

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

THOMAS LEE	:	
Complainant	:	Docket No. C-2023-3039505
v.	:	
PECO ENERGY COMPANY	:	
Respondent	:	

**COMPLAINANT'S RESPONSE TO PECO ENERGY
COMPANY'S NEW MATTER**

Complainant Thomas Lee hereby responds to the New Matter of Respondent, PECO Energy Company, as follows:

11. Denied. Complainant lacks sufficient information to respond to PECO's allegations in paragraph 11 of PECO's New Matter and demands sufficient discovery into the allegations and strict proof thereof.

12. Denied. Complainant lacks sufficient information to respond to PECO's allegations in paragraph 12 of PECO's New Matter and demands sufficient discovery into the allegations and strict proof thereof.

13. Denied. Complainant lacks sufficient information to respond to PECO's allegations in paragraph 13 of PECO's New Matter and demands sufficient discovery into the allegations and strict proof thereof.

14. The allegations in paragraph 14 of PECO's New Matter contain conclusions of law to which no response is required. To the extent a response is required, Complainant denies all material allegations of fact for lack of sufficient information.

15. Denied. Complainant lacks sufficient information to respond to PECO's allegations in paragraph 15 of PECO's New Matter and demands sufficient discovery into the allegations and strict proof thereof.

16. Denied. Complainant lacks sufficient information to respond to PECO's allegations in paragraph 16 of PECO's New Matter and demands sufficient discovery into the allegations and strict proof thereof.

17. Complainant admits that he disputes the removal of trees for clearance for the new construction and has requested that PECO minimize the effects of the project on the tree canopy in Swarthmore. Except as so admitted, Complainant denies the remaining allegations in paragraph 17 of PECO's New Matter as Complainant lacks sufficient information to respond to those allegations and demands sufficient discovery into the allegations and strict proof thereof.

18. Complainant admits that PECO has provided various communications, including those attached as Exhibit 2 to PECO's New Matter, and those documents speak for themselves. Except as so admitted, Complainant denies the remaining allegations in paragraph 18 of PECO's New Matter as Complainant lacks sufficient information to respond to those allegations and demands sufficient discovery into the allegations and strict proof thereof.

19. Denied. Complainant lacks sufficient information to respond to PECO's allegations in paragraph 19 of PECO's New Matter and demands sufficient discovery into the allegations and strict proof thereof. By way of further response, at public meetings organized by

PECO and held on December 5 and 6, 2022, a senior representative of PECO promised Complainant and the other assembled residents of Swarthmore that PECO would provide the Borough of Swarthmore and its residents a detailed list and map of the trees that PECO proposed to remove no later than the week of December 19, 2022. At a subsequent public meeting held on January 26, 2023, PECO publicly reneged on its promise to provide a detailed list and map of the trees it proposes to remove. To date, PECO has failed to provide the detailed list and map of the trees it proposes to remove, thus making it impossible for Complainant and other residents of Swarthmore fully to evaluate the reasonableness and necessity of PECO's proposed plans. Moreover, PECO has refused to apply for tree removal permits for street trees as required by the Borough of Swarthmore's tree removal ordinance.

20. Denied. Complainant lacks sufficient information to respond to PECO's allegations in paragraph 20 of PECO's New Matter and demands sufficient discovery into the allegations and strict proof thereof.

21. Denied.

AFFIRMATIVE DEFENSES

Complainant further responds to PECO's Affirmative Defenses as follows:

First Affirmative Defense

22. Complainant incorporates his responses to paragraphs 11-21 of PECO's New matter as if fully set forth herein.

23. The allegations in paragraph 23 of PECO's New Matter contain conclusions of law to which no response is required. To the extent a response is required, Complainant denies the allegations.

Second Affirmative Defense

24. Complainant incorporates his responses to paragraphs 11-21 of PECO's New matter as if fully set forth herein.

25. The allegations in paragraph 25 of PECO's New Matter contain conclusions of law to which no response is required. To the extent a response is required, Complainant denies the allegations.

Third Affirmative Defense

26. Complainant incorporates his responses to paragraphs 11-21 of PECO's New matter as if fully set forth herein.

27. The allegations in paragraph 27 of PECO's New Matter contain conclusions of law to which no response is required. To the extent a response is required, Complainant denies the allegations.

Fourth Affirmative Defense

28. Complainant incorporates his responses to paragraphs 11-21 of PECO's New matter as if fully set forth herein.

29. The allegations in paragraph 29 of PECO's New Matter contain conclusions of law to which no response is required. To the extent a response is required, Complainant denies the allegations.

Fifth Affirmative Defense

30. Complainant incorporates his responses to paragraphs 11-21 of PECO's New matter as if fully set forth herein.

31. The allegations in paragraph 31 of PECO's New Matter contain conclusions of law to which no response is required. To the extent a response is required, Complainant denies the allegations. *See Township of Marple v. Pennsylvania Public Utility Commission*, Commonwealth Court, March 9, 2023, No. 319-C.D. 2022.

Respectfully submitted,

/s/ Thomas Lee

Thomas Lee
29 College Avenue
Swarthmore, PA 19081

Dated: May 8, 2023

CERTIFICATE OF SERVICE

I, Thomas Lee, hereby certify that on May 8, 2023, I caused a true and correct copy of the foregoing to be served via email upon counsel for Respondent, as follows:

Christopher A. Lewis, Esquire
BlankRome
One Logan Square
230 N. 18th Street
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/s/ Thomas Lee
Thomas Lee