



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

IN REPLY PLEASE
REFER TO OUR FILE

November 23, 2016

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 Energy Company; Docket No. C-2015-2514773

Dear Secretary Chiavetta:

The Bureau of Investigation and Enforcement encloses for filing its prehearing conference memorandum. 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,

Heidi L. Wushinske
Senior Prosecutor
PA Attorney ID No. 93792

Enclosures

cc: As per Certificate of Service

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement,	:	
Complainant	:	
	:	
v.	:	Docket No. C-2015-2514773
	:	
	:	
PECO Energy Company,	:	
Respondent	:	

**PREHEARING CONFERENCE MEMORANDUM
OF THE
BUREAU OF INVESTIGATION AND ENFORCEMENT**

Pursuant to the Prehearing Conference Order issued by the Honorable David A. Salapa on October 20, 2016, the Bureau of Investigation and Enforcement (I&E) of the Pennsylvania Public Utility Commission (Commission) files this initial prehearing conference memorandum.

A. Service List

I&E is represented in this matter as follows:

Heidi L. Wushinske
Senior Prosecutor
Bureau of Investigation and Enforcement
Public Utility Commission
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Harrisburg, PA 17105-3265
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B. Possible Settlement

The parties have engaged in numerous settlement discussions. To date, these negotiations have not been successful. I&E is not opposed to continuing settlement discussions during the course of this proceeding.

C. Proposed Plan and Schedule of Discovery

I&E anticipates the need for further discovery, to be completed by February 24, 2017. To date, I&E has not undertaken additional discovery because it was actively engaged in settlement discussions.

D. Other Proposed Orders with Respect to Discovery

I&E seeks no proposed orders with respect to discovery at this time and requests that the Commission's rules regarding discovery be implemented, without modification, as set forth in in 52 Pa. Code §§ 5.321, *et. seq.*

E. Proposed Schedule for the Submission of Written Testimony, Conducting an In-Person Hearing, and Submission of Briefs

I&E proposes the schedule set forth below:

Completion of discovery	February 24, 2017
I&E prepared direct testimony	March 24, 2017
PECO prepared direct testimony	April 14, 2017
I&E prepared rebuttal testimony	May 5, 2017
Evidentiary hearings	June 7,8, 2017
Main briefs	July 14, 2017
Reply briefs	July 28, 2017

F. Witnesses

I&E intends to call the following witness:

Robert Biggard
Bureau of Investigation and Enforcement
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265
717-787-4510

Mr. Biggard was the Gas Safety Supervisor on site at the time of the incident, and will testify as to his factual observations, the relevant Commission regulations, and the relevant Pipeline and Hazardous Materials Safety Administration (PHMSA) regulations.

I&E reserves the right to call additional witnesses, as necessary, and will notify Your Honor and all parties of record.

G. Issues and Sub-Issues

The issues in this case are as follows:

1. Whether a job of the magnitude at issue in this case, which received sixteen PA One Call tickets, is a “high profile” job?
2. Whether this Commission has the jurisdiction to regulate pipeline safety matters involving violations of the Commission’s regulations and federal gas pipeline safety regulations, regardless of whether such violations may not have been discovered but for a violation of the PA One Call law.
3. Whether PECO failed to carry out a written program to prevent damage to a buried pipeline from excavation activities when it did not follow its Gas Damage Prevention procedure 4.2.1.1, found in GO-PE-9003, Revision No. 2, which required it to conduct pre-excavation meetings with excavators when large excavations and foundation work could impact PECO’s facilities and their surroundings.
4. Whether PECO failed to carry out a written program to prevent damage to a buried pipeline from excavation activities when it did not follow its Gas Damage Prevention procedure 5.6.3, found in GO-PE-9003, Revision No. 2, which required PECO’s damage prevention inspectors to determine the need for, and extent of, audits and inspections, particularly for damage that may not be easily recognized by an excavator.
5. Whether PECO failed to carry out a written program to prevent damage to a buried pipeline from excavation activities when it did not follow its Gas Damage Prevention

procedure 5.6.4.2, found in GO-PE-9003, Revision No. 2, which required PECO to confirm that all excavators have a valid PA One Call request.

6. Whether PECO failed to carry out a written program to prevent damage to a buried pipeline from excavation activities when it did not follow its Gas Damage Prevention procedure 5.6.4.3, found in GO-PE-9003, Revision No. 2, which required PECO to ensure that the excavator and locator had the same understanding of the job.

7. Whether PECO failed to carry out a written program to prevent damage to a buried pipeline from excavation activities when it did not follow its Gas Damage Prevention procedure 5.6.4.4, found in GO-PE-9003, Revision No. 2, to determine the schedule of when PECO facilities would be crossed.

6. Whether PECO failed to carry out a written program to prevent damage to a buried pipeline from excavation activities when it did not follow its Gas Damage Prevention procedure 5.6.4.7, found in GO-PE-9003, Revision No. 2, which should have directed PECO to document all site meetings before or during excavation via an electronic inspection report.

7. Whether PECO failed to carry out a written program to prevent damage to a buried pipeline from excavation activities when it did not follow its Gas Damage Prevention procedure 5.6.4.8, found in GO-PE-9003, Revision No. 2, which directs PECO to review locator marks for accuracy.

8. Whether PECO failed to carry out a written program to prevent damage to a buried pipeline from excavation activities when it did not follow its Gas Damage Prevention procedure 5.9.1.3, found in GO-PE-9003, Revision No. 2, which directs PECO to document the results of a locate by completing all required documentation on the electronic close screen within the ticket management system, with a positive response to the PA One Call KARL system.

9. Whether PECO failed to carry out a written program to prevent damage to a buried pipeline from excavation activities when it did not follow its Gas Damage Prevention procedure 5.10.4, found in GO-PE-9003, Revision No. 2, which tasks PECO with maintaining a copy of the responses to the designer and an electronic record of the disposition of the PA One Call requests.

10. Whether PECO failed to carry out a written program to prevent damage to a buried pipeline from excavation activities when it did not follow its Gas Damage Prevention procedure 5.10.5, found in GO-PE-9003, Revision No. 2, which requires PECO to document the results of completion of the design request by completing all required documentation on the electronic close screen within the ticket management system with a positive response to the PA One Call KARL system.

11. Whether PECO failed to carry out a written program to prevent damage to a buried pipeline from excavation activities when it did not follow its Gas Damage Prevention procedure 5.9.1.4, found in GO-PE-9003, Revision No. 2, which required PECO to identify high profile jobs.

12. Whether PECO failed to carry out a written program to prevent damage to a buried pipeline from excavation activities when it did not follow its Gas Damage Prevention procedure, found in GO-PE-9003, Revision No. 2, which required additional supervision by PECO and the mark-out contractor, including weekly reports to the dig-safe supervisor when working a high profile job.

13. Whether PECO failed to carry out a written program to prevent damage to a buried pipeline from excavation activities when it did not update its Gas Damage Prevention procedure, found in GO-PE-9003.

14. Whether PECO failed to carry out a written program to prevent damage to a buried pipeline from excavation activities when its Gas Damage Prevention procedure GO-PE-9003, Revision No. 2, did not include the use of locator or maker ball line markers, which require specific operations parameters.

15. Whether PECO failed to carry out a written program to prevent damage to a buried pipeline from excavation activities when its procedures did not include communication with the third-party contractors during the scope of the project.

16. Whether PECO failed to carry out a written program to prevent damage to a buried pipeline from excavation activities when its procedures failed to address relocation of facilities when such facilities are compromised by excavation and construction activities.

17. Whether PECO failed to have a procedure for continuing surveillance of its facilities to determine and take appropriate action concerning the unusual operation and maintenance conditions when it failed to relocate the main or communicate with the contractors or with PECO's own damage prevention team.

18. Whether PECO's damage prevention program failed to provide for inspection, which must be done as frequently as necessary during and after the activities to verify the integrity of the pipeline when there is reason to believe the pipeline could be damaged by excavation activities, when PECO did not inspect the main as frequently as necessary to prevent a hit.

19. Whether PECO used every reasonable effort to protect the public from danger and exercised reasonable care to reduce hazards when it failed to remove the subject line from service.

20. Whether PECO used every reasonable effort to protect the public from danger and exercised reasonable care to reduce hazards when it failed to communicate intended site activity with the excavation contractors.

21. Whether PECO used every reasonable effort to protect the public from danger and exercised reasonable care to reduce hazards when it failed to adequately monitor the activities around the gas main running through the construction site.

H. Evidence

At this time, I&E intends to offer the following evidence:

Relating to the issues identified above, I&E intends to offer the testimony and supporting documents of Gas Safety Supervisor Bob Biggard. I&E also intends to offer PECO's Gas Damage Prevention procedure GO-PE-9003, Revision No. 2, in effect at the time of the matter in question, as well as subsequent revisions to this procedure. Regarding Issues Nos. 1,5,8,9 and 10, I&E intends to offer PA One Call records. Regarding Issues Nos. 3,6,15, and 20, I&E intends to present PECO's Damage Prevention Inspector visit log to Rosemont College.

I&E reserves the right to update its proposed presentation of evidence, pending completion of discovery.

I&E also reserves the right to update its responses contained in this Prehearing Conference Memorandum.

Respectfully submitted,



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Senior Prosecutor
PA Attorney ID No. 93792

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Bureau of Investigation and Enforcement
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Dated: November 23, 2016

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Pennsylvania Public Utility Commission,
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Complainant

v.

PECO Energy Company,
Respondent

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CERTIFICATE OF SERVICE

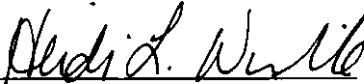
I hereby certify that I am this day serving the foregoing prehearing conference memorandum in accordance with the requirements of 52 Pa. Code § 1.54 *et seq.* (relating to service by a participant).

Notification by first class mail addressed as follows:

The Honorable David A. Salapa
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