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September 22, 2017

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

**RE: Rama Construction, Inc. t/a Ramada Inn International Airport v.  
PECO Energy Company  
Docket No. C-2008-2058320**

Dear Ms. Chiavetta:

A copy of *PECO's Answer to Rama's Motion to Compel* is enclosed for filing.

Very truly yours,



Ward Smith  
Counsel for PECO Energy Company

WS/ab  
Enclosure

cc: Honorable Marta Guhl, ALJ  
Certificate of Service

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Rama Construction, Inc. t/a Ramada Inn	:	
International Airport	:	
	:	C-2008-2058320
v.	:	
	:	
PECO Energy Company	:	

**CERTIFICATE OF SERVICE**

I, Ward L. Smith, hereby certify that I have this day served a copy of *PECO's Answer to Rama's Motion to Compel* via email to:

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*Counsel for Rama Construction*

Dated at Philadelphia, Pennsylvania, September 22, 2017



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**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

<b>Rama Construction, Inc. t/a Ramada Inn</b>	:	
<b>International Airport</b>	:	
	:	<b>C-2008-2058320</b>
<b>v.</b>	:	
	:	
<b>PECO Energy Company</b>	:	

**PECO Energy Company’s Answer to  
Rama’s Motion to Compel**

On September 18, 2017, Rama filed a Motion to Compel in this proceeding. PECO hereby answers.

The matter in dispute in this Motion to Compel and Answer is whether PECO should be required to answer discovery questions that relate to 210 corporate entities – other than Rama – who filed Proofs of Claim in Celeren’s bankruptcy proceeding in 2008. Specifically, Rama has requested that PECO be required to analyze the list of 210 corporate entities, determine which of those entities were receiving utility service from PECO in 2007-08, and then answer 19 discovery questions (essentially requiring a complete account history for that time period) for each such entity.

PECO lodged two objections. First, the only time that Rama ever attempted to relate these Proofs of Claim to PECO was in the fraud claim that it added to this case in 2014, and which ALJ Fordham ruled, in Order #4, is time-barred. Second, PECO calculated that it could take hundreds of hours to provide this information, and that the discovery is thus unduly burdensome.

In its Motion to Compel, Rama answers the “fraud” argument by arguing that it makes no difference whether the Proofs of Claim were originally pled as part of the fraud claim, because Rama now wants that information for a completely different reason; it now seeks that information as evidence of PECO’s “knowledge, relationship, and notice.” Motion to Compel, ¶2.

It should first be recalled that, in Order #4, ALJ Fordham not only struck the fraud claim – she also ordered Rama to file a more specific complaint that sets forth the legal theory under which it claims that PECO owes it the “duties” claimed in the Complaint. Over three years later, Rama has still not made an amendment to its Complaint that meets that obligation. It cannot now claim that the Proofs of Claim are relevant evidence to prove any of its existing claims because it failed in its obligation to articulate those claims after being clearly ordered to do so. Simply, it has not provided a framework to adjudge its own claims of relevance!

Nor can Rama now plead a new theory of the case to justify its examination of the 210 Proofs of Claim, because that new theory also would be time-barred. Rama did not attempt to relate these Proofs of Claim to PECO, under any theory, until 2014, when it made its first attempt via the fraud claim. If examination of the Proofs of Claim were-time barred in 2014 when they were presented a part of a new fraud claim, then they are time-barred for any new theory stated in 2017.

Moreover, to the extent that Rama needs to know about PECO’s “knowledge, relationship, and notice,” *as to Rama*, PECO notes that it has already provided answers to discovery that fully develops its state of knowledge, relationship and notice *as to Rama* in the relevant time period: Specifically, PECO’s records show that, in the period April 2007 to July 2008, PECO’s Large Account representative bypassed Celeren and called Rama directly, on

about 10 different occasions, to inform Rama that Celeren had fallen behind on paying Rama's bills. There is no need to examine 210 Proofs of Claim filed by other corporate entities to flesh out that understanding

PECO's "unduly burdensome" objection was that it would take over 600 hours to answer 19 interrogatories for each of 210 corporate entities. Rama responds that "this calculation is ridiculous" – because, Rama notes, the first question in this set of discovery asks PECO to determine which of the 210 corporate entities were its customers in 2007-2008 – and then PECO will only have to answer the full set of 19 questions as to those subset of the customers.

If even one-tenth of the corporate entities were PECO customers in that time frame, that would still take over 60 hours to answer the 19 questions for that subset of customers, and given the amount at issue in this case and the tangential (at best) relevance of PECO's relationship with customers other than Rama, even that task would be unduly burdensome.

But Rama's argument on this issue actually highlights one of the most burdensome aspects of this set of discovery – the job of winnowing through the list provided by Rama in order to determine which, if any, of the 210 Proof of Claim entities was a PECO customer in 2007-08. PECO's service territory is limited to the Philadelphia, Bucks, Montgomery, Chester, and Delaware counties (and a small portion of York), so at first blush it might seem easy to go through the list and identify those corporate entities who had mailing addresses in the PECO service territory (and thus presumptively were taking service from PECO) – just look for addresses in those counties. However, the list of claimant addresses provided by Rama – which is actually over 500 addresses long – includes claimants with multiple addresses at different geographic locations. Moreover, more than seventy-five of those addresses are for the claimant's law firm, thus providing no information regarding the geographic location of that

claimant's business. More than 40 of the addresses are post office boxes or corporate headquarters that similarly may bear no relationship to the claimant's operational site. That means that, in order to determine whether each claimant was taking service from it in 2007-2008, PECO would have to conduct a name search in its records from 2007-08 – and all of the records from that time were archived years ago.<sup>1</sup> Archived records are notoriously difficult and time-consuming to search. Reviewing 500+ addresses for 210 Proofs of Claim to determine whether the entities had PECO accounts in 2007-08 could easily take a hundred hours to accomplish that step alone.

PECO also notes that Rama has had the Proof of Claims list in its possession for nine years, and in all that time it did not manage to winnow the list down to entities with operations in PECO's service territory footprint. That fact alone demonstrates that it is not an easy task to perform that curation.

**WHEREFORE:**

PECO respectfully requests that Your Honors deny the Motion to Compel and instead sustain PECO's objections. These questions, all of which relate to 210 Proofs of Claim filed in the Celeren bankruptcy in 2008 by entities other than Rama cannot lead to the discovery of admissible evidence because Rama, for nine years and notwithstanding an ALJ order to do so, has failed to articulate a specific legal basis that would frame its claim of relevance. Moreover, the requested investigation would take hundreds of hours to pursue and is thus unduly

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<sup>1</sup> Since Rama has shown a penchant for accusing PECO of spoliation and unethical behavior, PECO preemptively notes that it still has records from 2007-08, but they were archived at or before the four year mark – that is, by 2012, and perhaps sooner -- in accordance with normal record retention procedures. Rama did not attempt to relate the Proofs of Claim to PECO until 2014, and so PECO had no reason to interrupt its normal archiving process.

burdensome, especially given the extremely tangential nature of the information sought through these questions.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Ward Smith", is written over a horizontal line.

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**PECO Energy Company**  
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