

ELECTRONICALLY FILED

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

Aaron Dlugasch,
Complainant,

v.

PECO Energy Company,
Respondent.

Docket No. C-2026-3061876

NOTICE TO PLEAD

Respondent is hereby notified that, under 52 Pa. Code Section 5.103(b) and (c), a responsive pleading shall be filed within twenty (20) days after service of this Motion, unless the Commission or Presiding Officer fixes a shorter period.

**MOTION OF COMPLAINANT IN LIMINE TO PRECLUDE EVIDENCE NOT
PRODUCED IN DISCOVERY PURSUANT TO 52 Pa. Code Sections 5.103, 5.403, 5.371
AND 5.372**

Complainant Aaron Dlugasch, appearing pro se, respectfully moves the presiding officer in limine, pursuant to 52 Pa. Code Sections 5.103, 5.403, 5.371 and 5.372, and in support states as follows:

I. BACKGROUND

1. Complainant served Interrogatories and Requests for Production, Set I, upon Respondent by electronic mail on June 3, 2026, and eFiled a Certificate of Service on June 4, 2026. Respondent served its responses on June 26, 2026. On July 6, 2026, Complainant sent Respondent's counsel a detailed deficiency and meet-and-confer letter, copied to the presiding officer's office, requesting cure by 5:00 PM on July 9, 2026. On July 9, 2026, Complainant declined counsel's same-morning proposal of a telephone conference for dates on or after the then-scheduled hearing and offered, in writing, to confer by email and provided an item-by-item written response framework. The cure period expired at 5:00 PM on July 9, 2026 with no supplemental discovery production responsive to the identified deficiencies, no verified supplemental response, and no item-by-item written answer. The unproduced categories are detailed in Complainant's contemporaneously filed Motion to Compel Full and Complete Discovery Responses, which is incorporated by reference.

II. ARGUMENT

2. Under 52 Pa. Code Section 5.403, the presiding officer controls the receipt of evidence, and under 52 Pa. Code Section 5.372(a)(2), documents, things, and testimony may be prohibited as a consequence of discovery failures. Allowing Respondent to introduce responsive records withheld from discovery would deprive Complainant of a meaningful opportunity to examine their authenticity, completeness, context, and meaning, to investigate them, and to prepare responsive evidence and cross-examination, and would create unfair surprise. Preclusion is particularly appropriate where the nondisclosure itself caused the prejudice.

3. The specific categories at issue, each requested in discovery and unproduced as of the July 9, 2026 cure deadline, are: (a) any customer-specific 2025 ten-day termination notice, and any proof of its generation, printing, mailing, or delivery, including print-vendor, mail-house, batch, and notice-generation records; (b) any dialer or call record beyond those produced, including any claimed second-day contact attempt; (c) audio, screen history, metadata, agent notes, or workflow records associated with any later October 14, 2025 contact or account activity occurring after the produced recording ended, including the records reflecting how the payment, restoration, and arrangement processing shown in Respondent's log were completed, Respondent having produced only the audio recording and transcript of the initial call, which end without a completed transaction; (d) the June 9 and 10, 2025 restoration call recordings and associated records; and (e) field, posting, dispatch, work-order, GPS, and photographic records underlying the "Field Activity Completed" entries in Respondent's produced contact log.

4. The testimony limitation Complainant seeks is narrow. Complainant does not seek to exclude testimony founded on a witness's independent personal knowledge, which remains subject to cross-examination. Complainant seeks to preclude testimony offered to prove the contents, authenticity, completion, or result of an unproduced responsive document or electronic record; testimony based upon or refreshed by an unproduced record; testimony offered to establish an event documented only in a withheld record; and testimony used to authenticate, summarize, or characterize undisclosed data.

5. Production made so close to the hearing that Complainant cannot meaningfully review and respond should not be treated as a complete cure. If Respondent seeks to introduce late-produced material, the appropriate alternatives are exclusion, a meaningful opportunity for review and rebuttal, or other relief sufficient to prevent prejudice. Complainant notes that the scheduling of the hearing has been separately addressed and that this Motion neither replaces nor duplicates that separate matter.

6. For clarity, Complainant is not asking the presiding officer to exclude: Respondent's already-produced records merely because they may assist Complainant's case; testimony founded on independent personal knowledge; or evidence timely disclosed with a sufficient opportunity for review.

III. RELIEF REQUESTED

WHEREFORE, Complainant respectfully requests that the presiding officer preclude Respondent from introducing at hearing any responsive document or electronic record within the categories identified in paragraph 3 that was not produced by any exhibit-production or discovery deadline established by the presiding officer, or otherwise sufficiently in advance of hearing to permit meaningful review, and from offering testimony solely to establish the contents, authenticity, completion, or result reflected in such an unproduced record, unless Respondent demonstrates good cause or substantial justification for the nondisclosure, prompt disclosure once the material was located, the absence of unfair prejudice, and Complainant is afforded a fair opportunity to review, investigate, and respond, including, where appropriate, leave to supplement exhibits, present rebuttal evidence, conduct additional cross-examination, or obtain other relief sufficient to prevent prejudice; and preserving Complainant's right to object at hearing to any specific undisclosed item; together with such other relief as is just and reasonable.

Respectfully submitted,

/s/ Aaron Dlugasch

Aaron Dlugasch, pro se
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Dated: July 10, 2026

VERIFICATION

I, Aaron Dlugasch, hereby state that the facts set forth in the foregoing Motion are true and correct to the best of my knowledge, information and belief. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. Section 4904 (relating to unsworn falsification to authorities).

/s/ Aaron Dlugasch

Aaron Dlugasch

Dated: July 10, 2026

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

Aaron Dlugasch v. PECO Energy Company

Docket No. C-2026-3061876

PROPOSED ORDER

AND NOW, this _____ day of _____, 2026, upon consideration of Complainant's Motion in Limine, and any answer thereto, IT IS ORDERED:

1. The Motion is GRANTED as follows.
2. Respondent is precluded from introducing at hearing any responsive document or electronic record within the categories identified in the Motion that was not produced by any deadline established by the presiding officer or otherwise sufficiently in advance of hearing to permit meaningful review, and from offering testimony solely to establish the contents, authenticity, completion, or result reflected in such an unproduced record, unless Respondent demonstrates good cause for the nondisclosure and the presiding officer affords Complainant a fair opportunity to review, investigate, and respond.
3. Complainant's right to object at hearing to any specific undisclosed item is preserved.

Barbara Shadie Nause
Administrative Law Judge

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Complainant's Motion in Limine was filed electronically on the Pennsylvania Public Utility Commission's electronic filing system and that I have this day served a true and correct copy upon the following persons in the manner indicated, in accordance with 52 Pa. Code Sections 1.54, 1.57, 1.58 and 1.59:

Via Electronic Mail:

Margaret A. Morris, Esq.
Reger Rizzo & Darnall LLP
Counsel for Respondent PECO Energy Company
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The Honorable Barbara Shadie Nause
c/o Pamela McNeal, Legal Assistant
pmcneal@pa.gov

/s/ Aaron Dlugasch

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