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September 18, 2024

VIA E-FILING

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

**RE: Steve and Beth Coulton v. PECO Energy Company
Docket No. C-2024-3050947**

Dear Ms. Chiavetta:

Enclosed for filing with the Commission is the *Preliminary Objections of Respondent, PECO Energy Company*.

I have enclosed a Certificate of Service showing that a copy of the above document was served on the interested parties. Thank you for your time and attention on this matter.

Very truly yours,

A handwritten signature in blue ink that reads "Khadijah Scott".

Khadijah Scott, Esquire
Assistant General Counsel, PECO Energy Company

Encl.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

STEVE AND BETH COULTON	:	
Complainants	:	
	:	DOCKET NO. C-2024-3050947
v.	:	
PECO ENERGY COMPANY	:	
Respondent	:	

NOTICE TO PLEAD

Pursuant to 52 Pa. Code §§ 5.101 and 5.62(c), you are hereby notified that, if you do not file a written response denying or correcting the enclosed Preliminary Objection within 10 days from service of this notice, a ruling may be entered against you. Your response must be filed with the Secretary of the Pennsylvania Public Utility Commission, with a copy served to counsel for PECO Energy Company, Khadijah Scott, and where applicable, the Administrative Law Judge presiding over the issue.

File with:
Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, Second Floor
Harrisburg, PA 17120

With a copy to:
Khadijah Scott
PECO Energy Company
2301 Market Street, S-23
Philadelphia, PA 19103

Dated: September 18, 2024



Khadijah Scott
Counsel for PECO Energy Company
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	:	

**PRELIMINARY OBJECTION OF RESPONDENT,
PECO ENERGY COMPANY**

Respondent, PECO Energy Company (“PECO”), pursuant to 52 Pa. Code §5.101(a)(1) respectfully petitions this Honorable Commission to dismiss the instant Complaint as there is a lack of Commission jurisdiction.

1. On August 29, 2024, PECO Energy was served with a formal complaint filed by Steve and Beth Coulton (hereafter “Complainants”).
2. In their formal complaint, the Complainants allege that they have experienced multiple electrical power surges, which caused monetary damages, for which they seek reimbursement. See Formal Complaint.
3. PECO Energy simultaneously filed an Answer and the instant Preliminary Objection.
4. Pursuant to 52 Pa. Code §5.101, preliminary objections may be filed against a complaint and dismissed for lack of jurisdiction. 52 Pa. Code §5.101(a)(1).
5. Commission procedure regarding the disposition of preliminary objections is similar to that utilized in Pennsylvania civil procedure. Equitable Small Transportation

Intervenors. v. Equitable Gas Co., 1994 Pa.PUC LEXIS 69, Docket No. C-00935435 (July 18, 1994).

6. In deciding preliminary objections, the Public Utility Commission must determine, based on the factual pleadings of the petitioner, if relief or recovery is possible. Roc v. Flaherty, 527 A.2d 211 (Pa. Cmwlth 1985).

7. A complaint must be able to recover under the law to survive a preliminary objection. Milliner v. Enck, 709 A.2d 417, 418 (Pa. Super. Ct. 1998) (“preliminary objection should be sustained only where it appears with certainty that, upon the facts averred, the law will not allow the plaintiff to recover”).

8. All of the non-moving party’s averments must be taken as true for the sake of deciding the preliminary objection. County of Allegheny v. Commw. of Pa., 490 A.2d 402 (Pa. 1985).

9. The court does not, however, need to accept, “unwarranted inferences from facts, argumentative allegations, or expressions of opinions.” Feingold v. McNulty, 2009 Phila. Ct. Com. Pl LEXIS 167, *3.

10. Section 703 of the Public Utility Code, 66 Pa. C.S.A. §703(b) provides that the Commission may dismiss any complaint without a hearing if, in its opinion, a hearing is not necessary to the public interest.

11. A hearing is required only when there is a disputed question of fact, and is not required to resolve questions of law. Dee-Dee Cab, Inc. v. Pa.Pub. Util. Comm’n, 817 A.2nd 593 (Pa.Commw. Ct. 2003), petition for allowance of appeal denied, 836 A.2d 123 (Pa. 2003).

12. Here, the facts in this matter include the following:

- a. The Complainants allege that they incurred damages to personal property as a result of power surges that occurred at their property.
 - b. The Complainants request that the PUC order PECO to compensate them to cover the cost of repair and/or replacement.
13. The Complainants are requesting that the Commission award damages for their costs.
14. To the extent that the Complainants are requesting a monetary award for costs, the Complainants are not entitled to relief under the law.
15. The Commission lacks jurisdiction to award damages pursuant to 52 Pa. Code §5.101(a)(1).
16. Accordingly, the portion of the Complainants' formal complaint which seeks monetary reimbursement from PECO should be denied pursuant to 52 Pa. Code §5.101(a)(1).

REQUEST FOR RELIEF

WHEREFORE, for all of the reasons stated herein, PECO respectfully requests that your Honorable Commission dismiss the instant complaint with prejudice with regard to damages.

Respectfully submitted,



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VERIFICATION

I, Khadijah Scott, hereby declare that I am counsel for PECO Energy Company; that as such I am authorized to make this verification on its behalf; that the facts set forth in the foregoing Pleading are true to the best of my knowledge, information and belief, and that I make this verification subject to the penalties of 18 Pa. C.S. §4904 pertaining to false statements to authorities.

Date: September 18, 2024



Khadijah Scott

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CERTIFICATE OF SERVICE

I, KHADIJAH SCOTT, hereby certify that I have this day served a copy of PECO Energy Company's Preliminary Objections in the above matter upon all interested parties by *E-mailing* a copy to:

STEVE AND BETH COULTON
6698 PHILLIPS MILL RD.
P.O. BOX 25
SOLEBURY, PA 18963
Via email: bcoulton@msn.com

ROBERT BARNES, ESQUIRE
700 S. FLOWER STREET
STE. 1000
LOS ANGELES, CA 90017
Via email: robertbarnes@barneslawllp.com

Dated: September 18, 2024



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