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July 28, 2016

Via UPS Next Day Air

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
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Harrisburg, PA 17120

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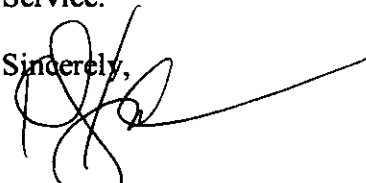
**International Brotherhood of Electrical Workers
Local 614 v. PECO Energy Company
Docket No. C-2016-2525801**

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Dear Secretary Chiavetta:

Enclosed for filing in the above-referenced matter are two copies: (1) PECO Energy Company's Motion for Extension of Time; and (2) Objections of PECO Energy Company to Notices of Deposition Issued by IBEW Local 614. Copies of both have been served upon the Parties per the attached Certificates of Service.

Sincerely,



Karl A. Fritton

KAF:ml

Attachment

cc: The Honorable Cynthia Williams Fordham,
Administrative Law Judge (via email and first-class mail)
Charles T. Joyce, Esq. (via email and first-class mail)
Scott J. Rubin, Esq. (via email and first-class mail)
Darryl Lawrence, Esq. (via email and first-class mail)
Michael S. Swerling, Esq. (via email)

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**International Brotherhood of Electrical
Workers, Local 614,**

Complainant,

v.

PECO Energy Company (Electric),

Respondent.

Docket No. C-2016-2525801

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

**MOTION OF PECO ENERGY COMPANY FOR EXTENSION OF TIME AND
MODIFICATION OF THE DISCOVERY PERIOD**

To: Administrative Law Judge, Cynthia Williams Fordham

Pursuant to 52 Pa. Code § 1.15, PECO Energy Company ("PECO" or the "Company") respectfully requests an extension of the procedural schedule and a revision to the discovery modifications established in Your Honor's June 7, 2016 Pre-Hearing Order #3. This is PECO's first request for an extension. PECO requests an extension to the schedule as set forth below:

	Current Schedule	Revised Schedule
PECO Rebuttal	8/3/2016	10/10/2016
IBEW Surrebuttal	8/18/2016	10/31/2016
PECO Rejoinder Outline	8/24/2016	11/8/2016
Hearings	8/25 & 8/26	11/9 & 11/10
Main Brief	10/10/2016	12/1/2016
Reply Brief	10/31/2016	12/15/2016

The reasons for the extension request are as follows:

1. *Background.* On October 22, 2015, the Pennsylvania Public Utility Commission (“Commission”) approved PECO’s electric Long Term Infrastructure Improvement Plan (“LTIIIP”)¹ and the Qualified Workforce Management and Training Program described in it.² On January 25, 2016, the International Brotherhood of Electrical Workers Local 614 (“Union”) filed a Formal Complaint with the Commission allegedly to enforce compliance with PECO’s LTIIIP. On February 16, 2016, PECO filed an Answer, New Matter and Preliminary Objections in response to the Union’s complaint. On March 31, 2016, Your Honor issued a Pre-Hearing Order denying the Preliminary Objections and scheduled the case for hearing on May 5, 2016. The Union requested to convert the May 5, 2016 hearing into a Pre-Hearing Conference, which was not opposed by the Company. At the Pre-Hearing Conference on May 5, 2016, the Parties agreed to: 1) a schedule which provided for the filing of the Direct Testimony of the Union on June 23, 2016 and the Rebuttal Testimony of the Company on August 3, 2016; and 2) discovery modifications in which the Parties would be required to respond to discovery requests within 20 days.

2. *Discovery.* On May 18, 2016, the Parties agreed to extend the due date for the Company’s response to the Union’s First Set of Interrogatories and Production of Documents to May 24, 2016, in order to accommodate the Company’s compilation and production of over 1,000 pages of Company records and policies requested by the Union. As a result, the Parties agreed to extend the date for the filing of the Union’s Direct Testimony to June 30, 2016, which is reflected in Your Honor’s Pre-Hearing Order #3 of June 7, 2016. Additional Discovery is ongoing.

¹ See *Petition of PECO Energy Company for Approval of its Electric Long Term Infrastructure Improvement Plan*, Docket No. P-2015-2471423 (Filed on March 27, 2015).

² See the Commission’s Opinion and Order Approving PECO’s LTIIIP Petition, Docket No. P-2015-2471423 (Order entered October 22, 2015).

3. *Additional Union Witnesses.* In its Pre-Hearing Memorandum, the Union stated that its primary witness would be its President and Business Manager, Emil Meyer. The Union stated that it might be necessary to have one or more additional witnesses but that the identity of those additional witnesses would not be known until at or near the close of discovery and that if it determined that one or more additional witnesses would be necessary, the Union would notify Your Honor and the Parties as soon as the identities of those witnesses were known. (Union Pre-Hearing Memorandum at 3.) On June 28, 2016, Union's counsel notified Your Honor and the Company that it was supplementing its witness list. Union counsel stated, "After reviewing the extensive documentation provided in discovery, the IBEW intends to provide written, direct testimony" from an additional nine witnesses.

4. *Union Direct Testimony.* On June 30, 2016, the Union filed its Direct Testimony. The Direct Testimony consists of witness statements from Mr. Meyer and the additional nine witnesses identified on June 28, 2016. Mr. Meyer's testimony includes 28 exhibits totaling over 300 pages. The Union's Direct Testimony addresses the following topics, some of which were not included in its Formal Complaint:

- The evolution of the Company's use and management of contractors over the past 25 years;
- A comparison of the Company's oversight of crews from other utilities who may assist with storm restoration on the PECO system ("foreign crews"), with the Company's oversight of long term Contractors of Choice ("COC's") who perform construction and maintenance work on the system on a regular basis, and how other utilities handle both groups of workers;
- A selective review and analysis of policies and procedures which were provided to the Union during the course of discovery;
- In addition to the 12 incidents cited in the Formal Complaint, the Union witnesses' allege 10 additional incidents they believe demonstrate unsafe or improper work by contractors; and

- Details of discussions with Company management in various scheduled and unscheduled meetings beginning in 2012 and continuing to date.

5. *Union's Offer to Extend.* Given the length and scope of the Union's Direct Testimony, Union's counsel, at the time the Testimony was filed, offered to extend the date for the filing of the Company's Rebuttal and response. The Union repeated the offer on July 11, 2016. Counsel for the Company stated that they were trying to work under the current schedule and that they would contact the Union if there was a need for an extension. After fully reviewing the scope of the Union's Direct Testimony with PECO's senior management during the week of July 18, 2016, Company's counsel was authorized to pursue an extension as previously offered by Union's counsel.

6. *Company's Proposed Extension.* After extensive discussions with Union's counsel, the Company requests the following revisions to the current schedule.

	Current Schedule	Revised Schedule
PECO Rebuttal	8/3/2016	10/10/2016
IBEW Surrebuttal	8/18/2016	10/31/2016
PECO Rejoinder Outline	8/24/2016	11/8/2016
Hearings	8/25 & 8/26	11/9 & 11/10
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This schedule (which would provide the Company with 60 days to file its rebuttal) will provide the Company with an adequate opportunity to respond to the Union's Direct Testimony and properly present its own case. Specifically, granting the Company until October 10, 2016 to develop its response and case in chief will enable the Company to thoroughly review and explain: (a) the business, economic and performance rationale for its contractor program; (b) the safety and performance record of those contractors; (c) how the oversight and use of contractors

for LTIP work satisfies Act 11 of 2012 (the “statute”)³ and the Commission’s Final Implementation Order⁴; (d) specific and thorough responses to each of the 22 contractor incidents alleged by the Union, including the 10 additional alleged incidents; (e) the relevant discussions between the Union and PECO management with respect to the performance of LTIP work.

7. *Company’s Proposed Modification to Discovery Period.* Further, written discovery based on the Company’s investigation of the Union’s Direct Testimony and its new allegations will not be returnable for 20 days, which is beyond the current due date for the Company’s Rebuttal, August 3, 2016. In conjunction with this proposed extension, therefore, the Company also requests that the Discovery Schedule be modified so that responses to discovery become due in 10 days rather than 20 days. This will enable the Parties to exchange relevant information more quickly and help insure that the case is ready for hearings within the time proposed.

8. *Union’s Position.* The Union does not oppose an extension *per se*, but has proposed to the Company the following schedule, which would grant the Company approximately only an additional 30 days, until September 7, 2016, to file its Rebuttal Testimony:

	Current Schedule	Union Proposed Schedule
PECO Rebuttal	8/3/2016	09/07/2016
IBEW Surrebuttal	8/18/2016	09/22/2016
PECO Rejoinder Outline	8/24/2016	09/28/2016 (by 12 pm ET)
Hearings	8/25 & 8/26	09/29-09/30/2016
Main Brief	10/10/2016	11/01/2016
Reply Brief	10/31/2016	12/01/2016

³ 66 Pa.C.S. § 1350-1360.

⁴ *Implementation of Act 11 of 2012*, Docket No. M-2012-2293611 (Final Implementation Order entered August 2, 2012).

The Union separately seeks to depose certain Company and third party witnesses in advance of PECO's Rebuttal Testimony, as referenced in the Company's Objections to Notices of Depositions, which is being filed concurrently with this Motion.

9. *Office of Consumer Advocate Position.* Darryl A. Lawrence, on behalf of the Office of Consumer Advocate ("OCA"), has stated that the OCA takes no position with the respect to the Motion.

10. *Resolution of the Company and Union Positions.* The additional time requested by the Company is necessary. The Company believes the Union's 30 day extension offer is insufficient and pushing the schedule out another two weeks is not a substantive delay. The Company's request would extend the entire case schedule by only an additional two weeks (December 1, 2016 versus December 15, 2016) beyond that offered by the Union.

The additional time is necessary to properly identify and develop the testimony of witnesses to refute and address the diverse issues raised by the Union: its challenge to the Company's long time use of contractors, how those contractors will be used for LTIIP work consistent with the statute and the Commission's Implementation Order, the safety and performance record of those contractors, industry standards on the use of contractors for construction and maintenance work, including Commission-approved LTIIP work, specific rebuttal on the incidents relied on by the Union, including the 10 new ones alleged in its Direct Testimony, and discussions between the Union and Company on the use of contractors and specifically, their performance of LTIIP work. Completing those tasks in the month of August through Labor Day, will be unachievable. This extension will allow the Company to provide Your Honor with a fully developed factual response so that you may make a fully informed decision on the merits.

In light of the positions of the Parties, a conference call with the Parties and Your Honor (in short order) may be helpful in working out a revised schedule and the need for any further discovery modifications.

11. *Conclusion.* This is an important case to a number of constituencies: the Union and its members, the Company and its employees, the Company's contractors and their employees, the Company's customers and the public. The relief requested by the Union, i.e. that its members should inspect the work of contractors performing LTIP work, will entail additional costs that will ultimately be borne by the Company's customers. Based on the safety performance of PECO and its contractors, PECO believes that the relief requested by the Union is unnecessary. Moreover, the regulatory and legal issue raised by the Union involves a question that has not been addressed by the Commission in a specific factual context: the application of the "subject to inspection standard" under 66 Pa. C.S. §1359(b), as interpreted by the Commission's Final Implementation Order. The extension requested by the Company, therefore, will enable the Parties to narrow the factual issues, thoroughly develop those facts that are critical to the resolution of this important statutory issue and enable Your Honor to decide the case with a full and complete record.

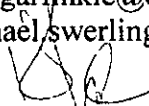
For all these reasons, PECO Energy Company respectfully requests that the procedural schedule contained in the Pre-Hearing Order #3 be extended as follows:

	Revised Schedule
PECO Rebuttal	10/10/2016
IBEW Surrebuttal	10/31/2016
PECO Rejoinder Outline	11/8/2016
Hearings	11/9 & 11/10
Main Briefs	12/1/2016
Reply Briefs	12/15/2016

Respectfully submitted,

By: 

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Counsel for PECO Energy Company

Dated: July 28, 2016

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

International Brotherhood of Electrical Workers
Local 614

v.

PECO Energy Company

Docket No. C-2016-2525801

CERTIFICATE OF SERVICE

I hereby certify that I have on this day served a true copy of the foregoing document upon the parties listed below by electronic mail and U.S. First Class Mail, postage pre-paid, in accordance with the requirements of § 5.14 (relating to service by a party):

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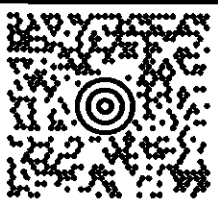
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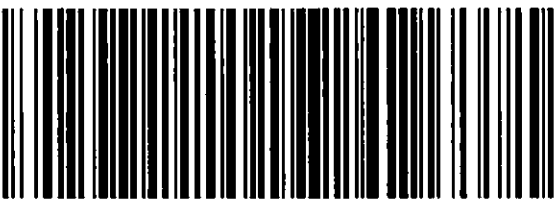
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