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April 25, 2025

VIA E-FILING

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

**RE: Jonathan DiBello v. PECO Energy Company
Docket No. C-2025-3054440**

Dear Mr. Homsher:

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, appearing to read "Khadijah Scott".

Khadijah Scott, Esquire
Assistant General Counsel, PECO Energy Company

Encl.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

JOHNATHAN DIBELLO	:	
Complainant	:	
v.	:	DOCKET NO. C-2025-3054440
	:	
PECO ENERGY COMPANY	:	
Respondent	:	

NOTICE TO PLEAD

Pursuant to 52 Pa. Code §5.101 and 5.62, you are hereby notified that, if you do not file a written response denying or correcting the enclosed Preliminary Objections of PECO Energy Company, within ten (10) days from service of this notice, a decision may be rendered against you. All pleadings, such as a Reply to Preliminary Objections, 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:
Matthew Homsher, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, Second Floor
Harrisburg, PA 17120

With a copy to:
Khadijah Scott, Esq.
PECO Energy Company
2301 Market Street, S-23
Philadelphia, PA 19103
Khadijah.scott@exeloncorp.com

Dated: April 25, 2025



Khadijah Scott
Counsel for PECO Energy Company
2301 Market Street S-23
Philadelphia, PA 19103
(267) 533-1830
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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 lack of Commission jurisdiction.

1. On April 7, 2025, PECO Energy Company ("PECO") was served with a third formal complaint filed by Jonathan Dibello (hereafter “Complainant”) in the above captioned docket. *See*, Complainant’s Complaint. *See also*, docket numbers C-2024-3050533 and C-2023-3041825.
2. PECO Energy filed a simultaneous Answer to the Complainant’s Complaint.
3. In the Complaint, the Complainant requests that the Public Utility Commission (“PUC”) issue a Stay during his pending appeal in the Commonwealth Court of Pennsylvania.
4. On September 22, 2022, the Complainant filed for Chapter 13 Bankruptcy in the Eastern District of Pennsylvania under docket number 22-12547.
5. The Complainant has an active Chapter 13 Bankruptcy petition pending.

6. Accordingly, the Commission does not have jurisdiction over the Complainant's repeated request for a payment agreement.

7. The PUC does not have jurisdiction of the Commonwealth Court of Pennsylvania.

8. PECO Energy therefore files the instant Preliminary Objections.

9. Pursuant to 52 Pa. Code §5.101, preliminary objections may be filed against a complaint and dismissed lack of Commission jurisdiction. 52 Pa. Code §5.101(a)(1).

10. 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).

11. 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).

12. 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").

13. 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).

14. 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.

15. 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.

16. 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.Comm. Ct. 2003), petition for allowance of appeal denied, 836 A.2d 123 (Pa. 2003).

17. Here, there are no genuine issues of fact and PECO is entitled to judgment as a matter of law with respect to all of the allegations in the Complaint.

18. The Complainant requests that the that the PUC Stay his termination because he has a pending appeal in the Commonwealth Court of Pennsylvania. Pa. R. C.P. §1701(a).

19. Section 332(a) of the Public Utility Code provides that the party seeking relief from the Commission has the burden of proof. 66 Pa.C.S. § 332(a).

20. As a matter of law, the Complainant must show that PECO Energy is responsible or accountable for the problem described in the Complaint in order to prevail. *Patterson v. Bell Tel. Co. of Pa.*, 72 Pa. PUC 196 (1990).

21. “Burden of proof” means a duty to establish a fact by a preponderance of the evidence, or evidence more convincing, by even the smallest degree, than the evidence presented by the other party. *Se-Ling Hosiery v. Margulies*, 70 A.2d 854 (Pa. 1950).

22. The offense alleged must be a violation of the Public Utility Code, the Commission's regulations, or an outstanding order of the Commission. *See*, 66 Pa.C.S. §701.

23. The PUC has jurisdiction over the Public Utility Code, the Commission's regulations, or an outstanding order of the Commission.

24. The PUC lacks jurisdiction to issue a Stay over an appeal outside of its jurisdiction.

25. The PUC does not have jurisdiction over the Commonwealth Court of Pennsylvania.

26. Accordingly, the Complainant's formal complaint should be dismissed as it fails to set forth a violation by PECO Energy of either the Public Utility Code, the regulations of the PUC or PECO's Electric Service Tariff as required by 52 Pa. Code §5.22(a)(4).

REQUEST FOR RELIEF

WHEREFORE, for the reasons set forth above, PECO Energy Company respectfully requests that your Honorable Commission summarily dismiss the Complainant's formal complaint, and all issues which were raised in the Complaint.

Respectfully submitted,



Khadijah Scott
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(267) 533-1830
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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: April 25, 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 Objection in the above matter upon all interested parties by *E-mailing* a copy to:

JONATHAN DIBELLO
813 LAFAYETTE AVE
APT 1B
PROSPECT PARK PA 19076
Via Email: jonathandibello1984@gmail.com

Dated: April 25, 2025



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