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Dear Madam:

Enclosed hereto please find complimentary
submissions supporting their objection to
the Commission's Admission of Proposed
Hearing 2 Exhibit 1

Sincerely
Aines Atuahene
AINES ATUAHENE
SQ.
STEVE ATUAHENE

DATED: 8/9/20

BEFORE
PA. PUBLIC UTILITY COMMISSION
AGNES AND STEVE ATUAHENE ;

v. : DOCKET # 2019-3012904

PECO ENERGY CO. :

COMPLAINANTS' OBJECTION TO ADMISSIBILITY OF DOCUMENT

I. REVIEW OF RELEVANT LAWS

It is settled practice under Rules of Evidence that objection may be made at the trial or hearing to receiving in evidence any document or part thereof for lack of relevancy.

Federal Rules of Evidence, which in this case is very instructive if not binding, at Rule 401 provides that:

"Relevant evidence' means evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence."

(Pub. L. 93-595, §1, Jan 2, 1975, 88 Stat. 1931)

Federal Rule of Evidence, Rule 402 provides:

"All relevant evidence is admissible, except as otherwise provided by the Constitution of the United States, by Act of Congress, by these rules, or by other rules prescribed by the Supreme Court pursuant to statutory authority. Evidence which is not relevant is not admissible

Federal Rules of Evidence, Rule 403, which governs the Exclusion of Relevant Evidence on Grounds of Prejudice, Confusion, or Waste of Time provides that:

"Although relevant, evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence."

Specifically, Pennsylvania Rules of Evidence is materially the same. Pa Rules of Evidence, Rule 401 which governs Test for Relevant Evidence provides:

"Evidence is relevant if:

- a) it has any tendency to make a fact more or less than it would be without the evidence; and
 - b) the fact is of consequence in determining the action"
- This rule is identical to Federal Rule of Evidence 401.

Pa Rules of Evidence, Rule 402 governing General Admissibility of Relevant Evidence provides that:

"All relevant evidence is admissible, except as otherwise provided by law. Evidence that is not relevant is not admissible."

Pa Rule of Evidence, Rule 403 which governs Excluding Relevant Evidence for Prejudice, Confusion, Waste of Time, or Other Reasons states:

"The court may exclude relevant evidence if its probative value is outweighed by a danger of one or more of the following: unfair prejudice, confusing the issues, misleading the jury, undue delay, wasting time, or needlessly presenting cumulative evidence."

Additionally, Pa Rules of Evidence, Rule 902 relating to Evidence that is Self-Authenticating, in relevant parts, provides that: The following items of evidence of authenticity in order to be admitted:

- 4) Certified Copies of Public Records
- 5) Official Publications
- 6) Newspaper Publications
- 8) Acknowledged Documents
- 11) Certified Domestic Records of a Regularly Conducted Activity.

See Pa R. E. Rule 902 (4), (5), (6), (8), (11).

III. REASONS IN SUPPORT OF COMPLAINANTS OBJECTIONS TO ADMISSIBILITY OF DOCUMENT

Complainants for conciseness and precision in their Hearing 2 Exhibit 1 provide summary of Document Content of the Commission's Hearing 2 Proposed Exhibit 1. Further, Complainants' Exhibit 2 captures "Complainants Summary of Commission's Proposed Exhibit 1. Based on these referenced Complainants Exhibits 1 and 2, Complainants respectfully object to the admission of Commission's Proposed Exhibit 1 in the second hearing.

The reasons in support of Complainants Objections to the admissibility of the Commission's Proposed Exhibit

1, are as follows.

1. Pa. R.E., Rule 402 provides that "All relevant evidence is admissible... Evidence that is not relevant is not admissible". In this case of the 14 page Document which the Commission proposes to be admitted into evidence as illustrated on Complainant's Exhibit 2 of the Document Admissibility issue only paragraphs 1 and 4 provide resemblance of admissibility. These two paragraphs state that "1. A mid-November cold wave brought in low temperature in Philadelphia early November 11, 2017 with $23^{\circ}\text{F} (-5^{\circ}\text{C})$ " and "4. In March 2018 there were two nor'easterers, first occurred between March 1, 2018 and March 3, 2018 when snow started near Pennsylvania and by mid-afternoon of March 7, 2018 the two nor'easterers emerged and dropped up to 3 feet of wet snow across much of Northeast. In Pennsylvania, Governor Tom Wolf declared state emergency for several counties and there was snow emergency which went into effect on March 7, 2018. Even in these circumstances, without relevant specific usage history, which PECO was absolute control, it will be difficult if not impossible to relate them to the 7500 N. 21st Street property. Further, the document is a secondary source and PECO can provide primary source, the specific usage history, and as such the document presents no relevant data that "has any tendency to make a fact more or less probable than it would be without the evidence, the said document."

2. Pursuant to Pa Rule of Evidence, Rule 902 the Document in question is not a certified copy of Public Records, official Publications, Newspaper Publications,

Acknowledged Documents and Certified Domestic Records of a Regularly conducted Activity, See Pa R E Rule 902 (4)(5)(6)(8)(11). The Document is not self-authenticating and therefore not relevant to the issues of this case.

3. Even if the Commission finds the Document as relevant it is not admissible pursuant to Pa Rule of Evidence, Rule 403 which governs Excluding Relevant Evidence for Prejudice, Confusion, Waste of time or other reasons". Here, there is foundation for the admissibility of the Document. The admission into evidence of the Document, unfortunately, will create unfair prejudice, confusing the issues, or needlessly present cumulative evidence.

FOR ALL THE FOREGOING REASONS complainants respectfully submit that the Document should not be admitted into evidence.

RESPECTFULLY SUBMITTED
Agnes Atuahene
AGNES ATUAHENE

SD
STEVE ATUAHENE
7500 NORTH 21ST STREET
PHILADELPHIA, PA 19138
267 335 3135

EXHIBIT 1

OUTLINE OF DOCUMENT CONTENT

Material is too generalized and has little if any reference to Philadelphia. The only reference to Philadelphia stated:

MID-NOVEMBER COLD WAVE

1. The low temperature in Philadelphia early in the morning of November 11, (2017) was 23°F (-5°C). This came two degrees within reaching the record set for that day in 1961.

EARLY DECEMBER WINTER STORM

2. A storm winter affected areas from northeastern Mexico to the Northeastern United States in early December.

3. The low slowly deepened throughout the day of December 9, (2017), bringing the first snow of the season to many parts of the Northeast and New England.

POST-CHRISTMAS TO MID-JANUARY COLD WAVE

4. In late December, a strong Arctic air mass, due to the weakening of the Northern Polar vortex, came and established from Canada into Midwestern and Northeastern United States with the core of the cold centered in the Upper Midwest, Interior Northeast, and Eastern. Temperatures were 10 to 20°F (6 to 11°C) below average for that time of year.

EARLY JANUARY (2018) BLIZZARD.

A severe blizzard caused disruption along the Eastern United States in the first few days of the new year. It provided snow in municipalities, "and accumulated over 2 feet (61 cm) of snow in New England, the Mid-Atlantic states and Eastern Canada. The storm started on January 3, 2018, moving rapidly to the northeast, after which the system moved east, causing great snowfall. The storm was also dubbed as a "historic bomb cyclone".

MID-JANUARY WINTER STORMS

In mid-January, two winter storms caused widespread disruption across the eastern half of the United States. The second one, although much less widespread than the first one, crossed Southern, Midwestern, and Northeastern United States and brought snow to places that rarely see it. Then, the storm impacted New England and Mid-Atlantic states on January 17. Snow fell on portions of the East Coast and Northeast, East Machias, Maine got 11 inches (28 cm). Pennsylvania got 9.5 inches (24 cm).

FIRST NOR'EASTER MARCH 1-3

Overnight into the early morning hours of March 2, a new area of low pressure formed and rapidly strengthened off the coast of New Jersey, while snow began to slowly increase in coverage near Pennsylvania and Southern New York.

SECOND NOR'EASTER - MARCH 6-8

By mid-afternoon the next day (March 7, 2018), the two systems had emerged into a second nor'easter... and dropped up to over 3 feet (36 in) or more of wet snow across much of the Northeast, which hampered the recovery efforts from the first nor'easter... In Pennsylvania Governor Tom Wolf declared a state of emergency for several counties in the eastern part of the state. A snow emergency went into effect for the city of Philadelphia on the morning of March 7... Many attractions in the Philadelphia area either closed early or were closed for the entire day on March 7. The nor'easter had moved off by the morning of March 9.

EXHIBIT 2

COMPLAINANT'S SUMMARY OF COMMISSION PROPOSED EXHIBIT 1

The Commission's proposed Exhibit 1 purported to characterize the weather condition of the property from November 2017 through March 2018 is summarized as follows:

1. A mid-November cold wave brought in low temperature in Philadelphia early November 11, 2017 with 23°F (-5°C).
2. Early December winter storm affected Northeastern United States which deepened throughout December 9, 2017 bringing in the first snow of the season to the Northeastern United States.
3. Post-Christmas to Mid-January 2018 cold wave occurred from late December with a strong Arctic air mass affecting Northeastern United States with temperature between 10 to 20°F (6 to 11°C), below average for that time of year to January 17, 2018 which was occasioned by severe blizzard resulting in snow in municipalities with 2 feet snow accumulation affecting Mid-Atlantic states with Pennsylvania getting 9.5 inches.
4. In March 2018 there were two nor'easters, first occurred between March 1, 2018 and March 3, 2018 when snow started near Pennsylvania and by mid-after of March 7, 2018 the two nor'easters merged and dropped up to 3 feet of wet snow across much of Northeast. In Pennsylvania Governor Tom Wolf declared state emergency for several counties and there was snow emergency which affected the City of Philadelphia on the morning of March 7, 2018 but many attractions closed.

CERTIFICATE OF SERVICE

I hereby certify that above listed names
have been served via Emails as of
today 8/9/20

Date: 8/9/20 SJQ