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June 19, 2025

VIA E-FILING

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

RE: Bill Whelan v. PECO Energy Company
Docket No. C-2025-3055566

Dear Mr. Homsher:

Enclosed for filing with the Commission is *Preliminary Objection of 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 in this matter.

Very truly yours,


Khadijah Scott, Esquire
Assistant General Counsel, PECO Energy Company

Encl.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

BILL WHELAN	:	
Complainant	:	
	:	DOCKET NO. C-2025-3055566
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:
Matthew Homsher, 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: June 19, 2025



Khadijah Scott
Counsel for PECO Energy Company
2301 Market Street, S23-1
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(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 June 4, 2025, PECO Energy was served with a formal complaint filed by BILL WHELAN (hereafter “Complainant”).

2. In his formal complaint, the Complainant alleges that PECO is supplying his next-door neighbor with gas from a spliced gas line that is on the Complainant’s property. He requests seventeen (17) years of compensation for the use of his property without permission. 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 is entitled to seventeen (17) years of compensation for the unauthorized use of his gas line to service his neighbor with gas.
13. The Complainant is requesting that the Commission award him damages.
14. To the extent the Complainant is requesting a monetary award, 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. Moreover, the Complainant's Complaint is stale. To the extent the Complainant seeks the court to compensate him for damages, which he asserts began in 2008, the Complainant is beyond the three (3) year statute of limitations in which to bring a claim. 66 Pa.C.S. §3314(a).
17. 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
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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: June 19, 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:

BILL WHELAN
7706 BEECH LANE
WYNDMOOR, PA 19038
Via Email: saltydog7707@gmail.com

Dated: June 19, 2025



Khadijah Scott
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