

Tony Gardner

K Fish Comestible LLC

664 Lincoln Highway
Fairless Hills, PA 19030
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August 11, 2025

Via Electronic Filing

Matthew Homsher, Esquire
Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Re: Docket No. C-2025-3056317
Tony Gardner v. PECO Energy Company
Complainant's Response to PECO's Answer

Dear Secretary Homsher:

I am submitting the attached Response to PECO Energy Company's Answer filed on August 7, 2025, in the above-referenced proceeding.

As the sole member of K Fish Comestible LLC, I am representing myself in this matter pursuant to guidance from PUC staff that no attorney is required for this formal complaint proceeding. I have attempted to comply with all filing requirements to the best of my ability as a self-represented party.

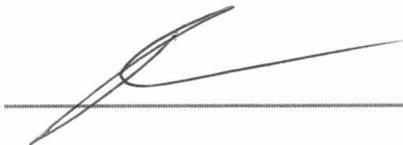
This Response addresses PECO's preliminary objections and demonstrates why our complaint regarding inadequate three-phase electrical service should proceed. The filing is timely and responds to serious service deficiencies that have significantly impacted our business operations.

If there are any formatting or procedural issues with this filing, I respectfully request the opportunity to correct them promptly. As a self-represented party dealing with urgent service issues affecting my business, I have made every effort to follow proper procedures while focusing on the substantive issues that require the Commission's attention.

A copy of this Response has been served on PECO's counsel, Margaret A. Morris, Esquire, at Reger Rizzo & Darnall LLP, as indicated in the attached Certificate of Service.

Thank you for your attention to this matter. Please contact me if you require any additional information or clarification.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Tony Gardner', is written above a solid horizontal line that spans the width of the page.

Tony Gardner
Sole Member, K Fish Comestible LLC

Enclosure: Complainant's Response to PECO Energy Company's Answer and Preliminary Objections

cc: Margaret A. Morris, Esquire (via email) mmorris@regerlaw.com

cc: Conor O'Brien (via email) cobrien@regerlaw.com

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

**TONY GARDNER on behalf of
K FISH COMESTIBLE LLC**
Complainant

v. Docket No. C-2025-3056317

PECO ENERGY COMPANY
Respondent

COMPLAINANT'S RESPONSE TO PECO ENERGY COMPANY'S ANSWER AND PRELIMINARY OBJECTIONS

NOW COMES Tony Gardner on behalf of K Fish Comestible LLC (Complainant), and hereby submits this Response to PECO Energy Company's Answer filed on August 7, 2025, and states as follows:

PRELIMINARY STATEMENT

PECO's Answer attempts to deny responsibility for inadequate service that resulted in significant business losses to K Fish Comestible. The evidence clearly demonstrates that PECO failed to provide adequate three-phase electrical service, failed to properly diagnose and repair known issues, and caused substantial damages through negligent maintenance practices. This Response will address each of PECO's assertions and demonstrate why the Complaint should proceed.

RESPONSES TO SPECIFIC PARAGRAPHS

Paragraph 4 - Service Quality Issues:

Complainant strongly disputes PECO's denial. The facts establish that:

1. **Pattern of Inadequate Repairs:** PECO has demonstrated a pattern of "band-aid" repairs to the three-phase electrical system. When one leg of the three-phase system failed, PECO only repaired that single leg rather than addressing the systemic issues with the entire line. Subsequently, a second leg failed, and again PECO applied only a temporary fix. This piecemeal approach to critical infrastructure maintenance falls well below the standard of reasonable service required under 66 Pa.C.S. § 1501.
2. **These Are Not "Allegations" But Documented Facts:** Both the independent electrician's report and PECO's own service technician confirmed the partial loss of three-

phase service. PECO's characterization of these as mere "allegations" is misleading and contradicted by their own personnel's findings.

3. **Multiple Service Failures:**

- **June 24-25, 2025:** PECO crew claimed to find "no issues" despite ongoing power problems. Notably, K Fish was never informed that PECO had visited the property.
- **June 27, 2025:** PECO technician left a power check slip next to a sign specifically instructing them to call us. No call was made, and the ticket was improperly closed according to PECO's 800 number.
- **June 30, 2025:** A third ticket had to be initiated by Complainant.
- **July 1, 2025:** Only through fortunate circumstance did a PECO technician arrive - he had called the wrong phone number for another case and decided to stop at our location first. This technician finally identified the faulty leg that previous crews had failed to detect.

4. **Inadequate Repair on July 2, 2025:** PECO's own technician confirmed that only a "band-aid" was applied and the third leg was not touched. This temporary fix approach to critical three-phase infrastructure is unacceptable.

Paragraph 5 - Damages and Scheduled Meeting:

PECO's statement that a damage claim form was sent on July 8, 2025, is incorrect. K Fish never received this form. Instead, we received a call scheduling a site visit for July 25, 2025, between 10 AM and 5 PM. PECO failed to appear for this scheduled appointment - a no-call, no-show that caused additional complications.

By scheduling this meeting, we reasonably understood that PECO was acknowledging the validity of our concerns and would address them in person. PECO's failure to attend this scheduled meeting demonstrates bad faith and has created unnecessary legal work and expense.

Regarding Adequate Service (Section 1501):

Complainant agrees that Section 1501 requires "reasonable and adequate" service, not perfect service. However, PECO fundamentally misunderstands what constitutes adequate three-phase service:

- **Adequate three-phase service means all three legs are functioning properly.** Having only two of three legs operational is, by definition, inadequate service.
- Three-phase power is essential for proper equipment operation in commercial settings. Operating with only two legs can cause equipment damage, production losses, and safety hazards.
- PECO's argument that two functioning legs out of three constitutes "adequate" service is absurd and demonstrates a fundamental misunderstanding of electrical service requirements.

RESPONSE TO JURISDICTIONAL ARGUMENTS

Paragraph 7a - BCS Decision:

The Formal Complaint is indeed related to BCS Decision No. 4075023, which was closed under the advice of PUC staff who instructed us to escalate the matter to a formal complaint. The PUC recognized that the informal complaint process was insufficient to address the serious service inadequacies and advised that a formal complaint was the appropriate next step to resolve these ongoing issues.

Paragraph 7c - Service Quality:

PECO's own actions contradict their denial of inadequate service:

- They acknowledged problems by sending repair crews multiple times
- They scheduled a damage assessment meeting (which they failed to attend)
- They sent (allegedly) a damage claim form, thereby accepting responsibility
- Their own technician confirmed the faulty leg and inadequate repairs

Paragraph 8 - Representation Issues:

Right to Self-Representation for Single-Member LLC:

PECO's assertion that K Fish Comestible must be represented by counsel is incorrect and appears to be a dilatory tactic. The Commission's own guidance indicates that:

1. **Tony Gardner IS K Fish Comestible:** K Fish Comestible is a single-member LLC with Tony Gardner as the sole member. In Pennsylvania, single-member LLCs are treated as sole proprietorships for many purposes.
2. **PUC Guidance:** The PUC specifically advised that no attorney was necessary for this complaint proceeding. This guidance supersedes PECO's tactical objection.
3. **Urgency of Matter:** Given the ongoing service issues and business losses, requiring attorney representation would only delay resolution and increase costs unnecessarily. PECO's insistence on this technicality, after missing their own scheduled meeting, demonstrates bad faith.
4. **Precedent for Self-Representation:** While PECO cites general propositions about corporate representation, they ignore exceptions for:
 - Single-member LLCs in administrative proceedings
 - Informal and formal complaints before the PUC
 - Cases where the sole member/owner is the real party in interest
5. **Distinguished Case Law:** The case PECO cites (*Cars R Us c/o Holman Copeland v. PGW*) is distinguishable as it likely involved a multi-member entity or corporation, not a single-member LLC where the member and the entity are essentially one and the same for practical purposes.

RESPONSE TO PUC AUTHORITY ARGUMENTS

Commission's Authority:

PECO's attempt to undermine the PUC's authority in this matter is misguided. While the Commission may not award traditional monetary damages, it certainly has authority to:

1. **Order Corrective Action:** Require PECO to properly repair and maintain the three-phase service
2. **Service Credits:** Direct PECO to provide billing adjustments for inadequate service
3. **Compliance Orders:** Ensure PECO meets its obligations under Section 1501
4. **Investigation:** Examine PECO's pattern of inadequate repairs and maintenance practices

Moreover, recent developments in Pennsylvania utility law have expanded the Commission's remedial authority in cases of documented service failures affecting commercial customers. The Commission has previously ordered utilities to compensate customers for losses directly attributable to service inadequacies through billing credits and adjustments.

WHEREFORE

Complainant respectfully requests that the Pennsylvania Public Utility Commission:

1. **REJECT** PECO's preliminary objections regarding representation, as Tony Gardner has the right to represent K Fish Comestible LLC as its sole member in this proceeding;
2. **FIND** that PECO has failed to provide adequate and reasonable three-phase electrical service as required by 66 Pa.C.S. § 1501;
3. **ORDER** PECO to immediately and properly repair all three legs of the three-phase service, not just apply "band-aid" fixes;
4. **DIRECT** PECO to provide appropriate compensation for business losses resulting from their service failures, either through billing credits or other remedies within the Commission's authority;
5. **INVESTIGATE** PECO's pattern of inadequate maintenance and repair practices;
6. **SANCTION** PECO for their failure to attend the scheduled July 25, 2025 meeting and for their dilatory tactics in this proceeding;
7. **GRANT** such other relief as the Commission deems just and appropriate.

Respectfully submitted,



Tony Gardner
Sole Member, K Fish Comestible LLC
664 Lincoln Highway
Fairless Hills, PA 19030
Tel: 215-547-1977
Email: docfright@aol.com

Date: August 11, 2025

CERTIFICATE OF SERVICE

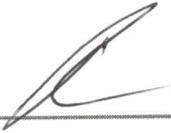
I hereby certify that a true and correct copy of the foregoing Response has been served upon the following in accordance with the requirements of 52 Pa. Code § 1.54:

Via Electronic Mail:

Margaret A. Morris, Esquire
Reger Rizzo & Darnall LLP
Cira Centre, 13th Floor
2929 Arch Street
Philadelphia, PA 19104
mmorris@regerlaw.com

Conor O'Brien
cobrien@regerlaw.com

Date: August 11, 2025



VERIFICATION

I, Tony Gardner, hereby state that the facts set forth above are true and correct to the best of my knowledge, information and belief, and that I expect to be able to prove the same at a 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).



Tony Gardner
Date: August 11, 2025