



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265

IN REPLY PLEASE
REFER TO OUR FILE

April 30, 2015

Rosemary Chiavetta
Pa. Public Utility Commission
2nd Floor, 400 North Street
P.O. Box 3265
Harrisburg, PA 17105

Re: Pennsylvania Public Utility Commission Bureau of Investigation and
Enforcement v. PECO Corporation; Docket No. C-2015-

Dear Secretary Chiavetta:

Enclosed for filing is the Complaint on behalf of the Pennsylvania Public Utility Commission in the above-referenced case. Copies have been served on the parties of record in accordance with the Certificate of Service.

If you have any questions on this matter, please call me at 717-214-9594.

Sincerely,

A handwritten signature in blue ink that reads "Heidi L. Wushinske".

Heidi L. Wushinske
Prosecuting Attorney
Attorney ID No. 93792

Enclosures

cc: As per Certificate of Service
Paul Metro, Gas Safety Chief

NOTICE

A. You must file an Answer within 20 days of the date of service of this Complaint.

The date of service is the mailing date as indicated at the top of the Secretarial Letter. *See* 52 Pa. Code §1.56(a). The Answer must raise all factual and legal arguments that you wish to claim in your defense, include the docket number of this Complaint, and be verified. You may file your Answer by mailing an original to:

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Or, you may eFile your Answer using the Commission's website at www.puc.pa.gov. The link to eFiling is located under the Filing & Resources tab on the homepage. If your Answer is 250 pages or less, you are not required to file a paper copy. If your Answer exceeds 250 pages, you must file a paper copy with the Secretary's Bureau.

Additionally, a copy should either be mailed to:

Wayne T. Scott, First Deputy Chief Prosecutor
Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
P.O. Box 3265
Harrisburg, PA 17105-3265

Or, emailed to Mr. Scott at:

RA-PCCmplntResp@pa.gov

B. If you fail to answer this Complaint within 20 days, the Bureau of Investigation and Enforcement will request that the Commission issue an Order imposing the penalty.

C. You may elect not to contest this Complaint by paying the civil penalty within 20 days. Your check or money order for the civil penalty should be payable to the Commonwealth of Pennsylvania and mailed to:

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

D. If you file an Answer which either admits or fails to deny the allegations of the Complaint, the Bureau of Investigation and Enforcement will request the Commission to issue an Order imposing the penalty set forth in this Complaint.

E. If you file an Answer which contests the Complaint, the matter will be assigned to an Administrative Law Judge for hearing and decision. The Judge is not bound by the penalty set forth in the Complaint, and may impose additional and/or alternative penalties as appropriate.

F. If you are a corporation, you must be represented by legal counsel. 52 Pa. Code §1.21.

G. Alternative formats of this material are available for persons with disabilities by contacting the Commission's ADA Coordinator at 717-787-8714.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement,	:	
Complainant	:	
	:	
v.	:	Docket No. C-2015-
	:	
PECO Corporation,	:	
Respondent	:	

FORMAL COMPLAINT

NOW COMES the Pennsylvania Public Utility Commission, Bureau of Investigation and Enforcement (“I&E”), by its prosecuting attorneys, pursuant to Section 701 of the Public Utility Code, 66 Pa. C.S. § 701, and files this Complaint against PECO Corporation (“PECO,” “Company,” or “Respondent”) alleging violations of the Pennsylvania Public Utility Code, Commission regulations found in the Pennsylvania Code, and the United States Code of Federal Regulations (“CFR”). In support of its Formal Complaint, I&E respectfully represents the following:

Parties and Jurisdiction

1. The Pennsylvania Public Utility Commission (“PUC” or “Commission”) with a mailing address of P.O. Box 3265, Harrisburg, PA 17105-3265, is a duly

constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth pursuant to the Public Utility Code, 66 Pa. C.S.

§§ 101, *et seq.*

2. Complainant is the Commission's Bureau of Investigation and Enforcement and is the entity established to prosecute complaints against public utilities pursuant to 66 Pa. C.S. § 308.2(a)(11); *See also Implementation of Act 129 of 2008; Organization of Bureaus and Offices*, Docket No. M-2008-2071852 (August 11, 2011) (delegating authority to initiate proceedings that are prosecutory in nature to I&E).

3. Complainant's prosecuting attorneys are as follows:

Heidi Wushinske
Prosecutor
hwushinske@pa.gov
717.214.9594

Wayne T. Scott
First Deputy Chief Prosecutor
wascott@pa.gov
717.783.6150

Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
P.O. Box 3265
Harrisburg, PA 17105-3265

4. Respondent is PECO Corporation, a natural gas utility with a main mailing address of 2301 Market Street, Philadelphia, PA 19101, Attention: Paul R. Bonney, Esq.

5. PECO is a “public utility” as that term is defined at 66 Pa. C.S. § 102,¹ as it is engaged in providing public utility service as a natural gas distribution company to the public for compensation.

6. Section 501(a) of the Public Utility Code, 66 Pa. C.S. § 501(a), authorizes and obligates the Commission to execute and enforce the provisions of the Public Utility Code.

7. Section 701 of the Public Utility Code, 66 Pa. C.S. § 701, authorizes the Commission, *inter alia*, to hear and determine complaints against public utilities for violations of any law or regulation that the Commission has jurisdiction to administer or enforce.

8. Section 3301(c) of the Public Utility Code, 66 Pa. C.S. § 3301(c), authorizes the Commission to impose civil penalties on any public utility or any other person or corporation subject to the Commission’s jurisdiction for violation(s) of the Public Utility Code and/or Commission regulations. Section 3301(c) further allows for the imposition of a separate fine for each day’s continuance of such violation(s).

9. Respondent, in providing gas distribution service for compensation, is subject to the power and authority of this Commission pursuant to Section 501(c) of the Public Utility Code, 66 Pa. C.S. § 501(c), which requires a public utility to comply with Commission orders.

¹ At 66 Pa.C.S. § 102, “Public utility” is defined under that term at subsection (1)(i) as:

- (1) Any person or corporation now or hereafter owning or operating in this Commonwealth equipment or facilities for:
 - (i) Producing, generating, transmitting, distributing or furnishing natural or artificial gas, electricity, or steam for the production of light, heat, or power to or for the public for compensation.

10. Pursuant to the Commission's regulations at 52 Pa. Code § 59.33(b), the Commission's Gas Safety Division, which is part of I&E, also has the authority to enforce the federal gas pipeline safety regulations set forth in 49 U.S.C.A. §§ 60101, *et seq.* and implemented in 49 C.F.R. Parts 191-193, 195 and 199, 49 C.F.R. §§ 191-193, 195 and 199.

11. Pursuant to the provisions of the applicable Commonwealth and federal statutes and regulations, the Commission has jurisdiction over the subject matter of this complaint and the actions of Respondent related thereto.

Background

12. On July 17, 2014, Commission Gas Safety personnel received an emergency notification from Pennsylvania Emergency Management Agency at 12:20 PM regarding a natural gas explosion that reportedly occurred at 118 Woodland Avenue, Coatesville, PA, at 11:25 AM. Paul Metro, Gas Safety Chief, immediately dispatched Gas Safety Engineer Terri Cooper Smith to the scene.

13. At approximately 1:52 PM on July 17, 2014, Gas Safety Engineer Terri Cooper Smith arrived at 118 Woodland Avenue, Coatesville, PA, to conduct an assessment of the reported explosion site. Gas Safety Engineer Terri Cooper Smith was joined on site by additional PUC Gas Safety personnel, who assisted in the investigation.

14. It was determined that the explosion actually occurred at 118 Penrose Lane, Coatesville, PA, and not 118 Woodland Avenue, Coatesville, PA.

15. Gas Safety Engineer Terri Cooper Smith found that the explosion was

related to the nearby PECO uprating project. A PECO construction crew, with support from an outside contractor, was uprating a low pressure distribution system from 7" water column ("w.c.") to a medium pressure distribution system to be operated at 25 pounds per square inch ("psi").

16. On Friday, July 18, 2014, Gas Safety Engineers Rob Horensky and Sunil Patel witnessed a pressure test of the service line to 118 Penrose Lane. The service line was tested from the service tap on Walnut Street to the upstream side of the service meter located in the basement of 118 Penrose Lane. The service line was tested for 5 minutes at each of the following pressures: 10" w.c., 2 psi, 10 psi, 20 psi and 25 psi. All tests held pressure for the duration of the test. No leaks were found.

17. Gas Safety Engineer Terri Cooper Smith concluded that because the service line to 118 Penrose Lane, Coatesville held pressure, gas did not leak from the service line before the meter and migrate into the home at 118 Penrose Lane.

18. Gas Safety Terri Engineer Cooper Smith found that the gas entered the house after passing through the meter at a pressure higher than the meter and downstream appliances were designed to withstand. At the time of the explosion, the pressure in the system after uprating was 25 psi as per the gauge located at Walnut and 5th Streets, which is about 100 yards from 118 Penrose Lane. Therefore, Gas Safety Engineer Terri Cooper Smith concluded that that the pressure at 118 Penrose Lane at the time of the explosion was likely also near 25 psi.

19. On August 7, 2014, Gas Safety Supervisor Michael Chilek and Gas Safety Gas Safety Engineer Terri Cooper Smith interviewed the PECO supervisor in charge of the PECO crew conducting the uprating work on July 17, 2014; the engineer who wrote the specific uprating procedure GWP-059-14 on July 14, 2014, for the particular uprating project as required by PECO procedure GO-PE 1023 (Changing Gas Distribution Pressures) revision #3 from July 8, 2013; the PECO employee conducting the leak survey prior to and between each pressure increase; and a foreman for Utility Line Services, who was working as a PECO contractor on the meters during the uprating project. Gas Safety Engineer Terri Cooper Smith found that during the PECO supervisor's pre-job inspection, he failed to discover that the service at 118 Penrose Lane was connected to the low pressure distribution system PECO was uprating on July 17, 2014.

20. Gas Safety Engineer Terri Cooper Smith also found that the PECO engineer's job specific procedure GWP-059-14 was insufficient to comply with state and federal regulations.

21. Through Gas Safety Engineer Terri Cooper Smith's investigation, she found that the service line to 118 Penrose Lane had a maximum allowable operating pressure ("MAOP") of 14" w.c. PECO uprated the pressure on the pipeline at 25 psi, which caused an over pressurization that led to the service line failure and the house explosion.

22. Gas Safety Engineer Terri Cooper Smith found that before increasing operating pressure above the previously established MAOP of 14" w.c., PECO did not install a service regulator on each service line or test each regulator to determine that it

was functioning. Pressure should have been increased as necessary to test each regulator as part of the uprating project on July 17, 2014.

23. Gas Safety Engineer Terri Cooper Smith also found that the contractor PECO uses for its mark outs, USIC, did not mark out the service to 118 Penrose Lane in the days prior to the explosion.

Violations

COUNT ONE

24. All allegations in paragraphs 1-23 are incorporated as if fully set forth herein.

25. PECO failed to install and test a service regulator when the pressure in the service line was to be higher than the pressure delivered to the customer in that it did not install a service regulator on the service to 118 Penrose Lane before increasing the operating pressure from 14" w.c., which was the MAOP, to 25 psi.

This is a violation of 49 CFR §192.557(b)(6) and 52 Pa. Code § 59.33(b).

COUNT TWO

26. All allegations in paragraphs 1-23 are incorporated as if fully set forth herein.

27. PECO failed to conduct a leak survey or prepare the service before increasing the operating pressure above the previously established MAOP in that it uprated the pressure on the service line to 118 Penrose Lane, which had a MAOP of 14" w.c., to 25 psi, without conducting a leak survey or otherwise preparing the service.

This is a violation of 49 CFR §192.557(b)(2) and 52 Pa. Code § 59.33(b).

COUNT THREE

28. All allegations in paragraphs 1-23 are incorporated as if fully set forth herein.

29. PECO failed to review the design, operating, and maintenance history of the segment of pipeline before increasing the operating pressure above the previously established MAOP in that it did not include the service at 118 Penrose Lane in its design documents and procedures for the uprating project.

This is a violation of 49 CFR §192.557(b)(1) and 52 Pa. Code § 59.33(b).

COUNT FOUR

30. All allegations in paragraphs 1-23 are incorporated as if fully set forth herein.

31. PECO failed to follow for each pipeline, a manual of written procedures for conducting operations and maintenance activities in that it did not follow its own written procedure GO-PE-1023 (Changing Gas Distribution Pressures) revision #3 from July 8, 2013, which covers the PECO requirements when conducting this uprating project.

This is a violation of 49 CFR §192.605(a) and 52 Pa. Code § 59.33(b).

COUNT FIVE

32. All allegations in paragraphs 1-23 are incorporated as if fully set forth herein.

33. PECO's GO-PE-1023 Procedure did not include procedures for starting up and shutting down any part of the pipeline in a manner designed to assure operation within the MAOP limits prescribed in that it did not show all houses and buildings in the affected area on the job sketch. *See* Section 4.1.3 of GO-PE-1023, in which 118 Penrose Lane was not listed.

This is a violation of 49 CFR §192.605(b)(5) and 52 Pa. Code § 59.33(b).

COUNT SIX

34. All allegations in paragraphs 1-23 are incorporated as if fully set forth herein.

35. PECO failed to follow its written GO-PE-1023 Procedure for conducting operations and maintenance activities in that it did not visit every house and/or building along the mains affected by the pressure change to ensure correct information was shown on the job sketch. *See* Section 4.1.6 of GO-PE-1023 Procedure.

This is a violation of 49 CFR §192.605(a) and 52 Pa. Code § 59.33(b).

COUNT SEVEN

36. All allegations in paragraphs 1-23 are incorporated as if fully set forth herein.

37. PECO failed to follow its manual of written procedures (GO-PE-1023) for conducting operations and maintenance activities in that it did not ensure that all affected buildings were on the job sketch by failing to include the service to 118 Penrose Lane on the job sketch given to the supervisor. *See* Section 5.1.2.1 of GO-PE-1023 Procedure.

This is a violation of 49 CFR §192.605(a) and 52 Pa. Code § 59.33(b).

COUNT EIGHT

38. All allegations in paragraphs 1-23 are incorporated as if fully set forth herein.

39. PECO did not use reasonable effort to protect the public from danger in that its engineer missed the service to 118 Penrose Lane in the design phase of this uprating project in 2012.

This is a violation of 52 Pa. Code § 59.33(a).

COUNT NINE

40. All allegations in paragraphs 1-23 are incorporated as if fully set forth herein.

41. PECO did not use reasonable effort to protect the public from danger in that its contractor, USIC, did not mark out the service to 118 Penrose Lane in the days prior to the explosion.

This is a violation of 52 Pa. Code § 59.33(a).

COUNT TEN

42. All allegations in paragraphs 1-23 are incorporated as if fully set forth herein.

43. PECO did not use reasonable effort to protect the public from danger in that on the day of the explosion, PECO did not discover the service at 118 Penrose Lane in its construction walk down.

This is a violation of 52 Pa. Code § 59.33(a).

COUNT ELEVEN

44. All allegations in paragraphs 1-23 are incorporated as if fully set forth herein.

45. PECO did not use reasonable effort to protect the public from danger in that it did not use an updated map in performing the project; the only map used by PECO in performing this project was generated on November 12, 2012.

This is a violation of 52 Pa. Code § 59.33(a).

COUNT TWELVE

46. All allegations in paragraphs 1-23 are incorporated as if fully set forth herein.

47. PECO did not perform a leak survey of mains and services prior to increasing the pressure and following each incremental increase of pressure in that it failed to leak survey the main/service to 118 Penrose Lane prior to increasing the pressure initially or following each of four incremental increases in pressure.

This is a violation of 52 Pa. Code § 59.35.

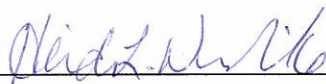
RELIEF REQUESTED

WHEREFORE, for all the foregoing reasons, the Bureau of Investigation and Enforcement of the Pennsylvania Public Utility Commission respectfully requests that after consideration of the record, the Office of Administrative Law Judge and the Commission find PECO in violation of each and every count as set forth herein, and grant the following relief:

- a. PECO be ordered to pay a civil penalty in the amount of \$1,500,000.00 pursuant to 66 Pa. C.S. § 3301 (c). Said payment shall be made by certified check payable to the Commonwealth of Pennsylvania and presented to the undersigned prosecutors within twenty (20) days of the date of the Commission's order sustaining this complaint;
- b. PECO not be permitted to recover any portion of the civil penalty through rates regulated by the Commission;
- c. PECO be ordered to provide evidence to the Commission's Gas Safety Division that PECO has the proper procedures and the ability to perform uprating projects safely;
- d. PECO be ordered to meet with the Gas Safety Division regarding its uprating procedures within three months of the date of the Commission's order sustaining this complaint;

- e. PECO be ordered to cease and desist from performing any uprating projects until it has met with the Gas Safety Division and the Gas Safety Division is satisfied with the evidence provided;
- f. PECO be ordered to cease and desist from committing any further violations of gas safety regulations; and
- g. Grant such other relief as the Commission deems just and reasonable.

Respectfully submitted,



Heidi Wushinske
Prosecutor
PA Attorney ID No. 93792

Wayne T. Scott
First Deputy Chief Prosecutor
PA Attorney ID No. 29133

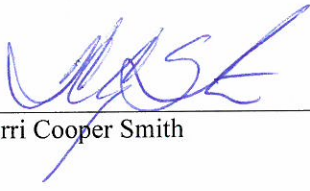
Bureau of Investigation and Enforcement
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265
(717)787-5000

Dated: April 30, 2015

VERIFICATION

I, Terri Cooper Smith, Gas Safety Inspector of the Pennsylvania Public Utility Commission's Bureau of Investigation and Enforcement ("I&E"), hereby state that the facts above set forth are true and correct to the best of my knowledge, information, and belief and that I expect that I&E will be able to prove the same at any 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.

Date: April 29, 2015



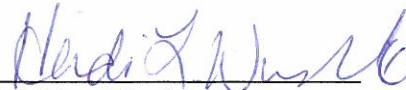
Terri Cooper Smith

CERTIFICATE OF SERVICE

I hereby certify that I am this day serving the foregoing complaint in accordance with the requirements of 52 Pa. Code § 1.54 *et seq.* (relating to service by a participant).

Notification by first class mail addressed as follows:

Paul R. Bonney, Esq.
2301 Market Street
Philadelphia, PA 19101



Heidi L. Wushinske
Prosecutor
Attorney ID #93972
(Counsel for Pennsylvania Public Utility
Commission)

P.O. Box 3265
Harrisburg, PA 17105-3265
(717) 787-5000

Dated: April 30, 2015