

Legal Department
2301 Market Street / S23-1
Philadelphia, PA 19101-8699

Direct Dial: 215-841-6863

August 24, 2020

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

**RE: Christopher and Valerie Watson v PECO Energy Company
Docket No. C-2020-3021127**

Dear Ms. Chiavetta:

A copy of **PECO's Preliminary Objection** is enclosed for filing. A Notice to Plead and a Certificate of Service precede PECO's filing.

Very truly yours,

/s/ Ward Smith

Ward Smith
Counsel for PECO Energy Company

Enclosure

cc: Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Christopher and Valerie Watson	:	
	:	Docket No. C-2020-3021127
v.	:	
	:	
PECO Energy Company	:	

NOTICE TO PLEAD

Pursuant to the Commission’s rules and regulations, 52 Pa. Code §5.101, you are hereby notified that, if you wish to file an answer to PECO’s Preliminary Objection you must file and serve that reply within 10 days. If you do not file an answer, the Preliminary Objection may be decided without further input by you.

If you choose to file an Answer, you must serve it on counsel for PECO and file a copy with the Commission and the Administrative Law Judges.

File transmittal letter and certificate of service 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
Ward L. Smith
PECO Energy Company
2301 Market Street, S-23
Philadelphia, PA 19103
Khadijah.scott@exeloncorp.com
Ward.smith@exeloncorp.com

Dated August 24, 2020

/s/ Ward L. Smith
Ward L. Smith
Counsel for PECO Energy Company
2301 Market Street S-23
Philadelphia, PA 19101-8699
215-841-6863
ward. smith@exeloncorp.com

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

CHRISTOPHER AND VALERIE	:	
WATSON	:	
Complainants	:	
	:	
v.	:	DOCKET NO. C-2019-3021127
	:	
PECO ENERGY COMPANY	:	
Respondent	:	

**PRELIMINARY OBJECTION – LACK OF SUBJECT MATTER JURISDICTION TO
RESOLVE PROPERTY RIGHTS DISPUTE**

On August 3, 2020, the Commission served Respondent PECO Energy Company (“PECO”) with the Formal Complaint in this matter. Pursuant to 52 Pa. Code §5.101(a)(1), PECO hereby submits this preliminary objection. The Formal Complaint requests the Commission to resolve a matter that is not within the Commission’s jurisdiction; specifically, it requests the Commission to determine whether PECO has a proper easement or other property right for the location of its facilities on 630 Morris Avenue.

1. The Commission’s regulations, 52 Pa. Code §5.101(a)(1), provide that a party may file a preliminary objection for lack of Commission jurisdiction.
2. The Complaint alleges (¶ 4, attachment) that “PECO has no easement in title or deed what so ever for” PECO’s facilities located on 630 Morris Avenue.”
3. The Complaint requests the following relief (¶ 5): “We are asking PECO to please remove its high voltage line from our property since PECO has no easement to be here at 630 Morris Ave, Bryn Mawr.”

4. The Commission does not jurisdiction over property disputes, including disputes related to proper use of easements. *Fairview Water Company, v. Pa. Pub. Util. Comm'n*, 502 A.2d 162 (Pa. 1985) (“...the PUC does not have jurisdiction to determine the scope and validity of an easement.”) *See also Samuel Messina v. Bell Atlantic-Pennsylvania, Inc.*, Docket No. C-00968225 (Order entered Sept. 23, 1998) (“The Commission has clearly stated in prior decisions that it is without subject matter jurisdiction to adjudicate questions involving trespass and whether or not utility facilities are located pursuant to valid easements or rights-of-way.” (citation omitted)).

5. The Complaint contains other allegations that are jurisdictional. For example, the Complaint claims (attachment to ¶ 4) that PECO has not properly maintained its facilities. The Complaint therefore should not be dismissed in its entirety.

6. However, the allegations that PECO does not have property rights to locate its facilities at 630 Morris Avenue, and the request to have PECO remove its facilities, are not within the Commission’s jurisdiction and should be dismissed.

WHEREFORE, PECO respectfully requests that the Commission grant this Preliminary Objection and dismiss the portions of the Complaint that request the Commission to determine whether it has property rights for its facilities on 630 Morris Avenue, and the associated relief requested by Complainant.

Respectfully submitted,

/s/ Ward Smith

Khadijah Scott
Ward L. Smith
Assistant General Counsel
PECO Energy Company
2301 Market Street, S23-1
Philadelphia, PA 19101-8699
(215) 841-6863
Khadijah.scott@exeloncorp.com
Ward.smith@exeloncorp.com

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