

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

In re: Complaints Against PECO Energy	:	Docket Nos:
Company's Electrical Substation Upgrade	:	
Project in the Borough of Swarthmore	:	C-2022-3036906
	:	C-2022-3037057
	:	C-2023-3037514
	:	C-2023-3037523
	:	C-2023-3037533
	:	C-2023-3037622
	:	C-2023-3037632
	:	C-2023-3037633
	:	C-2023-3037640
	:	C-2023-3037642
	:	C-2023-3037646
	:	C-2023-3037676
	:	C-2023-3037696
	:	C-2023-3037698
	:	C-2023-3037736
	:	C-2023-3037809

PETITION FOR LEAVE TO WITHDRAW EXPEDITED MOTION FOR CONSOLIDATION

Pursuant to 52 Pa. Code § 5.94, PECO Energy Company (“PECO”) hereby requests leave to withdraw the pending Expedited Motion for Consolidation (the “Motion”) without prejudice to refile at a later stage of these proceedings.

In support of this Motion, PECO states as follows:

1. PECO is a corporation organized and existing under the laws of the Commonwealth of Pennsylvania with its principal office in Philadelphia, Pennsylvania. PECO provides electric delivery service to approximately 1.6 million customers.
2. PECO is conducting a Reliability & Resiliency Plan investing in targeted reliability-focused infrastructure investments.

3. One component of PECO's Reliability & Resiliency Plan is to retire the existing Morton Substation in the Borough of Swarthmore and upgrade equipment by replacing all wires, cables, poles, devices, and transformers on the circuits associated with the substation, and installing new recloser aerial devices (the "Upgrade Project").

4. The Upgrade Project will require that PECO trim and remove trees along the existing electrical utility pole pathway (the "Vegetation Management").

5. Between November 22, 2022 and January 27, 2023, when the Motion was filed, PECO was served with sixteen (16) complaints (the "Complaints") filed with the Commission, each relating to common questions of law and fact insofar as each complaint relates to the Upgrade Project, and each specifically cites PECO's proposed Vegetation Management for the Upgrade Project as the reason for the filing of the complaint.

6. Three (3) additional complaints have been filed with the Commission and served upon PECO since the Motion was filed.

7. Upon information and belief, PECO anticipates that additional complaints may be filed that will likewise relate to the Upgrade Project and that will also request the same or similar relief, and thus will involve common questions of law and fact with the above-referenced Complaints.

8. The Complaints likewise request similar, or near verbatim relief, including, among other things, requests that PECO: (i) install underground electrical facilities, (ii) comply with the Borough of Swarthmore's tree removal permit requirements, and (iii) abstain from proceeding with the Vegetation Management until the resolution of each complaint.

9. PECO has been in contact with pro se Complainants and counsel for represented Complainants and understands that the parties have differing views on consolidation of these actions.

10. For example, Mr. Jeffrey Golan (Case No. C-2023-3037533) represented in his Response to New Matter and to Motion for Consolidation, filed on February 7, 2023, that he “does not oppose PECO’s motion for consolidation of the Formal Complaints filed by the Borough of Swarthmore and Swarthmore residents[.]” Similarly, a complaint filed by the “Swarthmore Borough Residents’ Group” requests consolidation with other complaints for mediation purposes.

11. Conversely, the Borough of Swarthmore (Case No. C-2023-3037736) opposes consolidation and filed a Reply in Opposition to Motion for Consolidation on February 9, 2023.

12. At the time PECO filed its Motion, it had not yet responded to fourteen (14) of the sixteen (16) Complaints, and PECO requested an extension to file one omnibus response to the unanswered Complaints. In the time the Motion has been pending, the deadlines to respond to all but one of the Complaints have passed, with PECO responding timely to each Complaint.

13. PECO has now filed timely responses to fifteen (15) of the sixteen (16) Complaints.

14. PECO maintains that the Complaints involve common questions of law and fact, and that consolidation may be appropriate if the complaints cannot be resolved via mediation or amicable settlement.

15. Withdrawal of the Motion is appropriate here, where the circumstances have changed such that consolidation is not necessary at this time insofar as PECO has already filed individual responses to most of the Complaints filed to date.

16. Further, PECO seeks to withdraw the Motion without prejudice in order to avoid unnecessary litigation on a contested motion that could be considered premature in light of the continued filing of additional Complaints.

WHEREFORE, for all the reasons set forth above, PECO respectfully requests that the Commission grant leave to withdraw the Expedited Motion for Consolidation without prejudice.

Dated: February 10, 2023

Respectfully submitted,

BLANK ROME LLP

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CERTIFICATE OF SERVICE

I, Stephen C. Zumbrun, hereby certify that I caused a true and correct copy of the foregoing to be served via email and/or by United States first class mail, postage prepaid, upon the following:

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Date: February 10, 2023,

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