



An Exelon Company

Michael S. Swerling
Assistant General Counsel

Direct Dial: 215 841 4220

PECO Energy Company
2301 Market Street, S23-1
Philadelphia, PA 19103

November 23, 2016

VIA EMAIL & FEDERAL EXPRESS

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, - P.O. Box 3265
Harrisburg, PA 17120-3265

RECEIVED

NOV 23 2016

Re: **PAPUC, I&E v. PECO, Rosemont College**
Docket No. C-2015-2514773

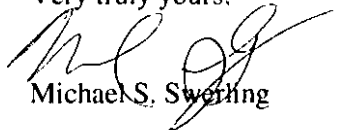
PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Dear Ms. Chiavetta:

Enclosed please find PECO Energy Company's ("PECO") Prehearing Memorandum with Discovery Modifications and a Protective Order in the above-mentioned matter.

If you have any questions, feel free to contact me directly at (215) 841-4220.

Very truly yours,


Michael S. Swerling
Assistant General Counsel

Enclosures

employees were working near the ignition site. Two were taken to the hospital as a precaution and were released the same day. The third refused medical treatment. PECO quickly arrived onsite to stop the flow of gas and enact permanent repairs. No evacuations were required because the nearby buildings were empty and gas did not migrate into them.

According to the Complaint, PECO failed to prevent damage to its facilities because it did not follow its Gas Damage Prevention procedure, GO-PE-9003. Moreover, the Complaint requested that the Commission order PECO to: 1) pay a \$315,000 civil penalty, which cannot be recovered through rates; 2) modify its Gas Damage Prevention procedure to prevent a similar event from recurring; and 3) train all relevant personal to follow the procedural revisions adopted.

B. Answer & New Matter of PECO

On January 8, 2016, PECO filed an Answer and New Matter stating that this incident was not caused by PECO; it was caused by Eastern Caisson who failed to follow the PA One Call Law prior to excavating. No PA One Call request was submitted by Eastern Caisson before it excavated. More importantly, no PA One Call request was submitted prior to the incident by any excavator covering the scope of work performed by Eastern Caisson to install light poles and excavate at a 14-foot depth. Additionally, Eastern Caisson's work scope was never communicated to PECO.

The Answer and New matter also confirmed that prior to the incident, a total of 17 locate requests and 2 design requests were properly submitted by other entities in connection with excavation and design work at the site without incident. PECO's contractor, USIC, Inc. ("USIC"), properly marked the Company's facilities for all 17 locate requests made by 7 different excavators during the term of the Rosemont College project.

Furthermore, on July 9, 2013, USIC installed four permanent marker posts over the main before the August incident to clearly mark the location of the main that was struck. Despite PECO's responses to all 19 One Call requests and the installation of permanent marker posts, a subcontractor working on the Rosemont College site struck PECO's main.

PECO's Answer and New Matter requested that the Complaint be denied because it is premised on I&E's flawed and unsupportable contention that PECO was obligated to act to prevent the August 7, 2013 incident in the absence of a PA One Call request. However, PECO has no duty to prevent an excavator from violating the PA One Call Law. At all times during the Rosemont College project, PECO followed its Gas Damage Prevention procedure, which complies with the federal requirements for a damage prevention program at 49 C.F.R. § 192.614.

C. I&E's Reply to New Matter & Motion to Strike

On January 28, 2016, I&E filed a Reply to PECO's New Matter and a Motion to Strike portions of PECO's New Matter. In its Reply to New Matter, I&E generally denied both the additional material facts and affirmative defenses raised by PECO without providing any supporting factual basis for the denials. In its Motion to Strike, I&E moved to strike portions of the New Matter (paragraphs 1, 73, 157, and 160), which allegedly failed to adhere to the Commission's regulations regarding New Matter at 52 Pa. Code § 5.62. Specifically, I&E moved to strike portions of the New Matter, which it characterized as being allegations of "opinions and conclusions" rather than facts or affirmative defenses and therefore impertinent.

D. PECO's Response to Motion to Strike

On February 17, 2016, PECO filed its Response to the Motion to Strike New Matter requesting that the Commission deny I&E's motion. PECO argued that I&E's Motion to Strike should be denied because it ignored the most fundamental of the Commission's Rules of Practice

and Procedure, namely, the overarching command that the Commission's regulations are to be construed liberally to secure the just, speedy and inexpensive resolution of Commission proceedings. 52 Pa. Code § 1.2(a). This regulation further directs the Commission or presiding officer at any stage of a proceeding to disregard an error or defect of procedure that does not affect the substantive rights of the parties. Furthermore, I&E took an incorrect position that only new facts could be averred in a New Matter, not legal "opinions or conclusions". This is incorrect because it would effectively deprive PECO of the ability to assert affirmative defenses in this case.

E. Hearing Notice

On October 12, 2016, a Hearing Notice issued in this case, which scheduled a Prehearing Conference for November 29, 2016.

F. Order Denying I&E's Motion to Strike

On October 20, 2016, ALJ Salapa issued his Order Denying I&E's Motion to Strike. ALJ Salapa determined that "[t]o the extent that the allegations in...PECO's new matter are 'impertinent'..., the paragraphs need not be stricken but may be treated as surplus and ignored. Dept. of Env'tl. Resources v. Hartford Accident and Indemnity Co., 396 A.2d 885 (Pa.Cmwlth. 1979)." (Order at 4). [Citations omitted]. Additionally, ALJ Salapa found that I&E did not assert how any of the allegations raised in PECO's New Matter prejudiced its case. *Id.* Accordingly, I&E's motion was denied.

G. Prehearing Conference Order

On October 20, 2016, ALJ Salapa issued a Prehearing Conference Order directing the parties to submit Prehearing Memoranda on or before November 23, 2016.

II. STATEMENT OF ISSUES

Based on the pleadings, the issues are as follows:

Issue 1: Can I&E hold PECO to a standard that exceeds existing federal and state requirements and that unfairly shifts duties set forth in the PA One Call Law, from third-party excavator to facility owner (i.e., PECO)?

PECO's Position: No. I&E cannot hold PECO to a standard that exceeds federal and state requirements and that unfairly shifts duties set forth in the PA One Call Law, from third-party excavator to PECO.

Issue 2: Can PECO be held responsible for a third-party excavator's failure to comply with its duties under the PA One Call Law (to submit a locate request through the One Call System before excavating)?

PECO's Position: No. PECO cannot be held responsible for a third-party excavator's failure to comply with its duties to submit a PA One Call locate request and permit PECO's locating contractor to mark out Company facilities prior to excavating.

Issue 3: Did PECO have a duty to prevent the August 7, 2013 incident in the absence of a PA One Call request?

PECO's Position: No. PECO has no such duty and any attempt to apply such a duty on PECO would contradict the PA One Call Law, which clearly places this duty on excavators.

Issue 4: Did PECO follow its Damage Prevention procedure in responding to all design and excavation requests relevant to the Rosemont College construction?

PECO's Position: Yes. Prior to the incident, a total of 17 locate requests and 2 design requests were properly submitted by other entities in connection with excavation and design work at the site without incident.

III. PROPOSED SCHEDULE AND DISCOVERY MODIFICATIONS

PECO proposes the following schedule for this proceeding¹:

Prehearing Conference: November 29, 2016

Direct Testimony of Complainant: January 9, 2017

¹ PECO's proposed schedule assumes that its proposed Discovery Modification period as set forth in Exhibit A and discussed further in Section IV is approved. If approved, it would permit each party to conduct up to two rounds of discovery before direct and rebuttal testimony is due. If the discovery response period is not limited to 10 days, however, additional revisions to PECO's proposed schedule would be necessary.

Rebuttal Testimony of PECO:	February 10, 2017
Surrebuttal Testimony of Complainant:	March 10, 2017
Hearings: (Including oral rejoinder)	April 6 and (if needed) 7, 2017
Close of the Record:	April 10, 2017
Main Briefs:	May 22, 2017
Reply Briefs:	June 5, 2017

PECO further proposes that all dates for submission of testimony and briefs be satisfied with an electronic (email attachment or electronic file transfer) or fax copy thereof being provided on the due date, with hard copies to be delivered the next day via overnight delivery.

IV. DISCOVERY

PECO proposes discovery modifications set forth in Exhibit A to expedite the orderly conduct and disposition of the proceeding. (52 Pa. Code § 5.22). Accordingly, PECO respectfully requests that ALJ Salapa approve the proposed discovery modifications.

In addition, PECO submits a proposed Protective Order, which is attached as Exhibit B. The Protective Order facilitates the discovery process by allowing confidential and proprietary documents to be produced without any undue delay. Therefore, PECO respectfully requests that ALJ Salapa approve the protective order set forth in Exhibit B.

V. WITNESSES

PECO intends to present testimony of the following witnesses on an as-needed basis. PECO plans to present rebuttal testimony in written form, including exhibits and other related documents. The Company also reserves the right to call additional witnesses and will inform ALJ Salapa and I&E if and when it determines that additional witnesses are needed. Based on the current allegations in the Complaint, the Company's proposed witnesses are as follows:

1) Brian Camfield

Manager of Gas Engineering and Asset Performance
PECO Energy Company
2301 Market Street, S9-1
Philadelphia, PA 19103
Phone: (215) 841-4197

PECO anticipates that Mr. Camfield's testimony will provide an overview of the Rosemont College project, the August 7, 2013 incident and PECO's response thereto.

2) David J. Haverstick

Manager of Damage Prevention
PECO Energy Company
Plymouth Service Building
680 Ridge Pike
Plymouth Meeting, PA 19462
Phone: (610) 941-1809

PECO anticipates that Mr. Haverstick will testify about PECO's Damage Prevention procedure and how PECO complied with this procedure during the entire term of the Rosemont College project.

3) Robert Bedics

Supervisor Underground
PECO Energy Company
Plymouth Service Building
680 Ridge Pike
Plymouth Meeting, PA 19462
Phone: (610) 943-5515

PECO anticipates that Mr. Bedics will testify about the actions taken by PECO and its locating contractor in response to all 19 locate and design requests properly submitted through the PA One Call System and why this incident was caused by the failure of a third-party contractor to comply with its duties under the PA One Call Law.

VI. POSSIBILITY OF SETTLEMENT

Counsel for I&E and counsel for the Company have been engaged in discussions about the possibility of settlement. Discussions at the prehearing conference may help outline the

elements of a potential settlement and provide a framework for future discussions. Thereafter, PECO will plan to meet with I&E in person or by telephone conference to attempt to reach a mutually agreeable resolution, subject to approval by ALJ Salapa and the Commission.

VII. AMOUNT OF HEARING TIME NEEDED

The number of days of hearing outlined above is an estimate. The actual number will depend on the scope of I&E's evidence and will be better determined at the close of discovery.

VIII. EVIDENCE FOR HEARING

The following table includes a list of the exhibits, which were attached to the Company's Answer and New Matter, and which PECO intends to present as evidence at hearing.

Exhibit Name	Description	Related Issue Number
Exhibit A	Damage Prevention Procedure	Issues 1-4
Exhibit B	Damage Prevention Procedure	Issues 1-4
Exhibit C	Summary of PA One Call Tickets & Responses	Issues 1-4
Exhibit D	PA One Call Tickets	Issues 1-3
Exhibit E	Inspection Reports	Issues 1-4
Exhibit F	Incident Pictures	Issues 1-4
Exhibit G	PECO Maps of Rosemont College	Issues 1-4
Exhibit I	3M Marker Ball Installation Manual	Issue 4
Exhibit J	PECO Marker Ball Procedure	Issue 4

PECO reserves the right to present additional evidence at hearing, if it determines, in the course of preparing for hearing, that additional evidence is necessary to present its case.

IX. SERVICE LIST

The following individual should be added to the service list and receive all pleadings filed in this proceeding:


Michael S. Swerling
Assistant General Counsel
PECO Energy Company
2301 Market Street, S23-1
Philadelphia, PA 19103
Phone: (215) 841-4220
Email: michael.swerling@exeloncorp.com

X. CONCLUSION

PECO respectfully requests the entry of a scheduling order, discovery modifications and protective order based upon the terms set forth above.

Respectfully submitted,

By: _____



Romulo L. Diaz, Jr. (Pa. No. 88795)
Jack R. Garfinkle (Pa. No. 81892)
Michael S. Swerling (Pa. No. 94748)
PECO Energy Company
2301 Market Street, S23-1
Philadelphia, PA 19101-8699
Phone: (215) 841-4220
Fax: (215) 568-3389
Romulo.diaz@exeloncorp.com
Jack.garfinkle@exeloncorp.com
Michael.swerling@exeloncorp.com

EXHIBIT A

RECEIVED

NOV 23 2016

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

PECO'S PROPOSED DISCOVERY PROCEDURE MODIFICATIONS

1. Answers to written interrogatories are to be served in-hand within ten (10) calendar days of service of the interrogatories.
2. Objections to interrogatories are to be communicated orally within three (3) calendar days of service; unresolved objections are to be served on the Administrative Law Judges in writing within five (5) calendar days of service of the interrogatories.
3. Motions to dismiss objections and/or direct the answering of interrogatories are to be filed within three (3) calendar days of service of written objections.
4. Answers to motions to dismiss objections and/or directing the answering of interrogatories shall be filed within three (3) calendar days of service of such motions.
5. Responses to requests for documents production, entry for inspection, or other purposes are to be served in-hand within ten (10) calendar days of service.
6. Requests for admission are deemed admitted unless answered within ten (10) calendar days or objected to in writing within five (5) calendar days of service.
7. When an interrogatory, request for production, request for admission or motion is served after 12:00 p.m. on a Friday or the day before a holiday, the appropriate response period is deemed to start on the next business day.

8. Interrogatories, requests for production and requests for admissions that are objected to but which are not made the subject of a motion to compel will be deemed withdrawn.
9. Pursuant to 52 Pa. Code §5.341(b), neither discovery requests nor responses thereto are to be served on the Commission or the Administrative Law Judges, although a certificate of service may be filed with the Commission's Secretary.
10. Discovery requests, motions to compel and responses are to be served electronically as well as on paper.

EXHIBIT B

RECEIVED

NOV 23 2016

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

PROTECTIVE ORDER

IT IS ORDERED THAT:

1. This Protective Order is hereby GRANTED and shall establish procedures for the protection of all materials and information identified in Paragraphs 2 and 3 below, which are or will be filed with the Commission, produced in discovery, or otherwise presented during the above-captioned proceeding and all proceedings consolidated with it. All persons now or hereafter granted access to the materials and information identified in Paragraph 2 of this Protective Order shall use and disclose such information only in accordance with this Order.

2. The information subject to this Protective Order is all correspondence, documents, data, information, studies, methodologies and other materials, whether produced or reproduced or stored on paper, cards, tape, disk, film, electronic facsimile, magnetic or optical memory, computer storage devices or any other devices or media, including, but not limited to, electronic mail (e-mail), furnished in this proceeding that the producing party believes to be of a proprietary or confidential nature and are so designated by being stamped "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL" protected material. Such materials are referred to in this Order as "Proprietary Information." When a statement or exhibit is identified for the record, the portions thereof that constitute Proprietary Information shall be designated as such for the record.

3. For purposes of this Protective Order there are two categories of Proprietary Information: "CONFIDENTIAL" and "HIGHLY CONFIDENTIAL" protected material. A producing party may designate as "CONFIDENTIAL" those materials that are customarily treated by that party as sensitive or proprietary, that are not available to the public, and that, if generally disclosed, would subject that party or its clients to the risk of competitive disadvantage or other business injury. A producing party may designate as "HIGHLY CONFIDENTIAL" those materials that are of such a commercially sensitive nature, relative to the business interests of parties to this proceeding, or of such a private or personal nature, that the producing party determined that a heightened level of confidential protection with respect to those materials is appropriate. The parties shall endeavor to limit the information designated as "HIGHLY CONFIDENTIAL" protected material.

4. Subject to the terms of this Protective Order, Proprietary Information shall be provided to counsel for a party who meets the criteria of a "Reviewing Representative" as set forth below. Such counsel shall use or disclose the Proprietary Information only for purposes of preparing or presenting evidence, testimony, cross examination or argument in this proceeding. To the extent required for participation in this proceeding, such counsel may allow others to have access to Proprietary Information only in accordance with the conditions and limitations set forth in this Protective Order.

5. Information deemed "CONFIDENTIAL" shall be provided to a "Reviewing Representative." For purposes of "CONFIDENTIAL" Proprietary Information, a "Reviewing Representative" is a person who has signed a Non-Disclosure Certificate and is:

- i. A statutory advocate, or an attorney for a statutory advocate pursuant to 52 Pa. Code § 1.8 or an attorney who has formally entered an appearance in this proceeding on behalf of a party;
- ii. An attorney, paralegal, or other employee associated for purposes of this case with an attorney described in subparagraph (i) above;
- iii. An expert or an employee of an expert retained by a party for the purpose of advising that party or testifying in this proceeding on behalf of that party; or
- iv. Employees or other representatives of a party to this proceeding who have significant responsibility for developing or presenting the party's positions in this docket.

6. Information deemed "HIGHLY CONFIDENTIAL" protected material shall be provided to a Reviewing Representative, provided, however that a Reviewing Representative, for purposes of "HIGHLY CONFIDENTIAL" protected material, is limited to a person who has signed a Non-Disclosure Certificate and is:

- i. A statutory advocate, or an attorney for a statutory advocate, pursuant to 52 Pa. Code § 1.8 or an attorney who has formally entered an appearance in this proceeding on behalf of a party;
- ii. An attorney, paralegal, or other employee associated for purposes of this case with an attorney described in subparagraph (i);
- iii. An outside expert or an employee of an outside expert retained by a party for the purposes of advising that party or testifying in this proceeding on behalf of that party; or
- iv. A person designated as a Reviewing Representative for purposes of HIGHLY CONFIDENTIAL protected material pursuant to paragraph 11.

Provided, further, that in accordance with the provisions of Sections 5.362 and 5.365(e) of the Commission's Rules of Practice and Procedure (52 Pa. Code §§ 5.362, 5.365(e)) any party may, by objection or motion, seek further protection with respect to HIGHLY CONFIDENTIAL protected material, including, but not limited to, total prohibition of disclosure or limitation of disclosure only to particular parties.

7. For purposes of this Protective Order, a Reviewing Representative may not be a "Restricted Person" absent agreement of the party producing the Proprietary Information pursuant to Paragraph 11. A "Restricted Person" shall mean: (a) an officer, director, stockholder, partner, or owner of any competitor of the parties or an employee of such an entity if the employee's duties involve marketing or pricing of the competitor's products or services or advising another person who has such duties; (b) an officer, director, stockholder, partner, or owner of any affiliate of a competitor of the parties (including any association of competitors of the parties) or an employee of such an entity if the employee's duties involve marketing or pricing of the competitor's products or services or advising another person who has such duties; (c) an officer, director, stockholder, owner, agent (excluding any person under Paragraph 6.i or 6.ii), or employee of a competitor of a customer of the parties or of a competitor of a vendor of the parties if the Proprietary Information concerns a specific, identifiable customer or vendor of the parties; and (d) an officer, director, stockholder, owner or employee of an affiliate of a competitor of a customer of the parties if the Proprietary Information concerns a specific, identifiable customer of the parties; provided, however, that no expert shall be disqualified on account of being a stockholder, partner, or owner unless that expert's interest in the business would provide a significant motive for violating the limitations of permissible use of the Proprietary Information. For purposes of this Protective Order, stocks, partnership or other ownership interests valued at more than \$10,000 or constituting more than a 1% interest in a business establish a significant motive for violation.

8. If an expert for a party, another member of the expert's firm or the expert's firm generally also serves as an expert for, or as a consultant or advisor to, a Restricted Person, that expert must: (1) identify for the parties each Restricted Person and all personnel in or associated with the expert's firm that work on behalf of the Restricted Person; (2) take all reasonable steps

to segregate those personnel assisting in the expert's participation in this proceeding from those personnel working on behalf of a Restricted Person; and (3) if segregation of such personnel is impractical, the expert shall give to the producing party written assurances that the lack of segregation will in no way adversely affect the interests of the parties or their customers. The parties retain the right to challenge the adequacy of the written assurances that the parties' or their customers' interests will not be adversely affected. No other persons may have access to the Proprietary Information except as authorized by order of the Commission.

9. Reviewing Representatives qualified to receive "HIGHLY CONFIDENTIAL" protected material may discuss HIGHLY CONFIDENTIAL protected material with their client or with the entity with which they are employed or associated, to the extent that the client or entity is not a "Restricted Person," but may not share with, or permit the client or entity to review or have access to, the HIGHLY CONFIDENTIAL protected material.

10. Proprietary Information shall be treated by the parties and by the Reviewing Representative in accordance with the terms of this Protective Order, which are hereby expressly incorporated into the certificate that must be executed pursuant to Paragraph 12(a). Proprietary Information shall be used as necessary, for the conduct of this proceeding and for no other purpose. Proprietary Information shall not be disclosed in any manner to any person except a Reviewing Representative who is engaged in the conduct of this proceeding and who needs to know the information in order to carry out that person's responsibilities in this proceeding.

11. Reviewing Representatives may not use anything contained in any Proprietary Information obtained through this proceeding to give any party or any competitor of any party a commercial advantage. In the event that a party wishes to designate as a Reviewing Representative a person not described in paragraph 6 (i) through (iii) above, the party must first seek agreement to do so from the party providing the Proprietary Information. If an agreement is

reached, the designated individual shall be a Reviewing Representative pursuant to Paragraph 6 (iv) above with respect to those materials. If no agreement is reached, the party seeking to have a person designated a Reviewing Representative shall submit the disputed designation to the presiding Administrative Law Judge for resolution.

12. (a) A Reviewing Representative shall not be permitted to inspect, participate in discussions regarding, or otherwise be permitted access to Proprietary Information pursuant to this Protective Order unless that Reviewing Representative has first executed a Non-Disclosure Certificate in the form provided in Appendix A, provided, however, that if an attorney or expert qualified as a Reviewing Representative has executed such a certificate, the paralegals, secretarial and clerical personnel under his or her instruction, supervision or control need not do so. A copy of each executed Non-Disclosure Certificate shall be provided to counsel for the party asserting confidentiality prior to disclosure of any Proprietary Information to that Reviewing Representative.

(b) Attorneys and outside experts qualified as Reviewing Representatives are responsible for ensuring that persons under their supervision or control comply with the Protective Order.

13. The parties shall designate data or documents as constituting or containing Proprietary Information by stamping the documents "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL" protected material. Where only part of data compilations or multi-page documents constitutes or contains Proprietary Information, the parties, insofar as reasonably practicable within discovery and other time constraints imposed in this proceeding, shall designate only the specific data or pages of documents which constitute or contain Proprietary Information. The Commission and all parties, including the statutory advocates and any other agency or department of state government will consider and treat the Proprietary Information as

within the exemptions from disclosure provided in the Pennsylvania Right-to-Know Act (65 P.S. § 67.101 *et seq.*) until such time as the information is found to be non-proprietary.

14. Any public reference to Proprietary Information by a party or its Reviewing Representatives shall be to the title or exhibit reference in sufficient detail to permit persons with access to the Proprietary Information to understand fully the reference and not more. The Proprietary Information shall remain a part of the record, to the extent admitted, for all purposes of administrative or judicial review.

15. Part of any record of this proceeding containing Proprietary Information, including but not limited to all exhibits, writings, testimony, cross examination, argument, and responses to discovery, and including reference thereto as mentioned in paragraph 14 above, shall be sealed for all purposes, including administrative and judicial review, unless such Proprietary Information is released from the restrictions of this Protective Order, either through the agreement of the parties to this proceeding or pursuant to an order of the Commission.

16. The parties shall retain the right to question or challenge the confidential or proprietary nature of Proprietary Information and to question or challenge the admissibility of Proprietary Information. If a party challenges the designation of a document or information as proprietary, the party providing the information retains the burden of demonstrating that the designation is appropriate.

17. The parties shall retain the right to object to the production of Proprietary Information on any proper ground, and to refuse to produce Proprietary Information pending the adjudication of the objection.

18. Within 30 days after a Commission final order is entered in the above-captioned proceeding, or in the event of appeals, within thirty days after appeals are finally decided, the receiving party, upon request, shall either destroy or return to the parties all copies of all

documents and other materials not entered into the record, including notes, which contain any Proprietary Information. In its request, a providing party may specify whether such materials should be destroyed or returned. In the event that the materials are destroyed instead of returned, the receiving party shall certify in writing to the providing party that the Proprietary Information has been destroyed. In the event that the materials are returned instead of destroyed, the receiving party shall certify in writing to the providing party that no copies of materials containing the Proprietary Information have been retained.

Date: _____, 2016

David A. Salapa
Administrative Law Judge

APPENDIX A

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

RECEIVED

NOV 23 2016

Pennsylvania Public Utility Commission,
Bureau of Investigation and Enforcement,
Complainant

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

v.

Docket No. C-2015-2514773

PECO Energy Company,
Respondent

NON-DISCLOSURE CERTIFICATE

TO WHOM IT MAY CONCERN:

The undersigned is the _____ of _____
(the receiving party).

The undersigned has read and understands the Protective Order deals with the treatment of Proprietary Information. The undersigned agrees to be bound by, and comply with, the terms and conditions of said Order, which are incorporated herein by reference.

SIGNATURE

PRINT NAME

ADDRESS

EMPLOYER

DATE: _____

RECEIVED

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

NOV 23 2016

Pennsylvania Public Utility Commission,
Bureau of Investigation and Enforcement,
Complainant

v.

PECO Energy Company,
Respondent

:
:
:
: Docket No. C-2015-2514773
:
:
:
:
:

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

CERTIFICATE OF SERVICE

I, Michael S. Swerling, hereby certify that I have this day served copies of PECO's Prehearing Memorandum on the following persons, in the manner specified below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

VIA FIRST CLASS & ELECTRONIC MAIL

Administrative Law Judge David A. Salapa
Pennsylvania Public Utility Commission
400 North Street, Second Floor
Harrisburg, PA 17120
(717) 787-7304 (telephone)
(717) 787-04781 (fax)
dsalapa@pa.gov

Heidi Wushinske
Bureau of Investigation & Enforcement
400 North Street
PO Box 3265
Harrisburg, PA 17105-3265
(717) 214-9594 (telephone)
hwushinske@pa.gov

(Counsel for I&E)

November 23, 2016

Respectfully submitted,



Romulo L. Diaz, Jr. (Pa. No. 88795)
Jack R. Garfinkle (Pa. No. 81892)
Michael S. Swerling (Pa. No. 94748)
PECO Energy Company
2301 Market Street, S23-1
Philadelphia, PA 19101-8699
Phone: (215) 841-4220
Fax: (215) 568-3389
Romulo.diaz@exeloncorp.com
Jack.garfinkle@exeloncorp.com
Michael.swerling@exeloncorp.com

ORIGIN ID:REDA (215) 841-6841
TISHEKIA WILLIAMS
EXELON BSC
2301 MARKET STREET
S23-1
PHILADELPHIA, PA 19103
UNITED STATES US

SHIP DATE: 23NOV16
ACTWGT: 1.00 LB
CAD: 8561533/INET3790

BILL SENDER

TO ROSEMARY CHIAVETTA, SECRETARY
PA PUBLIC UTILITY COMMISSION
400 NORTH ST FL 2

HARRISBURG PA 17120

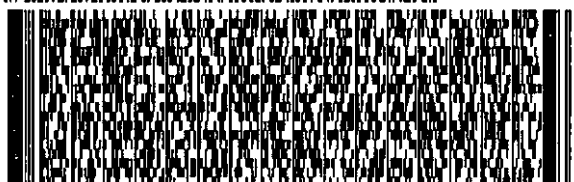
(717) 712-7177

REF.

INV
PO

DEPT

544L3/CBB1/14EB



FedEx
Express



112011612101

FRI - 25 NOV 3:00P

STANDARD OVERNIGHT

TRK#
0201

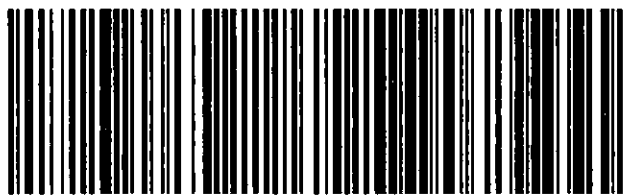
7777 8564 5099

EN MDTA

17120

PA-US

MDT



After printing this label:

1. Use the 'Print' button on this page to print your label to your laser or inkjet printer.
2. Fold the printed page along the horizontal line.
3. Place label in shipping pouch and affix it to your shipment so that the barcode portion of the label can be read and scanned.

Warning: Use only the printed original label for shipping. Using a photocopy of this label for shipping purposes is fraudulent and could result in additional billing charges, along with the cancellation of your FedEx account number.

Use of this system constitutes your agreement to the service conditions in the current FedEx Service Guide, available on fedex.com. FedEx will not be responsible for any claim in excess of \$100 per package, whether the result of loss, damage, delay, non-delivery, misdelivery, or misinformation, unless you declare a higher value, pay an additional charge, document your actual loss and file a timely claim. Limitations found in the current FedEx Service Guide apply. Your right to recover from FedEx for any loss, including intrinsic value of the package, loss of sales, income interest, profit, attorney's fees, costs, and other forms of damage whether direct, incidental, consequential, or special is limited to the greater of \$100 or the authorized declared value. Recovery cannot exceed actual documented loss. Maximum for items of extraordinary value is \$1,000, e.g. jewelry, precious metals, negotiable instruments and other items listed in our ServiceGuide. Written claims must be filed within strict time limits, see current FedEx Service Guide.