

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Bill Whelan

v.

PECO Energy Company

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C-2025-3055566

INITIAL DECISION

Before
Ann Quimby
Administrative Law Judge

INTRODUCTION

This Initial Decision denies the Formal Complaint of Bill Whelan against PECO Energy Company because he failed to prove that the public utility violated the Public Utility Code, Commission regulation, Commission order or company tariff.

HISTORY OF THE PROCEEDING

On June 2, 2025, Bill Whelan (Complainant) filed a Formal Complaint (Complaint) with the Pennsylvania Public Utility Commission (Commission), using the Formal Complaint form made available by the Commission. Regarding the reason for his complaint, Mr. Whelan checked the “Other” box, writing, in part, as follows:

PECO is supplying my neighbor with gas via my gas line and my property. PECO admits that the line is on my

property, but they deny that the line is spliced over to neighbor's [*sic*] gas meter. There is no paperwork for an easement and no paperwork for eminent domain

Complaint ¶ 4. As relief, Complainant indicated he wanted PECO Energy Company (PECO or Respondent) to disconnect a spliced section of gas hose that reportedly serves his neighbor's property, to remove a section of line from his property, to install a new line to his neighbor, and to reimburse him for the reported improper use of his land by Respondent. Complaint ¶ 5. Mr. Whelan asserted in his Complaint that he wanted to be served by the Commission via email using the email address provided in the Complaint. Complaint ¶ 9.

On June 19, 2025, Respondent filed an Answer to the Complaint. In its Answer, Respondent denied that Complainant's property had a spliced or split gas line and asserted that the three-year statute of limitations under which to bring a claim under 66 Pa.C.S. § 3314(a) had expired.

Also on June 19, 2025, Respondent filed a Preliminary Objection. In the Preliminary Objection, PECO averred Complainant seeks monetary damages, and that the Commission lacks jurisdiction to award monetary damages. Further, PECO asserted that since Complainant's claim for reimbursement for the purported use of his property by PECO goes back to 2008, it is time-barred under the Commission's three-year statute of limitations. Respondent's Preliminary Objection included a Notice to Plead pursuant to 52 Pa. Code § 5.101.

On June 30, 2025, Complainant filed documents he described as "documents in support" of his Complaint with the Commission. These "documents in support" included a copy of an apparent email from Complainant to both Respondent's Counsel and another individual, Amy Botak. The email states "[h]ere are my responses to your response" and asserts Complainant's neighbors receive gas service from a gas

line on his property, and that no easement paperwork exists regarding the use of his property. The “documents in support” also included documents and photographs marked “Underground Detective” and “Utility Locate Scan.” These items purport to be a report obtained by Complainant from a “utility line detection company” and purport to raise a possibility that Complainant’s “neighbor’s service comes off of his service.”

On July 14, 2025, the Commission issued a Motion Judge Assignment assigning this matter to me for resolution of the Preliminary Objection.

On July 23, 2025, I issued an Interim Order granting Respondent’s Preliminary Objection to the extent that the portions of the Complaint that requested monetary damages and reimbursements were struck from the Complaint. The Order directed that the remaining claims would move forward at an evidentiary hearing.

On July 25, 2025, an Initial Telephonic Hearing Notice was issued that notified the parties an initial telephonic hearing was scheduled on October 8, 2025, at 10:00 a.m.

On July 25, 2025, a Prehearing Order was issued that reminded the parties of the date and time of the hearing and informed them about applicable procedural rules.

On October 8, 2025, I convened the initial telephonic hearing. Complainant appeared, representing himself. Respondent was represented by Khadijah Scott, Esquire. Complainant testified on his own behalf and Respondent presented the testimony of Michael Kimberlin, a Real Estate Specialist for PECO and Donnell Manley, a Gas Foreman and Planner for PECO. Complainant offered Complainant’s Exhibits 1-8. Complainant’s Exhibits 1 and 8 were objected to, the objections were sustained, and those exhibits were not admitted into the record. Complainant’s Exhibits 2 through 7 were admitted into the record:

Complainant Exhibit 2 – Aerial Photograph
Complainant Exhibit 3 – Gas Line Photograph
Complainant Exhibit 4 – Gas Line Photograph
Complainant Exhibit 5 – Gas Line Photograph
Complainant Exhibit 6 – Pennsylvania Code provision
Complainant Exhibit 7 – Pennsylvania Bulletin provision.

Respondent offered PECO Exhibits 1-5, which were all admitted into the record:

Respondent Exhibit 1 – Right-of-Way document
Respondent Exhibit 2 – Quad Map
Respondent Exhibit 3 – Sketch
Respondent Exhibit 4 – Meter data
Respondent Exhibit 5 – Photographs.

The hearing produced a transcript of 110 pages which was filed on October 29, 2025, as well as the transcript exhibits. An Interim Order was issued closing the record on November 4, 2025.

The matter is now ripe for adjudication.

FINDINGS OF FACT

1. Complainant is Bill Whelan.
2. Respondent is PECO Energy Company.

3. Complainant resides at 7706 Beech Lane in Wyndmoor (also referred to as Glenside), Pennsylvania (service address), where he receives gas service from Respondent. Tr. 19.

4. In November of 2023, excavation work was done at the property next to the service address, at 7704 Beech Lane in Wyndmoor (the 7704 address), to replace the 7704 address's sewage line. Tr. 25-26.

5. The service address and the 7704 address have twin homes that share a center wall and mirror each other. PECO Exhibits 3, 5.

6. The service address and the 7704 address each have a gas meter on their respective properties, near the center line between the properties. PECO Exhibits 3, 5.

7. Complainant was not present when the November 2023 excavation work was performed, but believes the contractor hit the 7704 address's gas service line during the excavation. Tr. 43.

8. The contractor that performed the excavation work in November of 2023 provided Complainant with photographs of the excavation site. Tr. 43-45.

9. In April of 2025, Complainant spoke with an individual at the service address who identified himself as a contractor for Respondent. Tr. 20.

10. The individual indicated he was at the service address to mark the gas line for the property at the 7704 address. Tr. 20.

11. After speaking with the individual identified as Respondent's contractor, Complainant left the service address for the weekend, and when he returned there were yellow dashes and flags in the yard "from the neighbor's meter, but onto [Complainant's] property." Tr. 21.

12. Complainant called 811 and was told to call a Delaware County emergency contact for PECO (although Complainant lives in Montgomery County). Tr. 22-23.

13. Complainant called the Delaware County emergency contact for PECO and was given a telephone number for a Montgomery County emergency contact for PECO. Tr. 24.

14. Complainant called the telephone number he was given and spoke with someone identified as Brian. Tr. 26.

15. Mr. Donnell Manley is a Gas Foreman and Planner for Respondent. Tr. 59.

16. As part of his job duties, Mr. Manley addresses problems with active gas lines. Tr. 59.

17. Mr. Manley became familiar with the service address when he became aware of a complaint indicating a gas service line to the 7704 address was going onto Complainant's property. Tr. 59.

18. Mr. Manley reviewed records that showed there were two separate gas service lines, one for the service address and one for the 7704 address. Tr. 60.

19. Typically, for properties like the service address and the 7704 address, Respondent would have initially dug one hole and put the two gas services lines in the same hole, about a foot apart, to initiate the provision of service to the properties. Tr. 67.

20. Originally, the gas service lines at Complainant's property and the 7704 address were steel. Tr. 65.

21. PECO replaced the steel lines with plastic lines in 1996 by inserting the plastic lines into the original steel at the street, and those plastic lines are still in place. Tr. 92-94.

22. Typically, for properties like the service address and the 7704 address, the meters were initially placed inside the building, then when the service lines were changed to plastic, the meters were moved to the outside of the building. Tr. 67.

23. The original measurements for the placement of the steel gas line show the 7704 address's gas line on the 7704 address's property. Tr. 65.

24. Measurements were entered into Respondent's system in December of 2023 by an unknown individual that show the 7704 address's gas line going about a foot onto the property of the service address. Tr. 60, 94.

25. The new measurements should have been the same as the original measurements, because the plastic was inserted into the original steel pipes from the street. Tr. 65.

26. Complainant's photographs (that were entered as exhibits) dated November of 2023, indicate the December 2023 measurements are not correct. Tr. 94-95.

27. There is no way to verify the exact location of the lines without digging up the pipes or placing a tracer wire in the neighbor's line. Tr. 60, 65, 98.

28. While tracer wire is currently used in gas service lines that would allow for verification of the location of a line, at the time the gas service line was replaced at the service address and the 7704 address, tracer wire was not required to be used. Tr. 95.

29. On or around May 1, 2025, Mr. Manley came to the service address. Tr. 27.

30. Mr. Manley came to the service address to attempt to speak with the customer and possibly address the Complaint. Tr. 60.

31. Mr. Manley indicated to Complainant's spouse that he could run a new line for the 7704 address to ensure it was not on Complainant's property, but Complainant's wife refused, indicating she and Complainant wanted to "take it to court." Tr. 66.

32. Complainant placed a no trespassing sign on his property and sent Mr. Manley an email stating PECO was prohibited from being on Complainant's property. Tr. 51.

33. The location of Complainant's neighbor's gas line was "keeping [him] up at night," so Complainant hired a contractor to determine the location of the gas line or lines on his property. Tr. 29.

34. Complainant believes the neighbor's gas line is "not where PECO thinks it is" and is a spliced line. Tr. 26.

35. The gas service lines to the service address and the 7704 address are plastic pipes that are connected with "service tees"¹ to the gas main on the street in front of the houses, and the pipes run to the meters at the service address and the 7704 address. Tr. 60, 64.

36. Plastic gas service line pipes cannot be spliced together. Tr. 60-61.

37. Generally, spliced steel lines existed, but any spliced lines would have been replaced with non-spliced lines when the steel lines were replaced with plastic. Tr. 82-83.

38. The plastic gas service line pipes going to the service address and the 7704 address are separate from one another and are not spliced together. Tr. 60-61.

39. The plastic pipes do not contain tracer wire; therefore, there is no way to trace the lines with a tracer to determine their location with exact precision. Tr. 61-62.

¹ "Service tee" was not defined, but presumably this refers to a t-shaped connector.

40. Mr. Michael Kimberlin is a Real Estate Specialist for Respondent, and conducts research on PECO land rights as part of his job duties. Tr. 52-53.

41. Mr. Kimberlin conducted an investigation regarding PECO's land rights in relation to the service address. Tr. 53.

42. Mr. Kimberlin used a quad map, which is a map that lists many of PECO's easements by number, to locate an easement number associated with Complainant's property. Tr. 54-55.

43. PECO has a blanket easement on file with the Montgomery County Recorder of Deeds dating back to December of 1946 in relation to the service address. Tr. 53-54 and 57; PECO Exhibits 1, 2.

44. The easement encompasses multiple properties including the service address, the 7704 address, and the properties that surround the service address and the 7704 address. Tr. 54; PECO Exhibit 2.

45. The easement provides PECO with the right to place gas lines at the service address. Tr. 55.

DISCUSSION

In his Formal Complaint, Complainant asserted Respondent was improperly using his gas line and his property to supply his neighbor with gas service.

Section 332(a) of the Public Utility Code (Code) provides that the party seeking relief from the Commission has the burden of proof. 66 Pa.C.S. § 332(a). To establish a sufficient case and satisfy the burden of proof, a complainant must show that

the respondent public utility is responsible or accountable for the problem described in the complaint. *Patterson v. Bell Tel. Co. of Pa.*, 72 Pa.P.U.C. 196 (1990); *Feinstein v. Phila. Suburban Water Co.*, 50 Pa.P.U.C. 300 (1976). Such a showing must be by a preponderance of the evidence. *Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm'n*, 578 A.2d 600 (Pa. Cmwlth. 1990). A preponderance of the evidence is established by presenting evidence more convincing, by even the smallest amount, than that presented by the other party. *Se-Ling Hosiery v. Margulies*, 70 A.2d 854 (Pa. 1950). Here, as the proponent of the request for relief, Complainant bears the burden of proof.

Upon the presentation by Complainant of evidence sufficient to initially satisfy the burden of proof, the burden of going forward with the evidence to rebut the evidence of Complainant shifts to Respondent. If the evidence presented by Respondent is of co-equal weight, Complainant has not satisfied his burden of proof. Complainant would be required to provide additional evidence to rebut the evidence of Respondent. *Burleson v. Pa. Pub. Util. Comm'n*, 443 A.2d 1373 (Pa. Cmwlth. 1982).

While the burden of persuasion may shift back and forth during a proceeding, the burden of proof never shifts. The burden of proof always remains on the party seeking affirmative relief from the Commission. *Milkie v. Pa. Pub. Util. Comm'n*, 768 A.2d 1217 (Pa. Cmwlth. 2001).

A violation of the Code can occur when a utility fails to provide reasonable service. The requirement to provide reasonable service is found in Section 1501 of the Code and states, in part, as follows:

§ 1501. Character of service and facilities.

Every public utility shall furnish and maintain adequate, efficient, safe, and reasonable service and facilities, and

shall make all such repairs, changes, alterations, substitutions, extensions, and improvements in or to such service and facilities as shall be necessary or proper for the accommodation, convenience, and safety of its patrons, employees, and the public. Such service also shall be reasonably continuous and without unreasonable interruptions or delay. Such service and facilities shall be in conformity with the regulations and orders of the commission. Subject to the provisions of this part and the regulations or orders of the commission, every public utility may have reasonable rules and regulations governing the conditions under which it shall be required to render service...

66 Pa.C.S. § 1501.

Section 102 of the Code defines “service,” in pertinent part, as follows:

“Service.” Used in its broadest and most inclusive sense, includes any and all acts done, rendered, or performed, and any and all things furnished or supplied, and any and all facilities used, furnished, or supplied by public utilities ... *in the performance of their duties under this part* to their patrons, employees, other public utilities, and the public...

66 Pa.C.S. § 102 (emphasis added).

The definition of service is broad and applies to PECO’s conduct in physically supplying gas service to Complainant and his neighbor via their gas service lines. Here, if Respondent did improperly use Complainant’s gas line and/or his property to supply his neighbor with gas service, this could potentially be considered a failure to provide safe and/or reasonable service in violation of 66 Pa.C.S. § 1501.

Complainant lives in a twin home that shares a center wall with his neighbor’s home, and the homes mirror each other. PECO Exhibits 3, 5. Complainant was aware of an excavation project on his neighbor’s property, close to the property line,

in November of 2023. Tr. 25-26. In April of 2025, Complainant saw markings on his own property that he believed were made by a contractor for PECO to mark his neighbor's gas line. Tr. 20, 21. Shortly after Complainant saw the markings in April of 2025, a complaint was made to PECO regarding the location of the 7704 address's gas service line in relation to the service address. Tr. 59. Mr. Manley, a Gas Foreman and Planner for Respondent, attempted to address the complaint. Tr. 59. Mr. Manley reviewed records and concluded that Complainant's gas service line was on his property, and the 7704 address's gas service line was on the 7704 address's property. Tr. 93-94. While there were some measurements entered in Respondent's system in December of 2023 that indicated the 7704 address's line was, in fact, on Complainant's property by about a foot, Mr. Manley did not know where that information came from and believed that information was not correct. Tr. 60, 94. He discounted the measurements because the gas service line does not have tracer wire, and an accurate measurement (from December of 2023) would not have been obtainable without tracer wire or digging up the pipes. Tr. 60, 65, 98. Further, the measurements should have been consistent with the original measurements since the replacement plastic pipe would have been inserted into the original steel on the street when it was placed. Tr. 92-94. Nonetheless, Mr. Manley offered to run a new line for the 7704 address to ensure it was not on Complainant's property, and Complainant and/or his wife refused. Tr. 66.

Considering the totality of evidence, Complainant did not establish a prima facie case. He failed to establish his neighbor's line is on his property. Although Mr. Whelan argued this was the case, he provided insufficient evidence to support this assertion. He provided some testimony about markings he observed, and he reported he hired a contractor to determine the location of the gas line. However, he did not present the contractor as a witness and failed to present first-hand testimony to effectively establish the location of the line.

Respondent's witness testified that he believes the 7704 address's line is on the 7704 address's property, even though there was some conflicting information in Respondent's system. However, even if Respondent has conflicting information in its records to raise a question, the line is definitely within the parameters of the blanket easement held by PECO. The easement filed with the Montgomery County Recorder of Deeds dating back to December of 1946 grants Respondent the ability to place gas lines at the service address. Tr. 53-54, 57; PECO Exhibits 1, 2. Even if a gas service line exists on Complainant's property that provides service to his neighbor, this does not establish Respondent acted improperly by placing it on property that would eventually belong to Complainant,² and using it to provide service to Complainant's neighbor, in light of the evidence presented. Complainant failed to satisfy his burden of proof on this issue.

In addition to Complainant's contention regarding the possible use of his property for his neighbor's gas line, Complainant asserted his gas service line was improperly spliced to supply the 7704 address with gas service. Tr. 26. Complainant provided minimal admissible evidence to support his assertion,³ and assertions, personal opinions, or perceptions do not constitute evidence. *Pa. Bureau of Corr. v. City of Pittsburgh*, 532 A.2d 12 (Pa. 1987). Conversely, Respondent offered credible testimony from Mr. Manley that countered Complainant's assertion that the line was spliced. As reported by Mr. Manley, the gas service lines for the service address and the 7704 address were initially steel but were replaced with plastic in 1996. Tr.65, 92-94. These plastic lines remain in place, and plastic lines cannot be spliced. Tr. 60-61. I find the

² Complainant reported in his Complaint that he has lived in his home for 17 years. Complaint ¶ 5. The plastic line was placed in 1996, prior to his occupancy. Tr. 92.

³ Complainant attempted to enter as an exhibit at the hearing a report authored by an individual identified only as "Ryan" that purported to address the issue. Tr. 37. Respondent objected to the report on the basis of hearsay, the objection was sustained, and the report was not entered. Tr. 41.

evidence does not establish that Complainant met his burden of proof to show that Complainant's gas service line was improperly spliced to provide gas service to the 7704 address.

It is noteworthy that, as referenced above, when Respondent became aware Complainant and/or his spouse raised questions or complained regarding their neighbor's gas line in relation to their property, Respondent, via Mr. Manley, attempted to address the issue. Mr. Manley offered to run a new gas service line. However, Complainant's wife told Mr. Manley that PECO was prohibited from being on Complainant's property, and that they wanted to "take it to court." Tr. 66, 51. Respondent's attempt to satisfy Complainant, even though it was rejected, is evidence that indicates reasonable service was provided by Respondent. Complainant failed to establish he was not provided reasonable and/or safe service.

Based on a careful review of the totality of evidence, for the reasons set forth above, I find that Complainant failed to meet his burden of proof to establish Respondent violated the Public Utility Code, Commission regulation, Commission order or company tariff.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the subject matter of and the parties to this proceeding. 66 Pa.C.S. § 701.
2. A public utility is required to provide adequate, efficient, safe, and reasonable service. 66 Pa.C.S. § 1501.

3. As the party seeking relief, Complainant bears the burden of proof by a preponderance of the evidence. 66 Pa.C.S. § 332(a); *Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm'n*, 578 A.2d 600 (Pa. Cmwlth. 1990).

4. Assertions, personal opinions, or perceptions do not constitute evidence. *Pa. Bureau of Corr. v. City of Pittsburgh*, 532 A.2d 12 (Pa. 1987).

5. Complainant failed to present evidence to meet his burden of proof that Respondent violated the Public Utility Code, Commission regulation or order, or the company tariff.

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Formal Complaint filed by Bill Whelan in *Bill Whelan v. PECO Energy Company*, Docket Number C-2025-3055566, is denied.

2. That the Secretary's Bureau shall mark Docket No. C-2025-3055566 as closed.

Date: January 27, 2026

/s/
Ann Quimby
Administrative Law Judge