

Mr. Edward Davidson
9 Oak Tree Lane
Malvern, PA 19355

January 29, 2015

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

C-2014-2460364

**RE: Pennsylvania Public Utility Commission Formal Complaint – PECO
Substation on 3.831 acres, East Goshen Township, Chester County,
Pennsylvania known as Rocky Hill**

Dear Ms. Chiavetta:

Enclosed herewith please find my response to PECO Energy Company's Preliminary Objections to my Complaint in reference to the above-captioned matter.

Very truly yours,



Edward Davidson

cc: Wade L. Smith, Esquire
(Attorney for PECO Energy Company)

RECEIVED

JAN 30 2015

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

EDWARD DAVIDSON	:
Complainant	:
	: Docket No: C-2014-2460364
v.	:
	:
PECO ENERGY COMPANY	:
Respondent	:

**COMPLAINANT'S, EDWARD DAVIDSON, REPLY TO THE
RESPONDENT'S, PECO ENERGY COMPANY,
PRELIMINARY OBJECTIONS**

Edward Davidson, Complainant, hereby files the following Reply to Respondent's Preliminary Objections to Complainant's Complaint as follows:

1. Admitted.
2. Admitted.
3. Admitted.
4. Denied. The averments in paragraph 4 are conclusions of law which are hereby deemed denied.
5. Denied. The averments in paragraph 5 are conclusions of law which are hereby deemed denied.
6. Denied. The averments in paragraph 6 are conclusions of law which are hereby deemed denied.
7. Denied. The averments in paragraph 7 are conclusions of law which are hereby deemed denied.
8. Denied. The averments in paragraph 8 are conclusions of law which are hereby deemed denied.

RECEIVED

JAN 30 2015

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

9. Denied. The averments in paragraph 9 are conclusions of law which are hereby deemed denied.

10. Denied. The averments in paragraph 10 are conclusions of law which are hereby deemed denied.

11. Denied. The averments in paragraph 11 are conclusions of law which are hereby deemed denied.

12. Denied. The averments in paragraph 12 are conclusions of law which are hereby deemed denied.

13. Denied. The averments in paragraph 13 are conclusions of law which are hereby deemed denied.

14. Denied. The averments in paragraph 14 are conclusions of law which are hereby deemed denied.

15. Admitted.

16. Denied as stated. The Certificate of Service is a written document which speaks for itself and is the best evidence thereof.

17. Denied. The averments in paragraph 17 are conclusions of law which are hereby deemed denied.

18. Denied. The averments in paragraph 18 are conclusions of law which are hereby deemed denied.

19. Denied. The averments in paragraph 19 are conclusions of law which are hereby deemed denied. Also, see the Complainant's New Matter which is hereby incorporated by reference as though set forth fully herein at length.

20. Admitted in part, denied in part. See Complainant's New Matter which is hereby incorporated by reference as though set forth fully herein at length.

21. Denied. The averments in paragraph 21 are conclusions of law which are hereby deemed denied.

22. Denied. It is specifically denied that the Commission approval of the construction of the substation building was subject only to two conditions that are not at issue here; on the contrary, those issues are still relevant to the issue before the Pennsylvania Utility Commission.

23. Denied as stated. See Complainant's New Matter which is hereby incorporated by reference as though set forth fully herein at length.

24. Denied. It is specifically denied that PECO has found it necessary to install an additional, non-building, public utility facility; proof is hereby demanded.

25. Denied as stated. The Complaint is a written document which speaks for itself and is the best evidence thereof.

26. Denied. It is specifically denied that PECO has demonstrated that it has not violated the Commission's 1990 approval; on the contrary, see Complainant's New Matter which is hereby incorporated by reference as though set forth fully herein at length.

27. Denied. It is specifically denied that if the Commission grants PECO's first Preliminary Objection, the Complaint will thus not contain any specific claim of a violation of a statute, regulation, order, or tariff; on the contrary, see Complainant's New Matter which is hereby incorporated by reference as though set forth fully herein at length.

28. Denied. See Complainant's New Matter which is hereby incorporated by reference as though set forth fully herein at length.

NEW MATTER

By way of further answer in defense, Complainant hereby asserts the following New Matter:

29. Complainant hereby incorporates by reference paragraphs 1 through 28 of the foregoing Reply to Respondent's Preliminary Objections to Complainant's Complaint as though fully set forth herein at length.

30. Complainant, Edward Davidson, filed this instant Complaint with the Pennsylvania Public Utility Commission as a result of PECO recently constructing a one hundred (100) foot tower for failure to file PECO's approval by East Goshen Township in accordance with the Public Utility Commission Adjudication.

31. It is clear, that PECO in its prior request to the Public Utility Commission in 1989 only sought a finding by the Public Utility Commission for necessity for building a control building in East Goshen Township, Chester County, Pennsylvania, in the historic district known as "Rocky Hill."

32. At no time relevant hereto, did PECO ever seek to obtain permission to build a one hundred (100) foot tower next to the control building in East Goshen Township.

33. As attached to the Complaint, there are various Adjudications by the Public Utility Commission and the Pennsylvania Commonwealth Court ruling that PECO had to comply with the local requirements of East Goshen Township; in fact, the Public Utility Commission Adjudication dated August 31st, 1989, which was affirmed by the Commonwealth Court, indicated that PECO had to do the following:

“(a) Applicant shall landscape the site in accordance with his landscape plan submitted by the Township of East Goshen.

(b) The noise level at the property line shall not exceed those levels set forth in the township ordinance.”

34. PECO is relying under the exemption claim in the Pennsylvania Municipality Planning Code, Sections 10619 (53 P.S. § 10619) that it does not have to comply with East Goshen Township requirements in the constructing of the one hundred (100) foot tower.

35. However, this is contrary to the Pennsylvania Utility Commission’s ruling of 1989 that PECO shall comply with all the landscape requirements required by the East Goshen Township along with the noise level required by the East Goshen Township ordinance.

36. As stated before, this is a historic area in East Goshen Township which the Pennsylvania Utility Commission obviously felt in 1989 that it had to be protected by the local ordinances including screening and noise level.

37. To permit PECO to erect a one hundred (100) foot tower at that site by not complying with the Pennsylvania Municipality Planning Code and more specifically East Goshen Township regulations is contrary to the Pennsylvania Utility Commission Order of 1989.


38. It is obvious that the Pennsylvania Utility Commission’s decision in 1989 was sensitive to the historic area by indicating that the area had to be screened and had to maintain certain noise levels; none of that was determined by PECO prior to the erection of the one hundred (100) foot tower.

39. That once PECO had submitted a plan in accordance with the Pennsylvania Municipality Planning Code to the East Goshen Township for erection of facilities, which require certain screenings and noise levels, it cannot circumvent the requirements by unilaterally installing a one hundred (100) foot tower without any further review by either the Pennsylvania Utility Commission and/or East Goshen Township’s governing body.

40. The Complainant avers that once an area is designated to be under the review of the Pennsylvania Municipality Planning Code, then PECO must return for further approval from East Goshen Township and/or at the very least, submit an application to the Pennsylvania Utility Commission so that an opportunity can be heard by all concerned parties whether or not PECO should be allowed to erect a one hundred (100) foot tower in this historic area of East Goshen Township.

WHEREFORE, the Complainant requests that the Pennsylvania Public Utility Commission grant the reliefs set forth in the Complainant's Complaint.

Respectfully submitted,


Edward Davidson

VERIFICATION

EDWARD DAVIDSON, being duly sworn according to law, deposes and says that he is the Complainant in the foregoing Reply to Respondent's Preliminary Objections to Complainant's Complaint and that the facts set forth therein are true and correct to the best of his knowledge, information and belief.

I verify that the statements made in the within instrument are true and correct. I understand that false statements are subject to the penalties of 18 Pa. C.S.A. Section 4904 relating to unsworn falsifications to authorities.


EDWARD DAVIDSON

RECEIVED

JAN 30 2015

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

EDWARD DAVIDSON
Complainant

v.

PECO ENERGY COMPANY
Respondent

:
:
: Docket No: C-2014-2460364
:
:
:
:

RECEIVED

JAN 30 2015

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

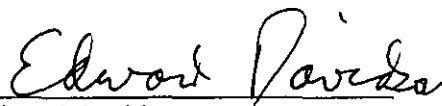
CERTIFICATE OF SERVICE

I, Edward Davidson, hereby certify that I have caused a true and correct copy of the Complainant's, Edward Davidson, Reply to the Respondent's, PECO Energy Company, Preliminary Objections to be served upon the following this 30th day of January, 2015, by first class mail, postage pre-paid to:

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

Wade L. Smith, Esquire
PECO Energy Company
2301 Market Street, S-23
Philadelphia, PA 19103

Respectfully submitted,


Edward Davidson

REGISTERED MAIL



0 0002 2318 4034



UNITED STATES
POSTAL SERVICE



1000

17120

MALVERN, PA
19355
JAN 30, 15
AMOUNT

\$7.40
00032562-09

Edward Davidson
9 Oak Tree Lane
Malvern, PA 19355

TO:

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