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March 13, 2023

**VIA ELECTRONIC FILING**

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2nd Floor  
Harrisburg, PA 17120

**RE: John Reilly, Individually and on behalf of the Swarthmore Borough Residents' Group  
Docket No. C-2023-3038153**

Dear Secretary Chiavetta:

Attached for filing with the Pennsylvania Public Utility Commission is a Reply to New Matter in the above-referenced matter.

Please do not hesitate to contact me with any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Robert F. Young'.

Robert F. Young  
MCNEES WALLACE & NURICK LLC

cc: Certificate of Service



While PECO claims it “is sensitive to the concerns of affected individual property owners and the Swarthmore community” PECO refuses to meaningfully engage with the Swarthmore community. PECO refuses to provide detailed maps of the trees PECO intends to remove, notwithstanding PECO’s explicit promises to provide the maps made at its December 5 open house and during its December 6 virtual presentation.

**II. Reply to New Matter**

1-10. No responses required.

11. Denied. Complainants lack sufficient knowledge and information to form a belief as to accuracy of the facts asserted by PECO.

12. Denied. Complainants lack sufficient knowledge and information to form a belief as to accuracy of the facts asserted by PECO.

13. Denied. Complainants lack sufficient knowledge and information to form a belief as to accuracy of the facts asserted by PECO.

14. Denied. This paragraph states conclusions of law to which no response is required. Complainants lack sufficient knowledge and information to form a belief as to accuracy of the facts asserted by PECO and deny all factual assertions in this paragraph.

15. Denied. This paragraph states conclusions of law to which no response is required. Complainants lack sufficient knowledge and information to form a belief as to accuracy of the facts asserted by PECO and deny all factual assertions in this paragraph.

16. Denied. Complainants lack sufficient knowledge and information to form a belief as to accuracy of the facts asserted by PECO.

17. Denied. Complainants deny PECO's description of the Complaint. By way of further response, Complainants lack sufficient knowledge and information to form a belief as to accuracy of the facts asserted by PECO.

18. Denied. Complainants lack sufficient knowledge and information to form a belief as to accuracy of the facts asserted by PECO.

19. Denied. Complainants lack sufficient knowledge and information to form a belief as to accuracy of the facts asserted by PECO. By way of further response, Complainants specifically deny that "PECO is sensitive to the concerns of individual property owners and the Swarthmore community". To the contrary, PECO is providing unreasonable service to individual property owners and the Swarthmore community by failing to engage the Swarthmore community in the Project (which is primarily located within public rights-of-way).

20. Admitted in part; denied in part. Complainants admit that PECO's Paragraph 20 identifies some of the issues considered in the siting and construction of electrical distribution lines. Complainants deny that PECO's list is complete and accurate. By way of further response, Complainants believe other issues must be considered, including but not limited to, compliance with the Pennsylvania Constitution (specifically article I, section 27), Pennsylvania statutes and administrative regulations, and reasonable borough regulations governing utility occupancy of borough rights-of-way.

21. Denied. Complainants deny PECO's description of the Complaint. By way of further response, Complainants lack sufficient knowledge and information to form a belief as to accuracy of the facts asserted by PECO.

22. Denied. Complainants adopt the responses 1-21 above in this Reply to New Matter.

23. Denied as a conclusion of law. By way of further response, the Complaint is legally sufficient, within the Commission's jurisdiction and Complainants have stated claims for unreasonable service and violations of the Public Utility Code.

24. Denied. Complainants adopt the responses 1-23 above in this Reply to New Matter.

25. Denied as a conclusion of law. By way of further response, article I, section 27 of the Pennsylvania Constitution and statutory laws of Pennsylvania, including but not limited to the Public Utility Code, grant jurisdiction and authority to the Commission over the Complaint and over all aspects of Respondent's Project.

26. Denied. Complainants adopt the responses 1-25 above in this Reply to New Matter.

27. Denied as a conclusion of law. By way of further response, public utilities are required to follow lawful and reasonable municipal ordinances and obtain permits pursuant to such ordinances and regulations.

28. Denied. Complainants adopt the responses 1-27 above in this Reply to New Matter.

29. Denied as a conclusion of law. By way of further response, Swarthmore is a borough. Under the Borough Code Swarthmore can "define reasonable districts of the borough within which underground conduits shall be used for the placement of wires without the approval of the Pennsylvania Public Utility Commission." 8 Pa.C.S. § 1202 (64), *see also Duquesne Light Co. v. Monroeville*, 298 A.2d 252 (Pa. 1972).

30. Denied. Complainants adopt the responses 1-29 above in this Reply to New Matter.

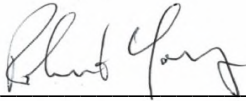
31. Denied as a conclusion of law. By way of further response, “the Commission is obligated to consider ‘the environmental impacts of’ ” public utility facilities pursuant to “article I, section 27 of the Pennsylvania Constitution, which is better known as the Environmental Rights Amendment (ERA).” *Twp. of Marple v. Pa. PUC*, 2023 Pa. Commw. Unpub. LEXIS 126 (Cmwlth. Mar. 9, 2023) at 13.

**III. CONCLUSION**

**WHEREFORE**, Complainants respectfully request that the Commission grant the Complaint and deny the New Matter and Affirmative Defenses with prejudice.

Respectfully submitted,

McNEES WALLACE & NURICK LLC

By  \_\_\_\_\_

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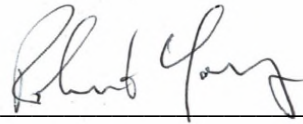
Dated: March 13, 2023

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a true copy of the foregoing document upon the participants, listed below, in accordance with the requirements of Section 1.54 (relating to service by a participant).

**VIA EMAIL**

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*Counsel to PECO Energy Company*



Robert F. Young

*Counsel to John Reilly, Individually and on  
behalf of the Swarthmore Borough  
Residents' Group*

Dated this 13th day of March, 2023, in Harrisburg, Pennsylvania.