

COMMONWEALTH OF PENNSYLVANIA
PUBLIC UTILITY COMMISSION

Application of PECO
Energy

Docket No.: A-110550F0161

Pre-hearing Conference

Pages: 1 - 32

**DOCUMENT
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1400 Spring Garden Street
Philadelphia, Pennsylvania

Wednesday, April 13, 2005
Commencing at 11:35 a.m.

BEFORE:

CHARLES RAINEY, Administrative Law Judge

APPEARANCES:

WARD L. SMITH, Esquire
2301 Market Street/S23-1
P.O. Box 8699
Philadelphia, PA 19101
For the Complainant

FILED

APR 27 2005

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PUBLIC UTILITY COMMISSION
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REPORTER: DANIEL URIE

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WITNESS

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P R O C E E D I N G S

1
2 -----
3 JUDGE CHARLES RAINEY:

4 Good morning, my name is Charles Rainey
5 and I am the Administrative Law Judge who is assigned
6 to this matter. And this is the matter of the
7 application of PECO Energy Company for a finding of
8 necessity for the situation of one building on a site
9 in Montgomery Township, Montgomery County,
10 Pennsylvania containing four acres located on 110
11 Domorah Drive, near Corporate Drive, adjacent to
12 Applicant's transmission line right-of-way. The
13 electric transforming substation will be designated
14 Hartman substation. And this matter is at docket
15 number A-110550F0161, and I will now give the
16 Applicant an opportunity to introduce itself for the
17 record. Mr. Smith?

18 ATTORNEY SMITH:

19 Ward Smith, Assistant General Counsel,
20 Exelon Business Services Company representing PECO
21 Energy.

22 JUDGE RAINEY:

23 Thank you, Mr. Smith. We had a lengthy
24 off the record discussion this morning with regard to
25 this matter and I think it would be helpful, Mr.

1 Smith, to recite that for the record to provide the
2 record with some history with regard to this matter.
3 And I'll give you an opportunity now do to that. So
4 you can go right ahead.

5 ATTORNEY SMITH:

6 Thank you, Your Honor.

7 JUDGE RAINEY:

8 Let me also state before Mr. Smith starts
9 a recitation of the history in this matter, that this
10 is a scheduled pre-hearing conference and that as of
11 now, at least, PECO Energy Company is the only party
12 to this particular matter. Today is a scheduled
13 pre-hearing conference and PECO Energy Company did
14 file a pre-hearing memoranda with regard to this
15 matter. Let me state that, at least as of today, this
16 matter does not appear on the Commission's case
17 docketed system so that it's not able to ascertain
18 whether or not there were any protests filed with
19 respect to a Pennsylvania Bulletin notice in this
20 matter which Mr. Smith will refer to when he gives the
21 history of this particular case. However, we will
22 check the --- I do have a scheduler in Harrisburg who
23 will check the Commission's records and the
24 Secretary's Bureau to see if, in fact, there were any
25 protests that were filed to the Pennsylvania Bulletin

1 notice of PECO's application.

2 Mr. Smith, as I understand it, will state
3 during his recitation of this history of this matter
4 that it did not receive any protest to its
5 application. Okay. Now, that having been said, Mr.
6 Smith, why don't you go ahead and provide us with the
7 history of this matter.

8 ATTORNEY SMITH:

9 Thank you. This proceeding, this
10 application, is a request by PECO Energy that a
11 substation building --- we are seeking to find a
12 substation building that is reasonably necessary for
13 the convenience and welfare of the public. Under
14 Pennsylvania law, the location, construction, of a
15 public utility facility is generally exempted from
16 local zoning. The exception of that is public utility
17 buildings, which under Section 10619 PA Municipalities
18 Planning Code, must receive some form of land use with
19 that type of approval from the local government, their
20 zoning, or a certificate of convenience overall for
21 the public assessment from the Commission.

22 In the case of Montgomery Township, when
23 we reviewed their local zoning code, it was clear that
24 local zoning code deferred that issue to the Public
25 Utility Commission as a specific proportion of the

1 code dealing with the Public Utility buildings and
2 indicating that local zoning does not apply to the
3 buildings if the Commission, after a public hearing,
4 finds --- makes a finding that I described above,
5 finds that the situation with the building is
6 reasonably and necessary for the convenience overall
7 for the public. And that is the procedural framework
8 that people used when approaching this project.

9 The project itself is a substation that
10 will be used to provide the growing load in Montgomery
11 Township area. We expect that the existing system
12 will reach capacity for the summer of 2006 and that we
13 will need to construct this substation prior to that
14 time.

15 About a year and a half to two years ago,
16 we began work on the public outreach for this project
17 by contacting the township and the --- some of the
18 other local officials. At that time, PECO Energy had
19 identified what it believed was going to be a good
20 site for this substation, which came to be known later
21 as the Site A located near Kenas Road, in the
22 township.

23 I should say that there is a, obviously,
24 a PECO transmission on --- running through this
25 township, so a PECO transmission on the Domorah Road.

1 And every site that I'm going to talk about is either
2 on or adjacent to that corridor. The purpose of the
3 substation is to take power from the 230KB the
4 transmission line and transform it into 34KB for
5 further distribution to the area.

6 The original site that we chose for the
7 substation at --- more importantly for the building at
8 issue here, is the site if I can say that. If we
9 don't have a building associated with the substation,
10 there's plenty of electrical equipment built that it
11 doesn't have a building associated with it. Of
12 course, that policy with the Commission's jurisdiction
13 that there's no requirement to get the pre-approval
14 for the construction, it's the fact that we have a
15 building here that turns this into a situation with
16 regards to pre-approval. So when I refer to the
17 substation here, I won't belabor it throughout, but
18 I'm really talking about the --- it's the building
19 itself that is the issue and that is a small building
20 compared to the size of a full project. It's a small
21 building that will house control equipment, have
22 desks, a telephone, a bathroom for people that are in
23 there to work on the equipment or to stage down the
24 area.

25 So we identified this original site, Site

1 A, at Kenas, which we believed was going to be
2 appropriate because there's a large empty field next
3 to it owned by the township, which, because of the
4 characteristics of that piece of land, it will be
5 difficult for the township to use for any other
6 purpose.

7 JUDGE RAINEY:

8 And that's Kenas spelled K-E-N-A-S?

9 ATTORNEY SMITH:

10 Yes.

11 JUDGE RAINEY:

12 Kenas Road.

13 ATTORNEY SMITH:

14 And we believed that we would be able to
15 acquire that land from the township and put the
16 substation off the edge of our right-of-way in this
17 area, and that this would --- it was a good, flat
18 site, had all the characteristics of what we'd want
19 for a substation on this site.

20 When we approached the township with
21 respect to that proposal, initially the township
22 seemed open to that idea and we engaged in
23 negotiations for the acquisition of that land. And
24 exceptions about the site in the township with the
25 township only for nearly a year.

1 At some point at the end of that year,
2 the negotiations --- I won't say they fell apart, they
3 just kind of dissipated. They became not --- it
4 became clear to us that the township was having second
5 thoughts about the location of the building in this
6 area. We approached them and asked that question
7 whether they were having second thoughts, and they
8 essentially said yes, they were. That they had
9 received input from local residents that this site was
10 too close to a residential area and that the township
11 was not any longer dealing with this was a good
12 location. In response to that, PECO Energy began a
13 more aggressive outreach program to identify the sites
14 in the township that would be --- would both fit its
15 needs and we weren't able to warm up to the public.

16 Prior to identifying Site A we had, of
17 course, surveyed the entire area. You essentially
18 look for every open lot to see and then you work your
19 way through and find the best lot. So we went back to
20 the drawing board at that point in time and identified
21 what we --- let me state. There are quite a number of
22 areas but not a lot that made it passed the first cut.
23 So we then identified what this Site B. Now, Site B
24 is a little bit further down the right-of-way in an
25 area that is part of a commercial and industrial park.

1 And so that started to eliminate the concerns with
2 respect to --- of a residential area being too close
3 to the substation for their taste.

4 It was a difficult site in many ways and
5 primarily because it was directly on our right-of-way
6 rather than being off to the side, which for
7 electrical reasons, is a preferable situation. So we
8 focused on that site for some period of time and we
9 were contacted by the owners of the buildings directly
10 adjacent to the side on the site. This actually ---
11 one corporation or partnership that owns all the
12 buildings which informed us that they believed that if
13 the substation was sited directly next to their
14 buildings, it was going to affect their ability to
15 rent those buildings. And that they believe that they
16 had sufficient legal rights to stop us from building
17 there and that they intended to fight that site and
18 stop it.

19 We knew that that same entity was a
20 landowner elsewhere in the township, and we also knew
21 that one of the sites that we had identified in our
22 very first survey of the township as being a decent
23 site was owned by them. They had previously told us
24 that they would not sell the site to us. But we
25 engaged in additional discussions and convinced them

1 that the site that we needed to build, the substation,
2 and they concluded that it was going to be in the best
3 interest of themselves, the township --- if I may
4 editorialize for a moment. I think that this group of
5 people, a business people, was very foresightful to
6 help the community. They made an accommodation in
7 their business that ran contrary to what they
8 originally wanted to do and they did it, they parked
9 themselves apart so they wouldn't have to tolerate a
10 substation at a different site.

11 And we identified the third site, Site C,
12 which is the site that --- for which we have requested
13 for. It is deeper into the industrial park. It is
14 not next to any existing buildings, the nearest
15 residence is about 1,400 feet away from the fence line
16 through trees, no line of sight. It's not directly on
17 our right-of-way, it is right next to it, which is our
18 preferred situation. And it really is a better site
19 for all involved. We're also not having to purchase
20 the land in order to make this happen. We're engaging
21 in a land transaction as part of this deal where we
22 are being granted the ownership of the four-acre
23 parcel. And in return, we are granting easement
24 rights on part of the parcel owned by PECO Energy
25 elsewhere in the township under that one transmission,

1 at least our transmission to be used for parking cars
2 and for access going to car dealerships elsewhere on
3 the site. So that works for the commercial and
4 industrial in this area.

5 JUDGE RAINEY:

6 Let me stop you just for a second, Mr.
7 Ward, and refer you to Exhibit A, which was attached
8 to the application, which is an aerial view of the
9 proposed site. And I notice that there are --- and
10 I'm specifically referring you to your discussion of
11 the transmission right-of-way of PECO Energy Company.
12 Can you, on that aerial view, Exhibit A, point us
13 exactly to where they are? I see there are some
14 colored lines that appear on this Exhibit A, are they
15 at all related to your transmission right-of-way?

16 (Exhibit A marked for identification.)

17 ATTORNEY SMITH:

18 Yes, Your Honor.

19 JUDGE RAINEY:

20 Okay.

21 ATTORNEY SMITH:

22 Across the upper half of the photograph
23 running from left, sir, to right across the page is a
24 single blue line. That represents the transmission
25 line corridor that we're talking about. Coming up on

1 the bottom of the page, it's at angle, is a parallel
2 of the blue line and pink or red line. That
3 represents a second transmission line corridor which
4 is not the one that we've be talking about.

5 JUDGE RAINEY:

6 Okay.

7 ATTORNEY SMITH:

8 So if we take a look at the line marked
9 220-58, which is the blue line running across the
10 page, the transmission line corridor that we're
11 talking about. On the far right of the page, just
12 above that line is an indication, it says, Kenas Road.
13 In between that statement, Kenas Road and the blue
14 line, there's a larger view indicating on this ---
15 shown on this photograph. It was in that basic area
16 that this Site A was considered and just below the
17 blue line you can see a cul-de-sac and what is
18 obviously some residential areas in there. That's the
19 primary set of people who, people off to the right
20 there, who first raised concerns about it. The local
21 residents in much of this area thought that it was
22 going to be inappropriate to place in here.

23 If we move down that line, 220-58, to the
24 left across the picture, we'll eventually find an area
25 that is labeled Corporate Drive, just below the

1 picture. Right above that area is Site B. In this
2 photograph, that looks like there's construction areas
3 right next to that, there are currently office
4 buildings on either side of the right-of-way there.
5 And so that was at their request of the local
6 government and the residents that we move further down
7 to the industrial park and chose Site B.

8 Then when that was not suitable to the
9 owners of the industrial park, we moved further down
10 and you can see there is a rough spot --- well, the
11 four-sided thing that doesn't have square corners that
12 is marked substation site. You can see that's off the
13 side of the right-of-way. That's the site that we've
14 chosen and you can see that there don't appear to be
15 any residences along this site. There are other
16 industrial and commercial buildings in the area but it
17 is deeply within the substation within the industrial
18 park and not directly next to the other buildings.
19 The owner of the buildings, as I said, I believe,
20 upper end of the industrial park. It is agreed that
21 this is a proper site.

22 JUDGE RAINEY:

23 Thank you, Mr. Smith. You can go forward
24 with your history.

25 ATTORNEY SMITH:

1 As we moved our way through this process,
2 we responded to the public hearings. We held a series
3 of open houses. The first occurred in May of 2004 and
4 it was to explain to local residents the entire
5 project, why we were building a substation, and our
6 choice, at that time, of Site A. Several hundred
7 local residents showed up at all the township meetings
8 and expressed to us strongly their views, that Site A
9 was not an appropriate site for the substation and it
10 would --- basically, local residents did not like that
11 site. From that meeting, some 50 or 60 of those
12 individuals wrote letters to the Commission indicating
13 that they thought that Site A was inappropriate.
14 Those letters, I believe, were written in June of
15 2004.

16 PECO continued its analysis, looked at
17 Site B in subsequent time and then settled in on Site
18 C as a likely choice in about July of 2005, and held
19 another open house.

20 JUDGE RAINEY:

21 July 2004?

22 ATTORNEY SMITH:

23 I'm sorry, July of 2004. Now, I should
24 said as an aside here, that we did not --- I'm giving
25 the impression that we looked at one site and then

1 dropped it compared to what was the next site. We
2 always kept open the possibility that we would end up
3 at Site A, but we made clear to people that we were
4 hearing their concerns and that we were actively
5 seeking a different site. And so when we got to the
6 second open house, it doubled both sites, B and C. It
7 was, again, well attended. The basic input that we
8 got from most of the people ---.

9 JUDGE RAINEY:

10 I'm sorry, the second set of open
11 houses --- the first series of open houses was held in
12 May of 2004?

13 ATTORNEY SMITH:

14 Yes, and it was one open house. It was
15 one ---.

16 JUDGE RAINEY:

17 Oh, just one. Okay. And that was held
18 where? Do you remember?

19 ATTORNEY SMITH:

20 At the township building.

21 JUDGE RAINEY:

22 At the township building in Montgomery
23 Township? Montgomery Township building. Okay. And
24 then in June of 2004, there were letters that were
25 sent by residents to the Commission ---

1 ATTORNEY SMITH:

2 Yes.

3 JUDGE RAINEY:

4 --- in regard to Site A?

5 ATTORNEY SMITH:

6 Yes.

7 JUDGE RAINEY:

8 Okay. And then you stated in July of
9 2004 --- at that point you were considering both sites
10 B and C?

11 ATTORNEY SMITH:

12 Yes, and really A was still on the table,
13 we just knew that it was a strong local preference
14 against the Site A.

15 JUDGE RAINEY:

16 Oh, okay. And so then --- so was it in
17 July of 2004 that you had your second open house?

18 ATTORNEY SMITH:

19 Yes, it was, Your Honor.

20 JUDGE RAINEY:

21 Okay. And that was also at the
22 Montgomery Township building?

23 ATTORNEY SMITH:

24 Yes.

25 JUDGE RAINEY:

1 Okay.

2 ATTORNEY SMITH:

3 And again, it was well attended.
4 Although not as well attended, perhaps, the amount of
5 people that attended that open house. And again, at
6 that point it was continued expression that Site A was
7 not appropriate, and generally, amongst all the
8 residents of preference for Site C.

9 During the same time period on a less
10 formal basis, we were having outreach with local
11 residents who had organized with local community
12 groups to hear their concerns, to make sure that they
13 understood that we were committed to communicating
14 with them about the site. One of the events that
15 occurred during that time frame was local residents
16 put together their own meeting and invited Senator
17 Greenleaf. Approximately 65 local residents at that
18 meeting, I believe, but I do not know if that was at
19 the township building as well.

20 JUDGE RAINEY:

21 Now, was that --- when was that held, Mr.
22 Smith?

23 ATTORNEY SMITH:

24 In about June of 2004. And PECO Energy
25 had a representative attend that meeting and speak for

1 --- or answer questions for about an hour long. I was
2 not there so I've been told that that's what happened.

3 From all of this, PECO took the
4 information that it had received through this entire
5 process and went back and finished its evaluation and
6 concluded that the Site C, if it could obtain the
7 land, was going to be the preferable site, both from a
8 position of the company itself. This ended up being
9 the least cost alternative and it was one that we
10 originally identified as being something of a place
11 that we would like to go, from obviously from the
12 point of view of the local residents and for the local
13 business community.

14 So we then spent the fall of 2004 engaged
15 in active discussions with the owner of that property
16 to reach closure on the details of the land
17 transaction that would allow all of this to occur and
18 finished up those negotiations around the end of the year
19 2004.

20 JUDGE RAINEY:

21 So by that point you had purchased the
22 land but ---?

23 ATTORNEY SMITH:

24 No, it's going to be a land swap and
25 the --- we signed transaction of documents but they

1 are contingent upon Commission approval.

2 JUDGE RAINEY:

3 Okay.

4 ATTORNEY SMITH:

5 If the Commission does not approve the
6 transaction or the situation of building at that site,
7 it is the intention of that landowner to obtain the
8 land and construct a building.

9 And one of the reasons, as I'll explain
10 it, the end of this --- that we are seeking to go
11 ahead and close this part of the proceeding out of
12 expeditiously as is consistent with the process, is
13 that that landowner, which accommodated the situation
14 for us and for the township, if for some reason this
15 is not going to be the site, wants to go ahead and do
16 their construction on the other site and make their
17 building.

18 So with all of that under our belts, on
19 February 16th, PECO filed its application with the
20 Commission requesting that it be --- that the
21 Commission ultimately find that this situation was
22 filled and is necessary --- is reasonably necessary
23 for the convenience or welfare of the public.

24 JUDGE RAINEY:

25 And that's February 16th of this year?

1 ATTORNEY SMITH:

2 Yes.

3 JUDGE RAINEY:

4 Okay.

5 ATTORNEY SMITH:

6 February 16th of 2005. The notice of
7 this application, having been filed, was published in
8 the Pennsylvania Bulletin on March 5th, 2005, setting
9 a period for protest and intervention that expired
10 March 21st, 2005. At or about that same time, PECO
11 caused a publication of a notice in three local
12 newspapers stating that the application had been filed
13 and setting forth the protest intervention period and
14 stating the method of filing for intervention, and
15 that was published on March 3rd, 2005 in The Reporter,
16 which is a newspaper of local circulation. And on
17 March 3rd, 2005, in The Intelligencer, which is
18 newspaper of general circulation. And on March 9,
19 2005, in Montgomery Life, which is a newspaper of
20 local circulation. The paper filed its proofs of
21 publication of all those matters with the Commission
22 on March 18th, 2005.

23 In addition to those notices, both we and
24 the Commission are cognizant of the group of people
25 who had sent letters to the Commission, you know,

1 about June of 2004, and knew that they would want to
2 know that the application had been filed. The
3 Commission sent to us a list of the names of people
4 who it had records as --- who they received a letter
5 from. PECO looked in its records and identified an
6 additional small handful of people who we showed in
7 our records that sent a letter to the Commission, and
8 each of those individuals, totaling about 60, received
9 a letter from PECO Energy sent --- mailed to their
10 homes, individually notifying them that the
11 application had been filed, that there was a protest
12 period and that they could file a protest if they so
13 desired.

14 In addition, PECO had a list of some 200
15 other names of local residents of people who had
16 expressed interest in this project by attending open
17 house or otherwise communicated to PECO but they had
18 not sent a letter to the Commission. PECO also sent a
19 letter to all those individuals, which was informing
20 them that the application had been filed.

21 JUDGE RAINEY:

22 I noticed from the materials that you
23 sent to me, Mr. Smith, that these letters were sent to
24 those residents on March the 2nd, 2005. And in the
25 letter it did inform them of the written comment

1 period --- or written protest period and that they
2 were required to submit any written protest to the
3 Commission by March 21st, 2005; is that correct?

4 ATTORNEY SMITH:

5 That is correct, Your Honor.'

6 JUDGE RAINEY:

7 Okay.

8 ATTORNEY SMITH:

9 We believe that the following procedure
10 is appropriate; we believe that notice of the
11 application has been broadly and effectively
12 disseminated throughout the local area. We
13 request --- even though no one has intervened, we
14 believe that the public input session should be held
15 at the township for two reasons. The first is that
16 the local zoning code, the first of the Commission, if
17 the Commission's determinations made after the public
18 hearing.

19 JUDGE RAINEY:

20 And why don't you refer specifically to
21 the site of that local zoning code provision?

22 ATTORNEY SMITH:

23 The Montgomery Township Zoning Code,
24 Section 230-141, titled Public Utility Corporations,
25 states this chapter shall not apply to any existing or

1 proposed building or extension thereof or to any land
2 used or to be used by the Public Utility Corporation
3 if on petition of the corporation, the Public Utility
4 Commission shall, after a public hearing, decide that
5 the present or proposed situation or use of the
6 buildings or land in question is reasonably necessary
7 for the convenience or welfare of the public. And
8 therefore, we believe that a public hearing is
9 appropriate to satisfy that condition of the local
10 zoning code.

11 In addition, more broadly, we believe
12 that having spent two years talking to the township
13 and the local residents, it would provide appropriate
14 closure to that public outreach program for the
15 Commission to show its face in a very real way in the
16 township and put an exclamation point on its
17 willingness and desire to hear what the local
18 residents had to say about this issue. So for those
19 reasons, PECO has expressed its request to have a
20 public input session in the local area.

21 In the event that --- at this time, PECO
22 does not believe that evidentiary hearings are
23 necessary. We believe the public input session will
24 be sufficient. If at the end of the public input
25 session Your Honor believes that there is more

1 appropriate evidentiary hearings, then PECO would
2 request that those be scheduled as quickly as
3 possible.

4 JUDGE RAINEY:

5 Okay.

6 ATTORNEY SMITH:

7 In the event that Your Honor believes at
8 the end of the public input session that no additional
9 hearings are necessary, we request that the remaining
10 procedure toward getting us the approvals that we
11 request, the two that we request, be done as
12 expeditiously as possible, whether that is by virtue
13 of Your Honor issuing an order or whether it is by
14 virtue of it being referred to some other Bureau in
15 the Commission or by determination of the issues.

16 As I indicated, there's the two approvals
17 we are seeking, that this is reasonably necessary for
18 the convenience and welfare of the public. In
19 addition, the land swap transaction that I've
20 described, we don't really believe that the land ---
21 that the portion of the land that we are swapping is
22 used or useful in public utility service, but it is
23 underneath the transmission line and there's a
24 secondary use in that. As long as we're here, we want
25 to make sure that we get approval for everything, that

1 the Commission is aware of the entire set of
2 transactions, what's going on here and it's approving
3 the entire set. So we ask for that approval.

4 As I indicated previously, we ask for it
5 expeditiously for two reasons. One is the landowner,
6 if we aren't getting an individual transaction, wishes
7 to build on that land. They have approvals, they have
8 subdivisions and land development approvals from the
9 township to begin the construction and would like to
10 do that. And the second is, that because we took a
11 long time talking to the public, we need to go ahead
12 and begin our construction as expeditiously as
13 possible as well in order to make our summer of 2006
14 service date.

15 JUDGE RAINEY:

16 Thank you, Mr. Smith. Let me state, that
17 also during our discussion that we held off the record
18 in regard to this matter, we did look at some dates
19 for a possible public input hearing to be held at the
20 Montgomery Township building, which as I understand,
21 Mr. Smith, you recommend as you have had your open
22 houses there in the past. And so with the help of the
23 Office of Administrative Law Judge's scheduler in
24 Harrisburg and also with the assistance of someone
25 from PECO Energy Company, we were able to look at the

1 date then of Thursday, May the 19th, 2005 at 7:00 p.m.
2 at the Montgomery Township building for a possible
3 public input hearing. Our scheduler, the scheduler
4 with the Office of Administrative Law Judge in
5 Harrisburg has to confirm that to make sure that
6 everything is okay, but as we understand it, the
7 building is available to us on that date and at that
8 time. We just need to confirm the cost and things of
9 that particular nature within our budget and so that
10 we can, in fact, do it there. So that the scheduler
11 will confirm and will get back to us with respect to
12 that date for the public input hearing and then, of
13 course, that will then trigger the process for PECO
14 with regard to notices. And why don't you just state
15 for the record, Mr. Smith, what PECO proposes to do
16 with regard to providing notice of the public input
17 hearing.

18 ATTORNEY SMITH:

19 We propose two forms of notice. The
20 first form of notice is publication in the local
21 newspapers that I've previously described stating that
22 a public input hearing has been scheduled and will
23 take place at the given time and place. The second
24 form of notice is to send letters to the groups of
25 individuals that I've described previously, and that

1 is the individuals who contacted the Commission and
2 the individuals who have otherwise expressed to PECO
3 Energy an interest in the program, and in those
4 letters tell the people that a public input session
5 has been scheduled for the given time and place and
6 that they may speak at that particular time if they so
7 desire.

8 JUDGE RAINEY:

9 Okay. Now, would that notice --- the
10 notices be provided in the same publications that you
11 previously --- the same three publications that you
12 previously provided notice, Mr. Smith?

13 ATTORNEY SMITH:

14 Yes.

15 JUDGE RAINEY:

16 Okay. All right. And that being The
17 Reporter, The Intelligencier and Montgomery Life; is
18 that correct?

19 ATTORNEY SMITH:

20 Yes, Your Honor.

21 JUDGE RAINEY:

22 Okay. Let me also state, importantly,
23 that we at the Office of Administrative Law Judge also
24 have to obtain the approval of the Commissioners with
25 regard to the day, time and place for the public input

1 hearing, and so we will pursue that. Mr. Smith, is
2 there anything else that we need to take up at this
3 pre-hearing conference?

4 ATTORNEY SMITH:

5 I think, Your Honor, the only thing else
6 is that although we have not discussed it on the
7 record here, there was some clerical confusion to this
8 proceeding caused by PECO because we had inadvertently
9 made a filing with this docket line of a document that
10 actually applied to another proceeding. As a result
11 --- and I apologize for the confusion that has caused.

12 JUDGE RAINEY:

13 Okay.

14 ATTORNEY SMITH:

15 As a result of that, a number of parties
16 who have absolutely no interest in these proceedings
17 received Your Honor's pre-hearing conference order.
18 And you asked me off line and I agreed to contact all
19 of those entities by letter and inform them of the
20 error and that they have no obligations with respect
21 to this proceeding.

22 JUDGE RAINEY:

23 Very well then. And of course, you will
24 provide a copy to myself as well to the Secretary, Mr.
25 McNulty. Let me also ask for --- and you have an idea

1 or you pretty much know what I have and not have. I
 2 think we had talked about a fax that you had referred
 3 to in our off-the-record discussion that you received
 4 from Mr. McNulty also regarding persons who the
 5 Secretary had received letters from, and this was
 6 prior to your filing the application in this case. So
 7 if you would provide me with that and any other
 8 documents that you believe to be pertinent to this
 9 matter that would be appreciated. And with that then,
 10 we will adjourn this pre-hearing conference and we
 11 will proceed in the matter that we had discussed.
 12 Thank you very much for appearing here today.

13 ATTORNEY SMITH:

14 Thank you, Your Honor.

15
 16 * * * * *

17 HEARING CONCLUDED AT 12:35 P.M.

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I hereby certify, as the
stenographic reporter, that the foregoing
proceedings were taken stenographically by
me, and thereafter reduced to typewriting
by me or under my direction; and that this
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Daniel B. Wae

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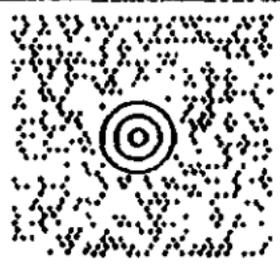
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