

327 Riverview Road  
Swarthmore, PA 19081

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street—Filing Room  
2<sup>nd</sup> Floor North  
Harrisburg, PA 17105

DATE OF DEPOSIT

FEB 21 2023

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

Sent by UPS

February 21, 2023

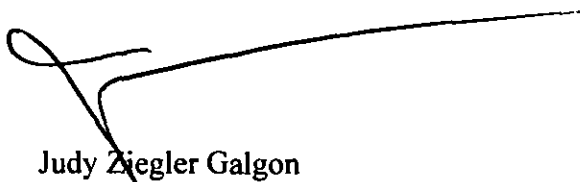
RE: Galgon v. PECO Energy Co  
Docket No. C-2023-3037676

Dear Ms. Chiavetta:

Please find enclosed the original and one copy of the *Reply to New Matter* in the above-referenced case. I would greatly appreciate your filing the original, timestamping the copy and returning the copy to me in the envelope enclosed.

Thank you for your assistance!

Kind regards,



Judy Ziegler Galgon

cc: Christopher A. Lewis, Esquire  
Frank L. Tamulonis, Esquire  
Stephen C. Zumbrun, Esquire

Enclosures

**COMMONWEALTH OF PENNSYLVANIA  
BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

JUDY & GERRY GALGON,

Complainants

v.

PECO ENERGY COMPANY,

Respondent

Docket No. C-3037676

DATE OF DEPOSIT

FEB 21 2023

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

---

**REPLY TO NEW MATTER**

---

Pursuant to Pa. Code §5.63, Complainants, Judy and Gerry Galgon, hereby reply to the *New Matter* of Respondent, PECO Energy Company, as follows:

11. Denied. Complainants lack the knowledge or information sufficient to form a belief as to whether the proposed trimming and removal of trees in Swarthmore are related to “PECO’s Reliability & Resiliency Plan.” Complainants additionally lack the knowledge or information sufficient to form a belief as to whether “PECO’s Reliability & Resiliency Plan” will produce the benefits listed. Strict proof thereof is demanded at time of trial.

12. Denied. Complainants lack the knowledge or information sufficient to form a belief as to: (a) whether PECO will be retiring the Morton Substation; (b) the accuracy of the alleged reasons for retiring the Substation; and (c) whether the retirement of the Substation is contingent upon upgrading the distribution system downstream. Strict proof thereof is demanded at time of trial.

13. Denied. Complainants lack the knowledge or information sufficient to form a belief as to: (a) whether the Project “requires upgrading and installing new equipment;” (b) the accuracy of the allegations related to the taller poles; and (c) the accuracy of the allegations concerning the National Electric Safety Code. Strict proof thereof is demanded at time of trial.

14. Denied. The allegations of Paragraph 14 contain conclusions of law to which no reply is required. To the extent a response is required, Complainants deny all material allegations of fact.

15. Denied. The allegations of Paragraph 15 contain conclusions of law to which no reply is required. To the extent a response is required, Complainants deny all material allegations of fact. Complainants also lack the knowledge or information sufficient to form a belief as to whether it is necessary to trim or remove certain trees and the alleged consequences of failing to do so. Strict proof thereof is demanded at time of trial.

16. Denied. Complainants lack the knowledge or information sufficient to form a belief as to the manner in which PECO evaluates if a tree needs to be trimmed or removed, the bases for its evaluation, the manner in which its trimming or removals are performed, and PECO’s general practices. Strict proof thereof is demanded at time of trial.

By way of further answer, Complainants allege that PECO refuses to identify which trees in the Borough of Swarthmore will be removed and which ones will be trimmed. As a result, Complainants and other residents will not know the true impact of the Project until it is too late and the trees have been cut down.

17. Admitted in part and denied in part. It is admitted that Complainants are requesting that PECO “adjust the Project to minimize the effects on the tree canopy. It is also admitted that

in some areas, PECO has stated that it will use a “spacer cable system” in order to reduce “the impact to trees.” The remaining allegations are denied. Complainants lack the knowledge or information sufficient to form a belief as to whether PECO has designed a “route with consideration for the number of trees being removed.” Despite multiple requests by residents, PECO refuses to identify which trees will be removed. Strict proof thereof is demanded at time of trial.

18. Denied. Complainants lack the knowledge or information sufficient to form a belief as to whether PECO “has continued to investigate within its vegetation and engineering departments;” or has “reviewed and considered the community feedback. Strict proof thereof is demanded at time of trial.

It is further denied that PECO “advised the community that it would be notified prior to the commencement of the tree removals.” Exhibit 2 is addressed to an individual community member. PECO has consistently insisted that it will not reveal to the “community” the identities of all of the trees that will be removed. It has insisted that it will only tell the individual homeowner on whose property the tree is located. Because of this approach, the community will NOT be notified “prior to the commencement of the tree removals.”

It is further denied that PECO will be minimizing the community impact by working with “PHS, a local nonprofit, to provide one tree for every tree removed during this Project.” The replacement trees that PHS will allegedly provide are saplings. A sapling offers almost none of the health, environmental and aesthetic benefits that a mature tree provides. Moreover, PECO will simply provide the sapling. It will not assume responsibility for planting, nourishing and watering the new tree.

19. Admitted in part and denied in part. It is admitted that PECO has “determined that certain trees must be trimmed or removed in order to complete the electric infrastructure upgrade enhancement.” The remaining allegations are denied. Complainants lack the knowledge or information sufficient to form a belief as to whether the infrastructure upgrade enhancement “will improve overall customer reliability.” Complainants also lack the knowledge or information sufficient to form a belief as to whether PECO is sensitive to the concerns of individual property owners or the Swarthmore community or whether PECO “remains engaged in discussions.” Strict proof thereof is demanded at time of trial.

20. Admitted.

21. Denied. It is denied that installing new lines underground would “not necessarily mitigate the effects on trees within the community.” It is certain that if you cut a tree down, it is gone. If you risk damaging the root systems of a tree, that is a risk that you might lose the tree, but not a certainty.

It is denied that Complainants have suggested installing all new lines underground. To the contrary, suggested that the lines only be underground or on the other side of a street in order to avoid removing trees. Complainants also lack the knowledge or information sufficient to form a belief as to the cost of installing the new lines underground and the risk of damaging the root systems of trees and other utilities within the Project. Strict proof thereof is demanded at time of trial.

## **REPLY TO AFFIRMATIVE DEFENSES**

### **FIRST AFFIRMATIVE DEFENSE**

22. All allegations in the preceding paragraphs of the *Reply to New Matter* and the *Complaint* are incorporated as if fully set forth herein.

23. Denied. It is specifically denied that the Complaint fails to state a claim upon which relief can be granted and is legally insufficient. Paragraph 4 of the Complaint specifies the many ways that PECO will cause environmental degradation, negatively affect the Swarthmore community's watershed, wildlife and aesthetics, and harm the health of those who live in the Swarthmore community. PECO's actions violate the Pennsylvania Constitution Article I Section 27. It provides: "The people have the right to clean air, pure water, and to the preservations of the natural, scenic, historic and esthetic values of the environment."

### **SECOND AFFIRMATIVE DEFENSE**

24. All allegations in the preceding paragraphs of the *Reply to New Matter* and the *Complaint* are incorporated as if fully set forth herein.

25. Denied as a conclusion of law to which no reply is required.

### **THIRD AFFIRMATIVE DEFENSE**

26. All allegations in the preceding paragraphs of the *Reply to New Matter* and the *Complaint* are incorporated as if fully set forth herein.

27. Denied as a conclusion of law to which no reply is required.

**FOURTH AFFIRMATIVE DEFENSE**

28. All allegations in the preceding paragraphs of the *Reply to New Matter* and the *Complaint* are incorporated as if fully set forth herein.

29. Denied as a conclusion of law to which no reply is required.


**FIFTH AFFIRMATIVE DEFENSE**


30. All allegations in the preceding paragraphs of the *Reply to New Matter* and the *Complaint* are incorporated as if fully set forth herein.

31. Denied as a conclusion of law to which no reply is required.

WHEREFORE, Complainants respectfully request that the Pennsylvania Public Utility Commission grant the relief requested by Complainants.

Respectfully submitted,

  
\_\_\_\_\_  
Judy Ziegler Galgon, Complainant

  
\_\_\_\_\_  
Gerry Galgon, Complainant  
327 Riverview Road  
Swarthmore, PA 19081  
302-218-0898

Dated: 2/19/23



**CERTIFICATION**


I, Gerry Galgon, hereby certify that on February 22, 2023, I caused a true and correct copy of the foregoing to be served via United States first class mail, postage prepaid, upon counsel for the Respondent as follows:

Christopher A. Lewis, Esquire  
Frank L. Tamulonis, Esquire  
Stephen C. Zumbrun, Esquire  
Blank Rome LLP  
One Logan Square  
Philadelphia, PA 19103

**DATE OF DEPOSIT**

**FEB 21 2023**

PA PUBLIC UTILITY COMMISSION  
SECRETARYS BUREAU

  
\_\_\_\_\_  
Gerry Galgon, Complainant  
327 Riverview Road  
Swarthmore, PA 19081  
302-218-0898

Dated: 2/22/23

### View/Print Label

1. Ensure there are no other shipping or tracking labels attached to your package. Select the Print button on the print dialogue box that appears. Note: If your browser does not support this function, select Print from the File menu to print the label.

2. Fold the printed label at the solid line below. Place the label in a UPS Shipping Pouch. If you do not have a pouch, affix the folded label using clear plastic shipping tape over the entire label.

### 3. GETTING YOUR SHIPMENT TO UPS

Customers with a scheduled Pickup

- o Your driver will pickup your shipment(s) as usual.

### Customers without a scheduled Pickup

- o Schedule a Pickup on ups.com to have a UPS driver pickup all of your packages.
- o Take your package to any location of The UPS Store®, UPS Access Point™ location, UPS Drop Box, UPS Customer Center, Staples® or Authorized Shipping Outlet near you. To find the location nearest you, please visit the 'Locations' Quick link at ups.com.

UPS Access Point™  
 SPRINGFIELD PHARMACY  
 1154 BALTIMORE PIKE  
 SPRINGFIELD PA 19064-2850

UPS Access Point™  
 THE UPS STORE  
 1180 BALTIMORE PIKE  
 SPRINGFIELD PA 19064-2850

UPS Access Point™  
 CVS STORE # 2582  
 795 BALTIMORE PIKE  
 SPRINGFIELD PA 19064-3967

FOLD HERE

JUDY ZIEGLER GALGON 6107155488 327 RIVERVIEW ROAD SWARTHMORE PA 19081	<b>1.0 LBS LTR</b>	<b>1 OF 1</b>
<b>SHIP TO:</b> ROSEMARY CHIAVETTA, SECRETARY PA PUC 2ND FLOOR NORTH 400 NORTH ST--FILING ROOM COMMONWEALTH KEYSTONE BUILDING <b>HARRISBURG PA 17105</b>		
	<div style="text-align: center; font-size: 24pt; font-weight: bold;">PA 171 9-20</div> 	
<div style="display: flex; justify-content: space-between;"> <span style="font-size: 24pt; font-weight: bold;">UPS 2ND DAY AIR</span> <span style="font-size: 48pt; font-weight: bold;">2</span> </div> TRACKING #: 1Z F31 46Y 02 2720 6468		
		
BILLING: P/P UPS CARBON NEUTRAL SHIPMENT		
Reference #1: PECO Reply to New Matter		
<small>XOL 23.02.02    NV45 B.0A 02/2023*</small>		

# RECEIVED

FEB 22 2023

PA PUBLIC UTILITY COMMISSION  
 SECRETARY'S BUREAU