



An Exelon Company

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April 21, 2016

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

RE: Cynthia Randall and Paul Albrecht v. PECO Energy Company
Docket No. C-2016-2537666

Dear Ms. Chiavetta:

Enclosed for filing with the Commission is *PECO Energy Company's Preliminary Objections*.

Very truly yours,

A handwritten signature in black ink, appearing to read "Ward L. Smith".

Ward L. Smith
Counsel for PECO Energy Company

WS/ab
Enclosure

cc: Certificate of Service

PENNSYLVANIA PUBLIC UTILITY COMMISSION

CYNTHIA RANDALL and :
PAUL ALBRECHT :
Complainants :
v. : **DOCKET NO. C-2016-2537666**
: :
PECO ENERGY COMPANY :
Respondent :
:

NOTICE TO PLEAD

Pursuant to 52 Pa. Code §§ 5.61(a)(2), you are hereby notified that, if you do not file a written response denying or correcting the enclosed Preliminary Objection within 10 days from service of this notice, a decision may be rendered against you. All pleadings, such as an Answer to Preliminary Objection, must be filed with the Secretary of the Pennsylvania Public Utility Commission, with a copy served to counsel for PECO Energy Company, Shawane L. Lee, 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:
Ward L. Smith, Esq.
PECO Energy Company
2301 Market Street, S-23
Philadelphia, PA 19103

Dated at Philadelphia, PA, April 21, 2016



Ward L. Smith
Counsel for PECO Energy Company
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Philadelphia, PA 19101-8699
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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

CYNTHIA RANDALL and	:	
PAUL ALBRECHT	:	
Complainants	:	
v.	:	DOCKET NO. C-2016-2537666
	:	
PECO ENERGY COMPANY	:	
Respondent	:	

PECO Energy Company’s Preliminary Objection

On April 5, 2016, an Order Granting in Part and Denying in Part Respondent’s Preliminary Objections was issued in the case of *Charles and Barbara Tucker v. PECO*, C-2015-2515592. The complaint in Tucker and the complaint in the instant proceeding are materially the same. The purpose of this Motion is to have the *Tucker* rule applied to the pleadings in this case.

1. On February 24, 2016, PECO Energy Company (“PECO Energy”), filed a Preliminary Objection in the case of *Charles and Barbara Tucker v. PECO*, C-2015-2515592. A copy of that Preliminary Objection is attached to this Motion, and incorporated herein as if set forth in full.

2. The gravamen of the Preliminary Objections is that the requested relief includes an “opt out” request, which is not permissible under Pennsylvania law.

3. The *Tucker Order* (p. 5) granted PECO Energy’s request, stating that:

Relief sought by the Tuckers includes an “opt out” of installation of a smart meter. The Commission has stated that there is no provision in the Code, the Commission’s Regulations or Order that allows a PECO customer to “opt out” of smart meter installation. *See Maria Povacz v. PECO Energy Company*, Docket No. C-2012-2317176 (Order adopted January 24, 2013). The opt-out remedy sought by the Tuckers is not available as the law stands today.

Therefore, the Preliminary Objection is sustained, the relief request seeking an order preventing meter installation is stricken.

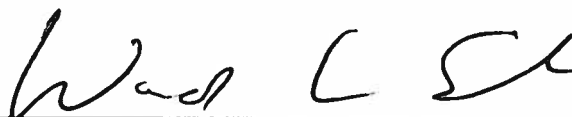
4. The request for relief in the Formal Complaint in the instant proceeding is materially the same as the request for relief in the Amended Complaint in *Tucker*. Indeed, paragraphs 31, 33, 34, and 35 of the Randall/Albrecht Amended Complaint are identical to paragraphs 30, 32, 33 and 34 of the *Tucker* Amended Complaint – and those are the precise requests for relief to which PECO objected in *Tucker*, and which the *Tucker Order* struck insofar as they request opt out relief.

5. PECO Energy therefore requests that Your Honors issue an Order in the Instant Proceeding stating that any “opt out” relief sought by the Complainants is not available as the law stands today, and that the relief request seeking an order preventing meter installation is stricken.

REQUEST FOR RELIEF

WHEREFORE, for the reasons set forth above, PECO Energy Company respectfully requests that your Honorable Commission grant PECO Preliminary Objection and strike the Amended Complaint insofar as it requests that the Complainants will not be required to have a meter installed at their residence. Regardless of the ultimate scope of the hearing in this case, the Commission does not have jurisdiction or authority to issue such "opt out" relief.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Ward L. Smith", written over a horizontal line.

Ward L. Smith
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Complainants

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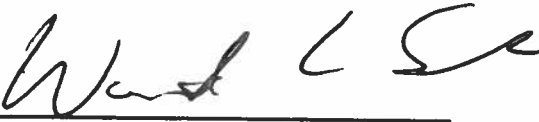
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DOCKET NO. C-2016-2537666

VERIFICATION

I, Ward L. Smith, 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: April 21, 2016



Ward L. Smith

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Respondent	:	

CERTIFICATE OF SERVICE

I, Ward L. Smith, 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 mailing a copy, properly addressed and postage prepaid to:

Edward G. Lanza, Esquire
The Lanza Firm, LLC
P.O. Box 61336
Harrisburg, PA 17106-1336
Email: ed@lanzafirm.com

Dated at Philadelphia, Pennsylvania, April 21, 2016.



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