission’s Secretary and send a copy of the cover letter and certificate of service to Administrative Law Judge Mary E. Long.** If you have any objection to any of the interrogatories or the request for documents, please identify the interrogatory or request and state your objection in full as to why you should not have to answer/produce it. Any objection not raised within the 10-day period provided for by 52 Pa. Code § 5.342(c) will be deemed waived and you will not be permitted to raise the objection at a later time.

**INSTRUCTIONS**<sup>1</sup>

Unless stated otherwise, the following instructions are to be considered to be applicable to all interrogatories:

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<sup>1</sup> Complainant is not presented by counsel. Therefore, these instructions have been simplified. A good faith effort to completely answer the questions is expected.

(a) Whenever a date, amount or other computation or figure is requested, the exact date, amount or other computation or figure is to be given unless it is not known; and then, the approximate date, amount or other computation or figure should be given or the best estimate thereof; and the answer shall state that the date, amount or other computation or figure is an estimate or approximation.

(b) No answer is to be left blank. If the answer to an interrogatory or subparagraph of an interrogatory is "none" or "unknown," such statement must be written in the answer. If the question is inapplicable, "N/A" must be written in the answer. If an answer is omitted because of the claim of privilege, the basis of privilege is to be stated.

(c) If additional space is required for an answer, attach supplemental answer sheets which clearly identify the interrogatory number being answered.

(d) These interrogatories are continuing, and any information secured subsequent to the filing of your answers which would have been includable in the answers had it been known or available, are to be supplied by supplemental answers.

## **INTERROGATORIES**

1. What is the main heat source (i.e., electric, gas or oil) for the property located at 3192 Main Road, Bedford, PA (Service Location)?

2. Please provide the name, address, and phone number for the supplier of the heat source identified in question 1 for the period November 2015 through September 2016.

a. Please provide the account number for the energy supplier identified in question 2.

b. Is the account for that energy supplier active?

c. If not, when was that account closed?

3. What year was your furnace installed at the Service Location?

4. Is the furnace at the Service Location currently operational?

a. If not, when did the furnace stop operating?

- b. When was the last time the furnace was serviced?
- c. If applicable, please provide the name and contact information for the company/person that serviced the furnace identified in question 2b.

5. Are you disputing specific charges billed during the period November 2015 through September 2016?

- a. Please state the date(s) of any issued monthly bill that contains the disputed charges identified in question 5.
- b. Please state the specific amount of the disputed charges identified in question 5a.
- c. Please explain the specific reason that the identified charges in question 5b are disputed.

## REQUESTS FOR DOCUMENTS

6. Please provide a copy of all bills related to the service/operation of the furnace located at 3192 Main Road, Bedford, PA for the period November 2015 through September 2016.

7. For the period November 2015 through September 2016, please provide a copy of all bills associated with the energy source (i.e., gas or oil bill) for the furnace located at 3192 Main Road, Bedford, PA.

Respectfully submitted,

Dated: May 31, 2017



---

Margaret A. Morris, Esquire  
Attorney I.D. # 75045  
Reger Rizzo & Darnall, LLP  
Cira Centre, 13<sup>th</sup> Floor  
2929 Arch Street  
Philadelphia, PA 19104-2899  
(215) 495-6524 (voice)  
(215) 495-6600 (fax)  
[mmorris@regerlaw.com](mailto:mmorris@regerlaw.com)

*Counsel for Pennsylvania Electric Company*

Docket No. C-2016-2565520  
Howard Weightman v. Pennsylvania Electric Company

## Attachment 2

Email sent June 19, 2017

**Margaret A. Morris, Esquire**

---

**From:** Microsoft Outlook  
**To:** howard.weightman1023@gmail.com  
**Sent:** Monday, June 19, 2017 5:33 PM  
**Subject:** Relayed: RE: Weightman v. Pennsylvania Electric Company--Discovery responses due tomorrow 6/20/17

Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:

[howard.weightman1023@gmail.com](mailto:howard.weightman1023@gmail.com) ([howard.weightman1023@gmail.com](mailto:howard.weightman1023@gmail.com))  
<<mailto:howard.weightman1023@gmail.com>>

Subject: RE: Weightman v. Pennsylvania Electric Company--Discovery responses due tomorrow 6/20/17

## Margaret A. Morris, Esquire

---

**From:** Margaret A. Morris, Esquire  
**Sent:** Monday, June 19, 2017 5:33 PM  
**To:** [howard.weightman1023@gmail.com](mailto:howard.weightman1023@gmail.com)  
**Subject:** RE: Weightman v. Pennsylvania Electric Company--Discovery responses due tomorrow 6/20/17

**Importance:** High

Mr. Weightman--a friendly reminder that the responses to Penelec's Discovery, Set 1, is due tomorrow, 6/20/17. Please timely forward. If there is an issue that you need to discuss, please call me at 215 495 6524,

Margie Morris

Cira Centre, 13th Floor  
2929 Arch Street  
Philadelphia, Pa 19104  
Phone: 215.495.6500  
Fax: 215.495.6600  
Web: [www.regerlaw.com](http://www.regerlaw.com)  
Margaret A. Morris, Esquire  
[mmorris@regerlaw.com](mailto:mmorris@regerlaw.com)  
Direct: 215.495.6524  
Cell: 215.870.5785

NEW IRS RULES RESTRICT WRITTEN FEDERAL TAX ADVICE FROM LAWYERS AND ACCOUNTANTS. WE INCLUDE THIS STATEMENT IN ALL OUTBOUND EMAILS BECAUSE EVEN INADVERTENT VIOLATIONS MAY BE PENALIZED. NOTHING IN THIS MESSAGE IS INTENDED TO BE USED, OR MAY BE USED, TO AVOID ANY PENALTY UNDER FEDERAL TAX LAWS. THIS MESSAGE WAS NOT WRITTEN TO SUPPORT THE PROMOTION OR MARKETING OF ANY TRANSACTION. CONTACT THE SENDER IF YOU WISH TO ENGAGE US TO PROVIDE FORMAL WRITTEN ADVICE AS TO TAX ISSUES. THIS E-MAIL MAY CONTAIN PRIVILEGED, CONFIDENTIAL, COPYRIGHTED, OR OTHER LEGALLY PROTECTED INFORMATION. IF YOU ARE NOT THE INTENDED RECIPIENT (EVEN IF THE E-MAIL ADDRESS ABOVE IS YOURS), YOU MAY NOT USE, COPY, OR RETRANSMIT IT. IF YOU HAVE RECEIVED THIS BY MISTAKE PLEASE NOTIFY US BY RETURN E-MAIL, THEN DELETE. THANK YOU.

-----Original Message-----

**From:** Joan Motz On Behalf Of Margaret A. Morris, Esquire  
**Sent:** Wednesday, May 31, 2017 6:53 PM  
**To:** [howard.weightman1023@gmail.com](mailto:howard.weightman1023@gmail.com)  
**Cc:** Margaret A. Morris, Esquire  
**Subject:** Weightman v. Pennsylvania Electric Company

Mr. Weightman:

Attached for your consideration are the Discovery Requests of Pennsylvania Electric Company in regard to your Complaint filed with the Public Utility Commission. Please note, any objections are due on or before June 12, 2017; your responses are due on or before June 20, 2017. The original Discovery Requests have been forwarded to your attention via regular U.S. Mail.

Joan Motz  
Paralegal  
[jmotz@regerlaw.com](mailto:jmotz@regerlaw.com)  
Direct: 215.495.6518

Reger Rizzo & Darnall LLP  
Cira Centre, 13th Floor  
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Philadelphia, Pa 19104  
Phone: 215.495.6500  
Fax: 215.495.6600  
Web: [www.regerlaw.com](http://www.regerlaw.com)

NEW IRS RULES RESTRICT WRITTEN FEDERAL TAX ADVICE FROM LAWYERS AND ACCOUNTANTS. WE INCLUDE THIS STATEMENT IN ALL OUTBOUND EMAILS BECAUSE EVEN INADVERTENT VIOLATIONS MAY BE PENALIZED. NOTHING IN THIS MESSAGE IS INTENDED TO BE USED, OR MAY BE USED, TO AVOID ANY PENALTY UNDER FEDERAL TAX LAWS. THIS MESSAGE WAS NOT WRITTEN TO SUPPORT THE PROMOTION OR MARKETING OF ANY TRANSACTION. CONTACT THE SENDER IF YOU WISH TO ENGAGE US TO PROVIDE FORMAL WRITTEN ADVICE AS TO TAX ISSUES. THIS E-MAIL MAY CONTAIN PRIVILEGED, CONFIDENTIAL, COPYRIGHTED, OR OTHER LEGALLY PROTECTED INFORMATION. IF YOU ARE NOT THE INTENDED RECIPIENT (EVEN IF THE E-MAIL ADDRESS ABOVE IS YOURS), YOU MAY NOT USE, COPY, OR RETRANSMIT IT. IF YOU HAVE RECEIVED THIS BY MISTAKE PLEASE NOTIFY US BY RETURN E-MAIL, THEN DELETE. THANK YOU.