

February 27, 2026

Via Electronic Filing

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

**Re: Docket No. C-2025-3055566
Bill Whelan v. PECO Energy Company
Reply Exceptions of PECO**

Dear Secretary Homsher:

Attached for filing is the Reply of PECO Energy Company to the Exceptions filed by Bill Whelan in the above referenced proceeding.

A copy of the Reply Exceptions has been provided to the Complainant in the manner indicated on the attached Certificate of Service.

If there are any questions, please do not hesitate to contact me.

Very truly yours,

Reger Rizzo & Darnall LLP



Margaret A. Morris

MAM/co
Enclosures

cc: The Hon. Ann Quimby, PA Public Utility Commission [w/encls.]
Office of Special Assistants, PA Public Utility Commission [w/encls.]
Anthony Gay, Esquire, PECO Energy Company [w/encls.]
Bill Whelan [w/encls.]

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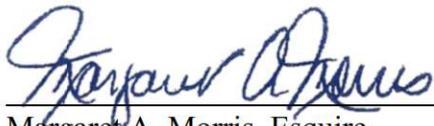
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been served upon the following person(s), in the manner indicated, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

Via Electronic Mail

Bill Whelan
saltydog7707@gmail.com

Dated: February 27, 2026



Margaret A. Morris, Esquire

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

BILL WHELAN :
 :
 v. : Docket No. C-2025-3055566
 :
 PECO ENERGY COMPANY :

**REPLY EXCEPTIONS OF PECO ENERGY COMPANY
TO THE EXCEPTIONS OF BILL WHELAN**

February 27, 2026

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I. INTRODUCTION

In accordance with the Commission's directive¹ and Section 5.535 of the Commission's Regulation,² PECO Energy Company, (PECO or Company), submits its Reply to the Exceptions of Bill Whelan (Complainant), which supports the adoption of the *Initial Decision*, without modification, of the Honorable Ann Quimby (Judge Quimby).

II. PROCEDURAL BACKGROUND

On June 2, 2025, the Complainant filed a Formal Complaint (Complaint) with the Pennsylvania Public Utility Commission (Commission), alleging that PECO is supplying his next-door neighbor with gas from a spliced gas line that is on his property. On June 19, 2025, PECO filed an Answer denying the material averments contained in the Complaint 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, PECO filed a Preliminary Objection averring 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 dates back to 2008, it is time-barred under the Commission's three-year statute of limitations.

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

¹ The Exceptions did not contain the required certificate of service. In order to avoid prejudice to any party, the Commission provided PECO until February 27, 2026, to file Reply Exceptions.

² 52 Pa. Code § 5.535.

On July 25, 2025, the Commission issued a *Hearing Notice* scheduling the matter for a telephonic hearing on October 8, 2025. Also on July 25, 2025, Judge Quimby issued a *Prehearing Order* outlining the relevant procedural rules governing the proceeding.

The telephonic hearing was held on October 8, 2025. The Complainant appeared, testifying on his own behalf and the Company presented the testimony of Michael Kimberlin, a Real Estate Specialist and Donnell Manley, a Gas Foreman and Planner for PECO. The Complainant offered eight exhibits; only Complainant's Exhibits 2 through 7 were admitted into the record. The Company sponsored five exhibits, all of which were admitted into the record.

The *Initial Decision* was issued on January 27, 2026. Judge Quimby dismissed the Complaint concluding that the Complainant failed to present evidence to meet his burden of proof that the Company violated the Public Utility Code (Code), a Commission regulation or a Commission order, or PECO's tariff as required. 66 Pa.C.S. § 332(a).³

III. INITIAL DECISION

Judge Quimby, based on the record evidence, concluded that the Complainant's evidence did not establish that he met his burden of proof to show that PECO was improperly using his gas line and his property to supply his neighbor with gas service. Judge Quimby specifically found:

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

³ ID at 16.

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.

[PECO'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 [PECO's] system. However, even if PECO 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 [PECO] 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 [PECO] 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 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 [PECO] became aware Complainant and/or his spouse raised questions or complained regarding their neighbor's gas line in relation to their property, [PECO], 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. [PECO's] attempt to satisfy

Complainant, even though it was rejected, is evidence that indicates reasonable service was provided by [PECO]. 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 [PECO] violated the Public Utility Code, Commission regulation, Commission order or company tariff.

ID at 13-15.

IV. DISCUSSION

Pursuant to Commission regulations,⁴ “[e]ach exceptions must . . . identify the finding of fact or conclusion of law to which exception is taken and cite relevant pages of the decision,” and “[s]upporting reasons for the exceptions shall follow each specific exception.” The Complainant’s attempt to further litigate this matter by simply disagreeing with the outcome of the proceedings without identifying any specific error of law or abuse of discretion to satisfy the requirements is procedurally improper and should be summarily dismissed.

Section 332(a) of the Code⁵ provides that the proponent of a rule or order has the burden of proof in a Commission proceeding, except as otherwise provided in Section 315 of the Code.⁶ “Burden of proof” imports the duty of ultimately establishing the existence of a certain fact or set of facts by evidence which preponderates to a legally required extent.⁷ The term “preponderance of the evidence” means one party must present evidence which is more convincing, by even the smallest amount, than the evidence presented by the other party.⁸

⁴ 52 Pa. Code § 5.533(b).

⁵ 66 Pa.C.S. § 332(a).

⁶ 66. Pa.C.S. § 315.

⁷ *Se-Ling Hosiery v. Margulies*, 70 A.2d 854 (Pa. 1950).

⁸ *Id.*

Accordingly, one must review the record in this case to determine whether the Complainant has satisfied his burden of proof. If the review indicates the burden has been satisfied, one must then determine whether the respondent has submitted evidence of co-equal value or weight to refute Complainant's evidence. If this has occurred, the burden of proof cannot be satisfied, unless the party bearing the burden of proof presents additional evidence.⁹

Furthermore, substantial evidence in the record must support the decision of the Commission.¹⁰ The term "substantial evidence" means such relevant evidence that a reasonable mind may accept as adequate to support a conclusion. More is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established.¹¹ The Commission has held that a complainant, to establish a sufficient case against a utility and satisfy the burden of proof, must show the utility is responsible or accountable for the problem described in the complaint.¹²

The record evidence supports the finding that PECO has a recorded blanket easement dating back to 1946 (FOF #43) that encompasses multiple properties including the Complainant's residence and surrounding property (FOF #45) giving PECO the right to place gas lines at the Complainant's residence (FOF #45). The Complainant's assertions, personal opinions or perceptions regarding PECO's legal right to place the gas lines across his property do

⁹ *Morrissey v. Pa. Dept. of Highways*, 225 A.2d 895 (Pa. 1967); *Burleson v. Pa. Pub. Util. Comm'n.*, 443 A.2d 1373 (Pa. Cmwlth. 1982).

¹⁰ *See, e.g.*, Section 704 of the Administrative Agency Law, 2 Pa. C.S. § 704; *Yellow Cab Company v. Pa. Pub. Util. Comm'n.*, 524 A.2d 1069 (Pa. Cmwlth. 1987).

¹¹ *Norfolk & Western Ry. Co. v. Pa. Pub. Util. Comm'n.*, 413 A.2d 1037 (Pa. 1980); *Erie Resistor Corp. v. Unemployment Comp. Bd. of Review*, 166 A.2d 96 (Pa. Super. 1961); *Murphy v. Pa. Dept. of Public Welfare, White Haven Center*, 480 A.2d 382 (Pa. Cmwlth. 1984).

¹² *Feinstein v. Philadelphia Suburban Water Company*, 50 Pa. P.U.C. 300 (1976).

not constitute evidence.¹³ Even *pro se* complainants must provide relevant and necessary information.¹⁴ The Commission should affirm the findings of facts and conclusions of law set forth in the well-reasoned Initial Decision which dismisses the Complaint. The Exceptions are a mere regurgitation of the Complainant's poorly supported claims presented at the hearing.

V. CONCLUSION

The Exceptions, repeating positions that Judge Quimby soundly rejected based on the record evidence, are without merit. The substantial record evidence shows that the Complainant failed to establish even a *prima facie* case at hearing. The Findings of Facts and Conclusions of Law in the *Initial Decision* are based on substantial evidence.

¹³ *Pennsylvania Bureau of Corrections v. City of Pittsburgh*, 532 A.2d 12 (Pa. 1987).

¹⁴ *Groch v. Unemployment Comp. Bd. of Review*, 472 A.2d 286 (Pa. Cmwlth. 1984); *Vann v. Unemployment Comp. Bd. of Review*, 494 A.2d 1081 (Pa. 1985).

For the reasons set forth in its Reply Exceptions, PECO Energy Company respectfully requests that the Commission adopt the *Initial Decision* of the Honorable Ann Quimby, without modification, and dismiss the Formal Complaint of Bill Whelan.

Respectfully submitted,



Dated: February 27, 2026

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