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February 12, 2025

VIA E-FILING

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

RE: Claudio Waller v. PECO Energy Company
Docket No. C-2025-3053079

Dear Ms. Chiavetta:

Enclosed for filing with the Commission is *PECO Energy Company's Preliminary Objection*.

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, appearing to read "Khadijah Scott".

Khadijah Scott, Esquire
Assistant General Counsel, PECO Energy Company

Cc: *Not Recommended for Call of the Docket*

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

| | | |
|----------------------------|---|----------------------------------|
| CLAUDIO WALLER | : | |
| Complainant | : | |
| | : | |
| v. | : | DOCKET NO. C-2025-3053079 |
| | : | |
| 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: February 12, 2025



Khadijah Scott
Counsel for PECO Energy Company
2301 Market Street, S23-1
Philadelphia, PA 19103
(267) 533-1830
Fax: 215.568.3389
Khadijah.Scott@exeloncorp.com

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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 January 24, 2025, PECO was served with a formal complaint filed by Claudio Waller (hereafter “Complainant”).
2. In his formal complaint, the Complainant alleges that he experienced damage to his security system, during a gas work project on his property, which caused monetary damages, for which he seeks 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 Complainant alleges that he incurred damages to his personal property as a result of gas work that occurred at his property.
 - b. The Complainant requests that the PUC order PECO to compensate him to cover the cost of repair and/or replacement.
13. The Complainant is requesting that the Commission award him damages for his costs.
14. To the extent the Complainant is requesting a monetary award for costs, the Complainant is 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 Complainant's 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,



Khadijah Scott
Counsel for PECO Energy Company
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Philadelphia, PA 19103
(267) 533-1830
Fax: 215.568.3389
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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: February 12, 2025



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:

CLAUDIO WALLER
1028 N. SPRING MILL ROAD
VILLNOAVA, PA 19085
Via email: claudiowaller@gmail.com

Dated: February 12, 2025



Khadijah Scott
Counsel for PECO Energy Company
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