



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
COMMONWEALTH KEYSTONE BUILDING
400 NORTH STREET, HARRISBURG, PA 17120

BUREAU OF
INVESTIGATION
&
ENFORCEMENT

June 2, 2023

Via Electronic Filing

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

Re: Pennsylvania Public Utility Commission,
Bureau of Investigation and Enforcement v.
PECO Energy Company
Docket No. C-2023-
Formal Complaint (Non-Proprietary and Proprietary)

Dear Secretary Chiavetta:

Enclosed for electronic filing is the **Non-Proprietary** version of the **Formal Complaint** of the Bureau of Investigation and Enforcement (“I&E”) of the Pennsylvania Public Utility Commission in the above-referenced matter. The **Proprietary** version has been submitted to the Secretary’s Bureau via their ShareFile.

Copies have been served on the parties of record in accordance with the Certificate of Service. Should you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in blue ink that reads 'Kayla L. Rost'.

Kayla L. Rost
Prosecutor
Bureau of Investigation & Enforcement
PA Attorney ID No. 322768
(717) 787-1888
karost@pa.gov

KLR/jfm
Enclosures

cc: Per Certificate of Service
Michael L. Swindler, Deputy Chief Prosecutor (via email - mwindler@pa.gov)
Brent Killian, Supervisor, Electric Safety Division (via email - killian@pa.gov)
Jim Campbell, Electric Safety Division (via email - jdcampbell@pa.gov)

NOTICE

A. You must file an Answer within 20 days of the date of service of this Complaint.

The date of service is the date as indicated at the top of the Secretarial Letter. *See* 52 Pa. Code §1.56(a). The Answer must raise all factual and legal arguments that you wish to claim in your defense, include the docket number of this Complaint, and be verified. The Answer must be submitted by efilings with the Secretary of the Commission by opening an efilings account through the Commission's website and accepting eservice at <http://www.puc.state.pa.us/efiling/default.aspx>. If your filing contains confidential material, you are required to file by overnight delivery to ensure the timely filing of your submission to:

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
400 North Street
Harrisburg, PA 17120

If your Answer is 250 pages or less, you are not required to file a paper copy. If your Answer exceeds 250 pages, you must file a paper copy with the Secretary's Bureau.

Additionally, please serve a copy on:

Kayla L. Rost, Prosecutor
Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
karost@pa.gov

B. If you fail to answer this Complaint within 20 days, the Bureau of Investigation and Enforcement will request that the Commission issue an Order imposing the requested relief.

C. You may elect not to contest this Complaint by paying the civil penalty and performing the requested relief within 20 days. Send only a certified check or money order made payable to the "Commonwealth of Pennsylvania," with the docket number indicated, and mail to:

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

D. If you file an Answer which either admits or fails to deny the allegations of the Complaint, the Bureau of Investigation and Enforcement will request that the Commission issue an Order imposing the requested relief set forth in this Complaint.

E. If you file an Answer which contests the Complaint, the matter will be assigned to an Administrative Law Judge for hearing and decision. The Judge is not bound by the penalty set forth in the Complaint and may impose additional and/or alternative penalties as appropriate.

F. If you are a corporation, you must be represented by legal counsel. 52 Pa. Code § 1.21.

G. Alternative formats of this material are available for persons with disabilities by contacting the Commission's ADA Coordinator at 717-787-8714.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement	:	
	:	
v.	:	Docket No. C-2023-
	:	
PECO Energy Company	:	

FORMAL COMPLAINT

NOW COMES the Bureau of Investigation and Enforcement (“I&E”) of the Pennsylvania Public Utility Commission by its prosecuting attorneys, pursuant to Section 701 of the Public Utility Code, 66 Pa.C.S. § 701, and files this Formal Complaint (“Complaint”) against PECO Energy Company (“PECO” or “Respondent”) alleging violations of the Public Utility Code and the Public Utility Commission’s Regulations in connection with multiple house fires which occurred on June 4, 2020 at the 15000 block of Beverly Drive, Philadelphia, Pennsylvania. In support of its Complaint, I&E respectfully represents the following:

I. COMMISSION JURISDICTION AND AUTHORITY

1. The Pennsylvania Public Utility Commission (“Commission” or “PUC”), with a mailing address of 400 North Street, Harrisburg, PA 17120, is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth pursuant to the Public Utility Code, 66 Pa.C.S. §§ 101, *et seq.*

2. Complainant is the Commission’s Bureau of Investigation and Enforcement, which is the bureau established to take enforcement actions against public

utilities and other entities subject to the Commission’s jurisdiction pursuant to 66 Pa.C.S. § 308.2(a)(11). *See also Implementation of Act 129 of 2008; Organization of Bureaus and Offices*, Docket No. M-2008-2071852 (Order entered August 11, 2011) (delegating authority to initiate proceedings that are prosecutory in nature to I&E).

3. Complainant is represented by:

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Prosecutor
Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
400 North Street
Harrisburg, PA 17120
karost@pa.gov
(717) 787-1888

Michael L. Swindler
Deputy Chief Prosecutor
Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
400 North Street
Harrisburg, PA 17120
mwindler@pa.gov

4. Respondent is PECO Energy Company,¹ an electric distribution company (“EDC”) with a main mailing address of 2301 Market Street, Philadelphia, Pennsylvania 19103.

5. PECO is a “public utility” as that term is defined at 66 Pa.C.S. § 102,² as it is engaged in providing public utility service as an EDC in the Commonwealth of Pennsylvania to the public for compensation with a utility code number of 110550.

¹ PECO Energy Company is a subsidiary of Exelon Corporation.

² At 66 Pa.C.S. § 102, “Public utility” is defined under that term at subsection (l)(i) as:

(1) Any person or corporations now or hereafter owning or operating in this Commonwealth equipment or facilities for:

(i) Producing, generating, transmitting, distributing or furnishing natural or artificial gas, electricity, or steam for the production of light, heat, or power to or for the public for compensation.

6. Section 501(a) of the Public Utility Code, 66 Pa.C.S. § 501(a), authorizes and obligates the Commission to execute and enforce the provisions of the Public Utility Code.

7. Section 701 of the Public Utility Code, 66 Pa.C.S. § 701, authorizes the Commission, *inter alia*, to hear and determine complaints against public utilities for violations of any law or regulation that the Commission has jurisdiction to administer or enforce.

8. Section 2804(1)(ii) of the Public Utility Code, 66 Pa.C.S. § 2804(1)(ii), requires the Commission “to ensure the continuation of safe and reliable electric service to all consumers in the Commonwealth, including . . . [t]he installation and maintenance of transmission and distribution facilities in conformity with established industry standards and practices, including the standards set forth in the National Electric Safety Code [(“NESC”).” *See also* 52 Pa. Code §§ 57.193-194.

9. Section 3301 of the Public Utility Code, 66 Pa.C.S. § 3301, authorizes the Commission to impose civil penalties on any public utility or any other person or corporation subject to the Commission's authority for violation(s) of the Public Utility Code and/or Commission regulations. Section 3301(a)-(b) of the Public Utility Code, 66 Pa.C.S. § 3301(a)-(b), allows for the imposition of a separate civil penalty for each violation and each day's continuance of such violation(s).

10. PECO, in providing electric distribution service to the public for compensation, is subject to the power and authority of this Commission pursuant to Section 501(c) of the Public Utility Code, 66 Pa.C.S. § 501(c), which requires a public utility to comply with Commission regulations and orders.

11. Pursuant to the provisions of the applicable Commonwealth statutes and regulations, the Commission has jurisdiction over the subject matter of this Complaint and the actions of PECO related thereto.

II. FACTUAL BACKGROUND

12. On June 3, 2020, a conductor owned and operated by PECO fell at 1299 Southhampton Road, Philadelphia, Pennsylvania.

13. 1299 Southhampton Road adjoins the residences located on Beverly Drive, Philadelphia, Pennsylvania. I&E Exhibit 1.

START CONFIDENTIAL

14. [REDACTED]

[REDACTED]

15. [REDACTED]

[REDACTED]

16. [REDACTED]

[REDACTED]

17. [REDACTED]

[REDACTED]

[Redacted]

[Redacted]

18. [Redacted]

19. [Redacted]

[Redacted]

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20. [Redacted]

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21. [Redacted]

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22. [Redacted]

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23. [Redacted]

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24. [Redacted]

[Redacted]

[REDACTED]

[REDACTED]

[REDACTED]

25. [REDACTED]

[REDACTED]

[REDACTED]

END CONFIDENTIAL

III. VIOLATIONS

26. The foregoing paragraphs are incorporated herein.

27. Section 57.194 (Distribution system reliability) of the Commission's

regulations provides:

(a) An EDC shall furnish and maintain adequate, efficient, safe and reasonable service and facilities, and shall make repairs, changes, alterations, substitutions, extensions and improvements in or to the service and facilities necessary or proper for the accommodation, convenience and safety of its patrons, employees and the public. The service shall be reasonably continuous and without unreasonable interruptions or delay.

(b) An EDC shall install, maintain and operate its distribution system in conformity with the applicable requirements of the National Electrical Safety Code.

52 Pa. Code § 57.194(a) and (b).

28. Section 57.28 (Electric safety standards) of the Commission's regulations

provides:

(a) Responsibilities. The separation of responsibilities between an electric utility and a customer with respect to the facilities utilized for electric service shall be described in the electric utility's tariff that is filed with and approved by the Commission.

(1) An electric utility shall use reasonable effort to properly warn and protect the public from danger, and shall exercise reasonable care to reduce the hazards to which employees, customers, the public and others may be subjected to by reason of its provision of electric utility service and its associated equipment and facilities.

52 Pa. Code § 57.28(a).

29. Section 1501 (Character of service and facilities) of the Public Utility Code provides:

Every public utility shall furnish and maintain *adequate, efficient, safe, and reasonable service and facilities*, and shall make all such *repairs*, changes, alterations, substitutions, extensions, and improvements in or to such service and facilities as shall be necessary or proper for the accommodation, convenience, and *safety* of its patrons, employees, and the public. Such service also shall be reasonably continuous and without unreasonable interruptions or delay. Such service and facilities shall be in conformity with the regulations and orders of the commission. Subject to the provisions of this part and the regulations or orders of the commission, every public utility may have reasonable rules and regulations governing the conditions under which it shall be required to render service. . . .

66 Pa.C.S. § 1501 (emphasis added).

30. PECO failed to adequately respond to multiple reports of a downed wire on June 3, 2020 which posed a threat to life and property. This is a violation of 52 Pa. Code § 57.28, 52 Pa. Code § 57.194, and 66 Pa.C.S. § 1501. I&E proposes a civil penalty of \$3,000.

31. PECO failed to properly enter/document the three (3) calls reporting a downed wire on June 3, 2020 in OMS which posed a threat to life and property. This is a violation of 52 Pa. Code § 57.28, 52 Pa. Code § 57.194(a), and 66 Pa.C.S. § 1501. I&E proposes a civil penalty of \$3,000.

32. Due to PECO's failure to respond and document the downed wire, PECO improperly allowed a failed conductor to be re-energized, resulting in the multiple house fires. This is a violation of 52 Pa. Code § 57.28, 52 Pa. Code § 57.194(a), and 66 Pa.C.S. § 1501. I&E proposes a civil penalty of \$3,000.

33. PECO failed to identify impermissible materials within the right-of-way during its Right-of-Way ("ROW") inspections, such as fences, buildings, and swimming pools that were all located within the right-of-way behind the Beverly Drive properties and to report them. This is a violation of 52 Pa. Code § 57.28, 52 Pa. Code § 57.194(a), and 66 Pa.C.S. § 1501. I&E proposes a civil penalty of \$3,000.

34. PECO failed to furnish and maintain adequate, efficient, safe, and reasonable service and facilities on June 3, 2020. This is a violation of 66 Pa.C.S. § 1501. I&E proposes a civil penalty of \$1,000.

IV. REQUESTED RELIEF

35. Due to the failure of PECO to properly respond to the report of downed wires and to properly inspect and identify various items in its right-of-way, which resulted in property damage to eight (8) residential homes on the 15000 block of Beverly Drive as set forth herein, I&E proposes that PECO pay a cumulative civil penalty of Thirteen Thousand Dollars (\$13,000).

36. In addition to the payment of the civil penalty, I&E proposes that PECO be ordered by the Commission to take the following corrective actions:

- a. PECO shall, consistent with the National Electrical Safety Code Section 021, establish or update a standardized corrections policy for all reported distribution system lines and equipment with recorded conditions or defects

that would reasonably be expected to endanger life or property.

- i. The policy shall create a process where PECO adequately responds, records, assess, and makes safe any and all notifications of power issues, including downed wires.
 - ii. Any notification of a downed line shall be thoroughly investigated and effectively communicated to all personnel affected. Such notification shall include proper isolation and barricades to keep the public and/or their property safe from harm. The reported conditions must be promptly corrected, disconnected, or isolated to insure both worker and public safety.
 - iii. The policy shall be provided to Electric Safety for review and approval.
- b. PECO shall perform an additional, final inspection for all work performed by their employees and contracted employees to ensure that the work performed meets or exceeds the current National Electrical Safety Code requirements and specifications prior to re-energizing the equipment and circuit(s); and
 - c. PECO shall create a policy or procedure for inspecting the lines of a damaged circuit up to, and including, the next protective device of each affected line, on the same circuit system prior to re-energizing a circuit that had lines down.

WHEREFORE, the Pennsylvania Public Utility Commission's Bureau of Investigation and Enforcement hereby requests that the Commission: (1) find PECO to be in violation of the Public Utility Code and the Commission's Regulations for each of the counts set forth herein; (2) impose a cumulative civil penalty upon PECO in the amount of \$13,000;

(3) direct PECO to perform each of the corrective actions detailed in this Complaint; and (4) order such other remedies as the Commission may deem appropriate.

Respectfully submitted,



Kayla L. Rost
Prosecutor
PA Attorney ID No. 322768

Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120
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Date: June 2, 2023

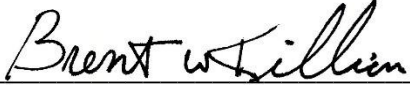
**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement	:	
	:	
v.	:	Docket No. C-2023-
	:	
PECO Energy Company	:	

VERIFICATION

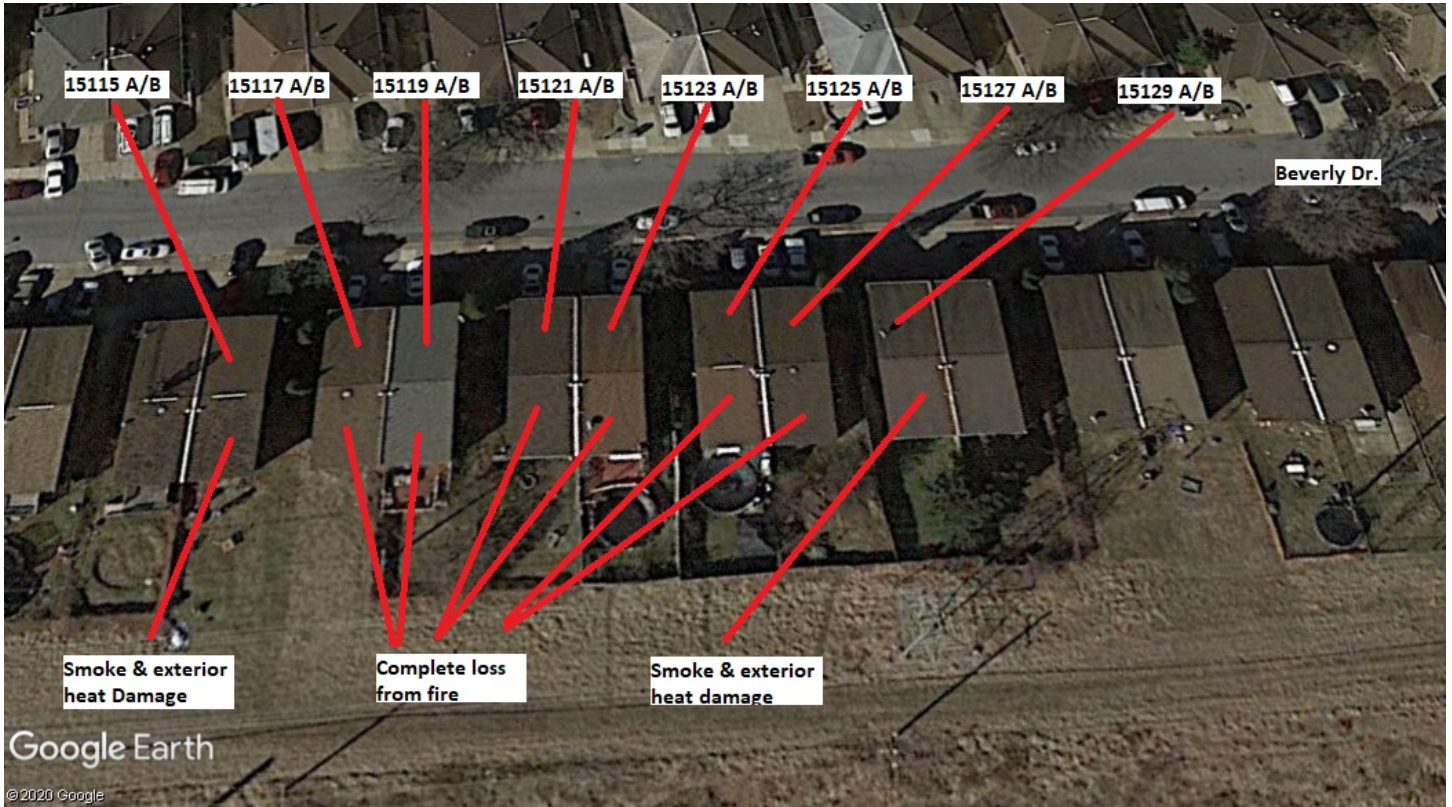
I, Brent W. Killian, Supervisor, Electric Safety Division, Bureau of Investigation and Enforcement, hereby state that the facts above set forth are true and correct to the best of my knowledge, information, and belief and that I expect the Bureau will be able to prove the same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

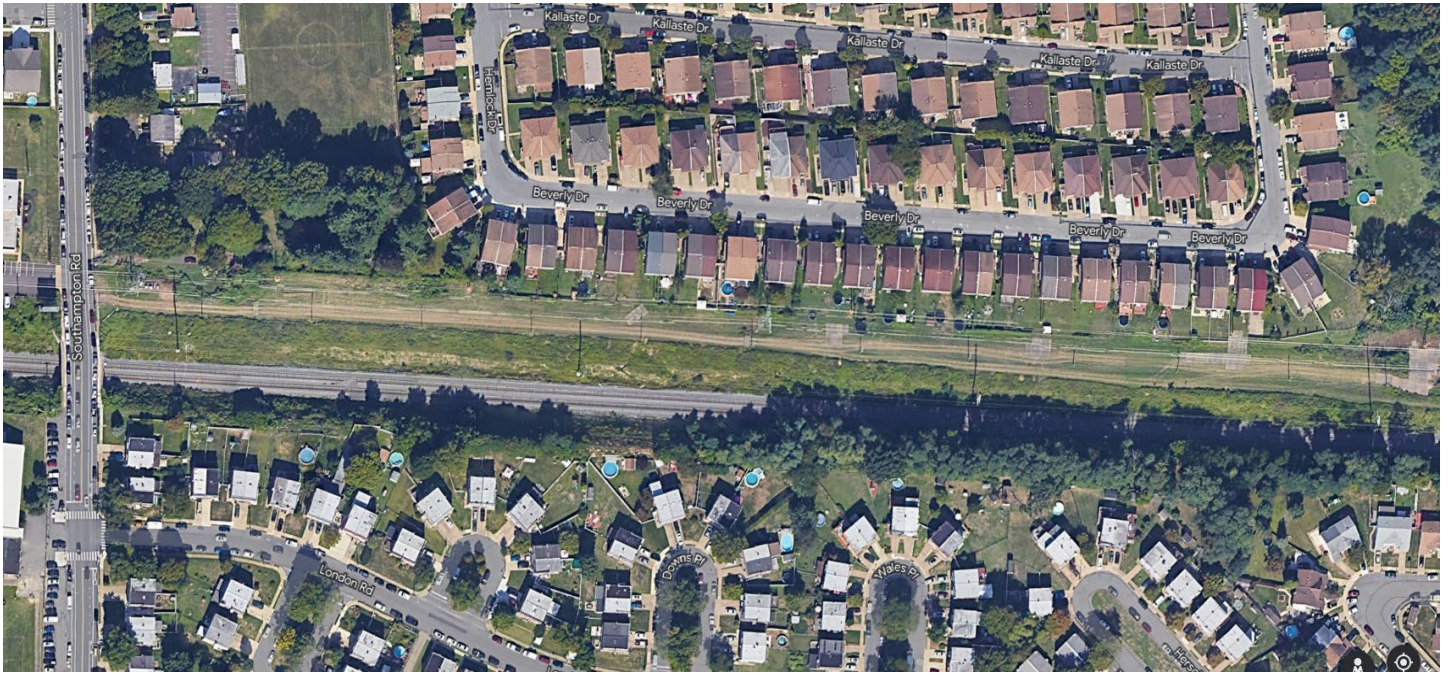
Date: June 2, 2023



Brent W. Killian
Supervisor, Electric Safety Division
Bureau of Investigation and Enforcement
Pennsylvania Public Utility Commission
400 North Street
Harrisburg, PA 17120

I&E
EXHIBIT 1





I&E
EXHIBIT 2

NON-PROPRIETARY

I&E
EXHIBIT 3

NON-PROPRIETARY

I&E
EXHIBIT 4

NON-PROPRIETARY

I&E
EXHIBIT 5

NON-PROPRIETARY

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement	:	
	:	
v.	:	Docket No. C-2023-
	:	
PECO Energy Company	:	

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing **Formal Complaint (Non-Proprietary and Proprietary)** dated June 2, 2023 in the manner and upon the parties listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

**Served via Electronic Mail
and Certified Mail**

Anthony E. Gay, Esq.
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