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August 5, 2016

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, Second Floor
Harrisburg, PA 17120

**RE: Cynthia Randall and Paul Albrecht v. PECO Energy Company
Docket No. C-2015-2537666**

Dear Ms. Chiavetta:

Enclosed for filing is PECO's Energy Company's Request for Oral Deposition of Dr. Andrew A. Marino.

Very truly yours,



Ward L. Smith
Counsel for PECO Energy Company

WS/ab
Enclosure

cc: Christopher P. Pell, ALJ
Darlene D. Heep, ALJ
Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Cynthia Randall and Paul Albrecht

v.

PECO Energy Company

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:
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Docket No. C-2016-2537666

NOTICE TO PLEAD

Pursuant to the discovery modifications in this case, you are hereby notified that you must reply to PECO Energy Company's Request for Oral Deposition of Dr. Andrew A. Marino within 3 days. You must provide a full copy of answer to counsel for PECO and to the Commission and the Administrative Law Judges.

File with:

Rosemarie Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, Second Floor
Harrisburg, PA 17120

With a copy to:

Ward L. Smith
PECO Energy Company
2301 Market Street, S-23
Philadelphia, PA 19103

Dated at Philadelphia, PA, August 5, 2016



Ward L. Smith
Counsel for PECO Energy Company
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Ward.Smith@exeloncorp.com

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Cynthia Randall and Paul Albrecht	:	
	:	
v.	:	C-2016-2537666
	:	
PECO Energy Company	:	

PECO Energy Company's Request for Oral Deposition of Dr. Andrew A. Marino

Pursuant 52 Pa. Code §§ 5.321, 5.324, and 5.343 PECO hereby requests that it be granted approval to take oral deposition of Dr. Andrew A. Marino of Shreveport, Louisiana. Dr. Marino has been identified as an expert witness by Complainants and is expected to provide oral testimony at hearing in this case in September. PECO requests this discovery in order to promote efficiency in examination of Dr. Marino at hearing. In support thereof, PECO states as follows:

1. On July 18, 2016, Complainants identified Dr. Andrew Marino as their expert witness in this matter.
2. Dr. Marino's expert witness report is scheduled to be provided on August 8, 2016.
3. The discovery period in this matter closes on August 26, 2016. Given the 10-day reply period written interrogatories established for this case, that means that final date on which written discovery can be propounded is August 16, 2016.
4. On that schedule, it will not be possible to send two rounds of written interrogatories to address Dr. Marino's expert report. Even if PECO were to send written

interrogatories the day after receipt of Dr. Marino's expert report – that is, on August 9 – answers would not be due until August 19. Since the last day to propound questions is August 16, this schedule means that PECO would be foreclosed from asking any follow-up questions in written discovery.

5. Complainants have been completely unresponsive to prior written discovery questions in this docket. As set forth in detail in PECO's Motion to Compel Answers to Discovery, which is being contemporaneously filed in this docket, Complainants have allowed 86 days to elapse without providing objections, answers, or even a status update with respect to PECO's Set I interrogatories, which were originally served on May 11, 2016.

6. Dr. Marino has not appeared in any of the other AMI cases currently scheduled in this jurisdiction. PECO therefore does not have access to transcripts, expert reports, or prefiled testimony from other dockets on which to base its preparation in this case.

7. Dr. Marino is a retired professor of neurology and orthopedic surgery who has appeared for plaintiffs in a number of cases since the 1980s involving electric and magnetic fields (EMF) and radio-frequency (RF) fields. In these cases, Dr. Marino has offered wide-ranging and varied opinions about EMF/RF exposures, potential biological effects and alleged health effects. In the context of this type of scientific complexity, a deposition provides an extremely useful opportunity for the expert to clarify the scope and basis of opinions specifically relevant to the claims in the instant case. This in turn provides an opportunity to shorten and focus the expert's examination at hearing.

8. PECO accordingly seeks a one-day deposition (with on record examination time not to exceed eight hours) of Dr. Marino at a time and location mutually convenient to Dr.

Marino and participating counsel. Under the condensed discovery schedule in this case, a single-day deposition will be a highly efficient form of discovery, particularly for complex scientific issues and opinions that otherwise may require discovery through numerous interrogatories and requests for production.

9. As set forth at length in PECO's Motion to Compel Answers to Discovery, which is being filed contemporaneously in this docket, PECO has made numerous unsuccessful attempts to engage Complainants' counsel in discussions regarding procedural matters in this case. Because no such discussions have occurred, PECO is not able to make a representation as to whether Complainant objects to or agrees with this proposal.

WHEREFORE:

PECO respectfully requests that Your Honors issue an Order granting PECO approval to take the oral deposition of Dr. Andrew Marino as set forth above.

Respectfully submitted,



August 5, 2016

Ward Smith
Assistant General Counsel
PECO Energy Company
215-841-6863
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Respectfully submitted,

