



Direct Dial: 215.841.6841  
khadijah.scott@exeloncorp.com

February 25, 2022

**VIA E-FILING**

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

**RE: Byron Goldstein v. PECO Energy Company**  
**Docket No. C-2022-3030777**

Dear Ms. Chiavetta:

Enclosed for filing with the Commission is the *Preliminary Objection of Respondent, PECO Energy Company*.

I have enclosed a Certificate of Service showing that a copy of the above document was served on the interested parties. Thank you for your time and attention on this matter.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Khadijah Scott".

Khadijah Scott, Esquire  
Assistant General Counsel, Exelon BSC  
Encl.

Cc: Byron Goldstein (via email)

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**BYRON GOLDSTEIN**  
Complainant  
v.

:  
:  
:  
:  
:  
:

**DOCKET NO. C-2022-3030777**

**PECO ENERGY COMPANY**  
Respondent

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**NOTICE TO PLEAD**

Pursuant to 52 Pa. Code §5.101 and 5.62(c), you are hereby notified that, if you do not file a written response denying or correcting the enclosed Preliminary Objections of PECO Energy Company, within 20 days from service of this notice, a decision may be rendered against you. All pleadings, such as a Reply to Preliminary Objections, must be filed with the Secretary of the Pennsylvania Public Utility Commission, with a copy served to counsel for PECO Energy Company, Khadijah Scott, and where applicable, the Administrative Law Judge presiding over the issue.

File with:  
Rosemarie Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, Second Floor  
Harrisburg, PA 17120

With a copy to:  
Khadijah Scott, Esq.  
PECO Energy Company  
2301 Market Street, S-23  
Philadelphia, PA 19103  
Khadijah.scott@exeloncorp.com

Dated: February 25, 2022



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Khadijah Scott  
Counsel for PECO Energy Company  
2301 Market Street S-23  
Philadelphia, PA 19103  
215-841-6841  
Khadijah.scott@exeloncorp.com

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

<b>BYRON GOLDSTEIN</b>	:	
<b>Complainant</b>	:	
<b>v.</b>	:	<b>DOCKET NO. C-2022-3030777</b>
	:	
<b>PECO ENERGY COMPANY</b>	:	
<b>Respondent</b>	:	

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**PRELIMINARY OBJECTION OF RESPONDENT,  
PECO ENERGY COMPANY**

Respondent, PECO Energy Company (“PECO”), pursuant to 52 Pa. Code §5.101(a)(4), respectfully petitions this Honorable Commission to dismiss the instant Complaint as legally insufficient.

1. On February 8, 2022, PECO was served with a formal complaint filed by Byron Goldstein (hereafter “Complainant”). A copy of the Complaint is attached hereto as Exhibit “1”.
2. In his Complaint, the Complainant disputes the approval by the Pennsylvania Public Utility Commission (“PUC”) of PECO Energy’s gas rate increase. See Exhibit “1”.
3. The Complainant has not requested any specific relief from Respondent. See Exhibit “1”.
4. In essence, the Complainant is disputing that the PUC improperly approved PECO Energy’s gas rate increase and requests that the PUC revisit and reduce the approved rate increase by PECO Energy.
5. PECO Energy therefore files the instant Preliminary Objections.

6. Pursuant to 52 Pa. Code §5.101, preliminary objections may be filed against a complaint and dismissed for legal insufficiency. 52 Pa. Code §5.101(a)(4).

7. Commission procedure regarding the disposition of preliminary objections is similar to that utilized in Pennsylvania civil procedure. Equitable Small Transportation Intervenor. v. Equitable Gas Co., 1994 Pa.PUC LEXIS 69, Docket No. C-00935435 (July 18, 1994).

8. In deciding preliminary objections, the Public Utility Commission must determine, based on the factual pleadings of the petitioner, if relief or recovery is possible. Roc v. Flaherty, 527 A.2d 211 (Pa. Cmwlth 1985).

9. A complaint must be able to recover under the law to survive a preliminary objection. Milliner v. Enck, 709 A.2d 417, 418 (Pa. Super. Ct. 1998) (“preliminary objection should be sustained only where it appears with certainty that, upon the facts averred, the law will not allow the plaintiff to recover”).

10. All of the non-moving party’s averments must be taken as true for the sake of deciding the preliminary objection. County of Allegheny v. Commw. of Pa., 490 A.2d 402 (Pa. 1985).

11. The court does not, however, need to accept, “unwarranted inferences from facts, argumentative allegations, or expressions of opinions.” Feingold v. McNulty, 2009 Phila. Ct. Com. Pl LEXIS 167, \*3.

12. Section 703 of the Public Utility Code, 66 Pa. C.S.A. § 703(b) provides that the Commission may dismiss any complaint without a hearing if, in its opinion, a hearing is not necessary to the public interest.

13. A hearing is required only when there is a disputed question of fact, and is not required to resolve questions of law. Dee-Dee Cab, Inc. v. Pa.Pub. Util. Comm'n, 817 A.2<sup>nd</sup> 593 (Pa.Commw. Ct. 2003), petition for allowance of appeal denied, 836 A.2d 123 (Pa. 2003).

14. Here, there are no genuine issues of fact and PECO Energy is entitled to judgment as a matter of law with respect to all of the allegations in the Complaint.

**I. Legal Insufficiency – Under the Commission’s regulations, a Formal Complaint hearing is not the forum to dispute the approval of PECO Energy’s gas rate increase after the approval has become effective.**

1. The Complainant is disputing that the PUC should not have approved PECO Energy’s gas rate increase.

2. By way of background, on June 17, 2021, the Commission voted 4-0, to modify and adopt the Recommended Decision of PUC Deputy Chief Administrative Law Judge Christopher P. Pell, addressing PECO Energy’s rate increase request. See, Commission Order, dated June 17, 2021, under docket number R-2020-3018929.

3. PECO Energy’s rates to deliver natural gas to customers changed on July 13, 2021.

4. When a regulated utility seeks a base rate increase, it must file a request with the PUC that shows the proposed new rates and effective date and must prove that the increase is needed.

5. On September 30, 2020, PECO Energy filed its gas rate increase.

6. The utility must notify customers at least 60 days in advance. The notice must include the amount of the proposed rate increase, the proposed effective date, and how much more the consumer can expect to pay. 66 Pa. C.S. §1308(a).

7. Prior to the approval of the gas rate increase, all customers in the PECO Energy gas supply territory were notified of PECO Energy's gas supply rate case and informed of the three ways to challenge PECO Energy's request to change its gas rates. See, Notice of Proposed Gas Rate Changes bill insert, attached hereto as Exhibit "2".

8. On October 1, 2020, PECO Energy advertised its request for a gas rate increase, in both the Times Herald and Times Herald Digital. See, Affidavit of Publication, dated October 6, 2020, attached hereto as Exhibit "3".

9. A public utility is entitled to an opportunity to earn a fair rate of return on the value of the property dedicated to public service. *Pennsylvania Gas and Water Co. v. Pa. PUC*, 341 A.2d 239, 251 (Pa. Cmwlth. 1975).

10. Pursuant to 66 Pa. Code §1301. Rates to be just and reasonable

(a) Regulation.— Every rate made, demanded, or received by any public utility, or by any two or more public utilities jointly, shall be just and reasonable, and in conformity with regulations or orders of the commission. Only public utility service being furnished or rendered by a municipal corporation, or by the operating agencies of any municipal corporation, beyond its corporate limits, shall be subject to regulation and control by the commission as to rates, with the same force, and in like manner, as if such service were rendered by a public utility.

66 Pa. Code §1301.

11. The Commission decided that PECO Energy's gas rates were just and reasonable. See, Commission Order, dated June 17, 2021, under docket number R-2020-3018929.

12. The Commissioner's Order has the weight of law unless the PUC changes it in response to a petition for reconsideration, or it is successfully challenged in court.

13. Consumers have a right to participate in the ratemaking process and can do so by filling out an informal complaint form or completing the Commission's objection/comment form.

14. Consumers are offered an opportunity to voice their opinions and give testimony.

15. In this matter, the ratemaking process is complete.

16. The Complainant did not timely file a Motion for Reconsideration nor timely challenge the PUC's approval in court.

17. The Complainant's Complaint, objecting to the PUC's approval of PECO Energy's gas rate increase does not allege a violation of any order, law or tariff that can be the basis of any finding against PECO Energy.

18. The allegations in the complaint do not pertain to PECO Energy and only contest the PUC's decision to approve PECO Energy's gas rate increase.

19. Accordingly, the Complainant's formal complaint should be dismissed as it fails to set forth a violation by PECO Energy of either the Public Utility Code, the regulations of the PUC or PECO's Electric Service Tariff as required by 52 Pa. Code §5.22(a)(4).

**REQUEST FOR RELIEF**

WHEREFORE, for the reasons set forth above, PECO Energy Company respectfully requests that your Honorable Commission summarily dismiss the Complainant's formal complaint, and all issues which were raised in the Complaint.

Respectfully submitted,



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Khadijah Scott  
Counsel for PECO Energy Company  
2301 Market Street, S23-1  
Philadelphia, PA 19103  
(215) 841-6841  
Fax: 215.568.3389  
Khadijah.scott@exeloncorp.com




<b>BYRON GOLDSTEIN</b>	:	
<b>Complainant</b>	:	
<b>v.</b>	:	<b>DOCKET NO. C-2020-000287</b>
	:	
<b>PECO ENERGY COMPANY</b>	:	
<b>Respondent</b>	:	

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**VERIFICATION**

I, Khadijah Scott, 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 25, 2022

  
 \_\_\_\_\_  
 Khadijah Scott

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

<b>BYRON GOLDSTEIN</b>	:	
<b>Complainant</b>	:	
<b>v.</b>	:	<b>DOCKET NO. C-2020-000287</b>
	:	
<b>PECO ENERGY COMPANY</b>	:	
<b>Respondent</b>	:	

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**CERTIFICATE OF SERVICE**

I, Khadijah Scott, hereby certify that I have this day served a copy of PECO Energy Company's Preliminary Objection in the above matter upon all interested parties by *E-mailing* a copy to:

BYRON GOLDSTEIN  
2365 GENEVA AVENUE  
GLENSIDE, PA 19038  
*Via Email: bgoldmarketing@rcn.com*

Dated: February 25, 2022



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Khadijah Scott  
Counsel for PECO Energy Company  
2301 Market Street, S23-1  
Philadelphia, PA 19103  
(215) 841-6841  
Fax: 215.568.3389  
Khadijah.scott@exeloncorp.com

# **EXHIBIT 1**

# PENNSYLVANIA PUBLIC UTILITY COMMISSION

## Formal Complaint

*Filing this form begins a legal proceeding and you will be a party to the case.  
If you do not wish to be a party to the case, consider filing an informal complaint.*

**To complete this form, please type or print legibly in ink.**

### 1. **Customer (Complainant) Information**

Provide your name, mailing address, county, telephone number(s), e-mail address and utility account number. It is your responsibility to update the Commission with any changes to your address and to where you want documents mailed to you.

Name BYRON L. GOLDSTEIN

Street 2365 GENEVA AVE Apt #

City GLENSIDE State PA Zip 19038

County MONTGOMERY

Telephone Number(s) Where We Can Contact You During the Day (required):

( 215 ) 884-5475 home) ( 215 ) 805-2128 (mobile)

E-mail Address (required): BGOLDMARKETING@RCN.COM

Utility Account Number (from your bill) 54897-00307

**If your complaint involves utility service provided to a different address or in a different name than your mailing address, please list this information below.**

Name

Street/P.O. Box

City  State  Zip

### 2. **Name of Utility or Company (Respondent)**

Provide the full name of the utility or company about which you are complaining. The name of your utility or company is on your bill.

PECO

RECEIVED  
2022 JAN 28 AM 10:50  
PA PUC  
SECRETARY'S BUREAU

3. **Type of Utility Service**

Check the box listing the type of utility service that is the subject of your complaint (check only one):

☐ ELECTRIC

☐ STORM WATER

☐ WASTEWATER/SEWER

☒ GAS

☐ WATER

☐ TELEPHONE/TELECOMMUNICATIONS (local, long distance)

☐ STEAM HEAT

☐ MOTOR CARRIER (e.g. taxi, moving company, limousine)

4. **Reason for Complaint**

**What kind of problem are you having with the utility or company?** Check all boxes below that apply and state the reason for your complaint. Explain specifically what you believe the utility or company has done wrong. Provide relevant details including dates, times and places and any other information that may be important. If the complaint is about billing, tell us the amount you believe is not correct. Use additional paper if you need more space. **Your complaint may be dismissed without a hearing if you do not provide specific information.**

☐ The utility is threatening to shut off my service or has already shut off my service.

☐ I would like a payment agreement.

☐ Incorrect charges are on my bill. Provide dates that are important and an explanation about any amounts or charges that you believe are not correct. Attach a copy of the bill(s) in question if you have it/them.

☐ I am having a reliability, safety or quality problem with my utility service. Explain the problem, including dates, times or places and any other relevant details that may be important.

X Other (explain). THE NATURAL GAS SUPPLY CHARGES WENT UP 47%  
COMPARED TO LAST YEAR – THAT'S OUTRAGIOUS AND IRRESPONSIBLE  
THAT IT WAS APPROVED

**Note:** If your complaint is only about removing or modifying a municipal lien filed by the City of Philadelphia, the Public Utility Commission (PUC) cannot address it. Only local courts in Philadelphia County can address this type of complaint. The PUC can

address a complaint about service or incorrect billing even if that amount is subject to a lien.

In addition, the PUC generally does not handle complaints about cell phone or Internet service, but may be able to resolve a dispute regarding voice communications over the Internet (including the inability to make voice 911/E911 emergency calls) or concerns about high-speed access to Internet service.

**5. Requested Relief**

**How do you want your complaint to be resolved?** Explain what you want the PUC to order the utility or company to do. Use additional paper if you need more space.

**THE PUC NEEDS TO REVIST AND REDUCE THE RATE INCREASE THAT HAS OCCURRED BY PECO -- WITH INFLATION AT AN ALL TIME HIGH OF 7% PECO'S 47% INCREASE FOR NATURAL GAS SUPPLY IS OUTRAGIOUS AND IRRESPONSIBLE**

**Note: The PUC can decide that a customer was not billed correctly and can order billing refunds. The PUC can also fine a utility or company for not following rules and can order a utility or company to correct a problem with your service. Under state law, the PUC cannot decide whether a utility or company should pay customers for loss or damages. Damage claims may be sought in an appropriate civil court.**

6. Protection From Abuse (PFA)/ Domestic Violence

Has a court granted you a "Protection From Abuse" order or any other order which provides clear evidence of domestic violence against you that is currently in effect for your personal safety or welfare? The PUC needs this information to properly process your complaint so that your identity is not made public.

Note: You must answer this question if your complaint is against a natural gas distribution utility, an electric distribution utility or a water distribution utility AND your complaint is about a problem involving billing, a request to receive service, a security deposit request, termination of service or a request for a payment agreement.

Has a court granted a "Protection From Abuse" order or any other order for your personal safety or welfare?

YES ☐  
NO X

If your answer to the above question is "yes," attach a copy of the current Protection From Abuse order to this Formal Complaint form.

7. Prior Utility Contact

a. Is this an appeal from a decision of the PUC's Bureau of Consumer Services (BCS)?

YES ☐  
NO X

Note: If you answered yes, move to Section 8. No further contact with the utility or company is required. If you answered no, answer the question in Section 7 b. and answer the question in Section 7 c. if relevant.

b. If this is not an appeal from a BCS decision, have you spoken to a utility or company representative about this complaint?

YES X SPOKE WITH JANA 1-26-2022 AT 1:06 PM  
NO ☐

Note: You must contact the utility first if (1) you are a residential customer, (2) your complaint is against a natural gas distribution utility, an electric distribution utility or a water utility AND (3) your complaint is about a billing problem, a service problem, a termination of service problem, or a request for a payment agreement.

- c. If you tried to speak to a utility company representative about your complaint but were not able to do so, please explain why.

NA -- I DID SPEAK WITH A COMPANY REPRESENTATIVE WHO SIMPLY SAID THAT THE RATE INCREASE "WAS ADVERTISED"

Note: Even if you are not required to contact the utility or company, you should always try to speak to a utility or company representative about your problem before you file a Formal Complaint with the PUC.

8. **Legal Representation**

If you are filing a Formal Complaint as an individual on your own behalf, you are not required to have a lawyer. You may represent yourself at the hearing.

If you are already represented by a lawyer **in this matter**, provide your lawyer's name, address, telephone number, and e-mail address, (all required contact information). Please make sure your lawyer is aware of your complaint. If represented by a lawyer, both you and your lawyer must be present at your hearing.

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

Street/P.O. Box \_\_\_\_\_

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

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

E-mail Address \_\_\_\_\_

Note: Corporations, associations, partnerships, limited liability companies and political subdivisions are required to have a lawyer represent them at a hearing and to file any motions, answers, briefs or other legal pleadings.

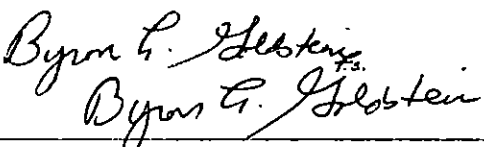


9. **Verification and Signature**

**You must sign your complaint.** Individuals filing a Formal Complaint **must** print or type their name on the line provided in the verification paragraph below and **must** sign and date this form in **ink**. If you do not sign the Formal Complaint, the PUC **will not accept** it.

**Verification:**

I BYRON L GOLDSTEIN, hereby state that the facts above set forth are true and correct (or are true and correct to the best of my knowledge, information and belief) and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

  
\_\_\_\_\_  
(Signature of Complainant) JANUARY 26, 2022  
(Date)

\_\_\_\_\_  
Title of authorized employee or officer (only applicable to corporations, associations, partnerships, limited liability companies or political subdivisions)

Note: If the Complainant is a corporation, association, partnership, limited liability company or political subdivision, the verification **must** be signed by an authorized officer or authorized employee. If the Formal Complaint is **not signed** by one of these individuals, the PUC **will not accept** it.

10. **How to File Your Formal Complaint**

**Electronically.** You must create an account on the PUC's eFiling system, which may be accessed at <http://www.puc.pa.gov/efiling/default.aspx>.

**Mail.** Mail the completed form with your original signature and any attachments, by certified mail, priority mail, or overnight delivery to this address and retain the tracking information as proof of submission:

Secretary  
Pennsylvania Public Utility Commission  
400 North Street  
Harrisburg, Pennsylvania 17120

**If you are appealing a BCS decision:** follow the directions in the cover letter you received from the Secretary's Bureau with the formal complaint form. **ONLY** Formal complaints appealing a BCS decision can be filed by fax, email or overnight delivery to meet filing deadlines. **All other formal complaints MUST be efiled or mailed.**

If you have any questions about filling out this form, please contact the Secretary's Bureau at 717-772-7777.

**Keep a copy of your Formal Complaint for your records.**



Byron L. Goldstein  
2365 Geneva Ave.  
Glenside, PA 19038

PHILADELPHIA PA 190

26 JAN 2022 PM 10 L



SECRETARY  
PUBLIC UTILITY COMMISSION  
400 NORTH STREET  
HARRISBURG, PA 17120

17120-007993



## **EXHIBIT 2**

# NOTICE OF PROPOSED GAS RATE CHANGES

To Our Customers:

PECO is filing a request with the Pennsylvania Public Utility Commission (PUC) to increase your gas rates as of November 29, 2020. This notice describes the Company's gas rate request, the PUC's role, and what actions you can take.

PECO has requested an overall gas rate increase of \$69 million per year. If the Company's entire request is approved, the total monthly bill for a residential customer using 80 hundred cubic feet (Ccf) would increase by \$7.12 from \$78.85 to \$85.97 or by 9.03%.

The total monthly bill for a commercial customer using 400 Ccf would increase from \$365.14 to \$396.62 or by 8.62%. The total monthly bill for an industrial customer using 36,000 Ccf would increase from \$29,515.91 to \$37,135.27 or by 25.81%.

To find out your customer class or how the requested increase may affect your gas bill, contact PECO at **1-800-494-4000**. The rates requested by the Company may be found in Gas Service Tariff No. 4. You may examine the material filed with the PUC, which explains the requested increase and the reasons for it. A copy of this material is kept at PECO's office. Upon request, the Company will send you the Statement of Reasons for Gas Service Tariff No. 4, explaining why the gas rate increase has been requested. A copy can also be reviewed by visiting: <https://www.peco.com/MyAccount/MyBillUsage/Pages/Filings.aspx>.

The state agency which approves gas rates for public utilities is the PUC. The PUC will examine the requested gas rate increase and can prevent existing gas rates from changing until it investigates and/or holds hearings on the request. The Company must prove that the requested gas rates are reasonable. After examining the evidence, the PUC may grant all, some, or none of the request or may reduce existing gas rates. The PUC may change the amount of the gas rate increase or decrease requested by the utility for each customer class. As a result, the gas rate charged to you may be different than the gas rate requested by the Company and shown above.

(Over)

There are three ways to challenge a Company's request to change its gas rates:

1. You can file a formal complaint. If you want a hearing before a judge, you must file a formal complaint. By filing a formal complaint, you assure yourself the opportunity to take part in hearings about the gas rate increase request. Due to COVID, any hearings will likely be held virtually. All complaints should be filed with the PUC before December 29, 2020. If no formal complaints are filed, the Commission may grant all, some or none of the request without holding a hearing before a judge.
2. You can send the PUC a letter telling why you object to the requested gas rate increase. Sometimes there is information in these letters that makes the PUC aware of problems with the Company's service or management. This information can be helpful when the PUC investigates the gas rate request.

Send your letter or request for a formal complaint form to the:

**Pennsylvania Public Utility Commission**  
**Post Office Box 3265**  
**Harrisburg, PA 17105-3265**

Complaint forms can also be accessed at the PUC website:

[https://www.puc.pa.gov/general/onlineforms/pdf/official\\_complaint\\_form\\_final.pdf](https://www.puc.pa.gov/general/onlineforms/pdf/official_complaint_form_final.pdf).

3. You can be a witness at a public input hearing. **Due to COVID, a public input hearing will likely be held virtually.** Public input hearings are held if the Commission opens an investigation of the Company's gas rate increase request and if there is a large number of customers interested in the case. At these hearings you have the opportunity to present your views to the PUC judge hearing the case and the Company representatives. All testimony given "under oath" becomes part of the official gas rate case record. These hearings are normally held in the service area of the Company, however due to COVID they will likely be held virtually.

For more information, call the PUC at **1-800-692-7380**.

You may leave your name and address so you can be notified of any public input hearings that may be scheduled in this case.



An Exelon Company

## **EXHIBIT 3**