



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
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December 14, 2017

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

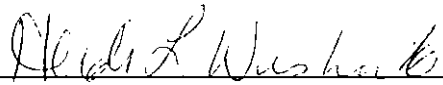
Re: Pennsylvania Public Utility Commission Bureau of Investigation and
Enforcement v. PECO Corporation; Docket No. C-2015-2511928

Dear Secretary Chiavetta:

Please find enclosed the Application for Depositions by Oral Examination
(unopposed) on behalf of the Bureau of Investigation and Enforcement in the above
captioned matter.

Copies have been served on the parties as per the Certificate of Service

Very truly yours,


Heidi L. Wushinske
Senior Prosecutor
Attorney ID No. 93792

Encl.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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Pennsylvania Public Utility Commission, :
Bureau of Investigation and Enforcement, :
Complainant :
v. :
PECO Energy Company, :
Respondent :

Docket No. C-2015-2511928

**APPLICATION FOR DEPOSITIONS BY ORAL EXAMINATION OF THE
BUREAU OF INVESTIGATION AND ENFORCEMENT**

TO DEPUTY CHIEF ADMINISTRATIVE LAW JUDGE CHRISTOPHER P. PELL:

The Bureau of Investigation and Enforcement (“I&E”) of the Pennsylvania Public Utility Commission (“Commission”), by and through its prosecuting attorneys, pursuant to 52 Pa. Code § 5.343, files this Application respectfully requesting the issuance of an Order permitting the depositions of three witnesses for whom PECO Energy Company (“PECO”) has submitted Rebuttal Testimony and Exhibits: David Bonner, Brian Camfield, and Mark Hereth. In support thereof, I&E avers as follows:

I. BACKGROUND

1. On November 4, 2015, I&E filed a Formal Complaint against PECO Energy Company (“PECO,” “Respondent,” or “Company”) at Docket No. C-2015-2511928, alleging violations of the Pennsylvania Public Utility Code, Commission’s regulations, and the Code of Federal Regulations (“CFR”).

2. Specifically, I&E stated in its Formal Complaint, that PECO committed the following violations: assuming an incorrect maximum allowable operating pressure (“MAOP”) for its medium pressure regulator systems and not having the understanding necessary to account for build-up and pipe losses while determining regulator set-points and capacity; failing to have proper procedures in place regarding MAOP verification, regulator station maintenance, regulator station design, or relief capacity review; failing to show calculations for relief capacity or adequate reliability for all of its 115 medium pressure regulator stations; failing to perform a review that took into account build-up and pipe-losses and lack of familiarity of by PECO’s engineers with the contents of the calculations for all 115 medium pressure regulator stations; neglecting to track the annual review of the relief capacity at Station 17 and having an incorrect calculation for this station; lacking blowdown valves on its regulator sets; and failing to have an MAOP for medium pressure distribution systems that could be substantiated or verified.

3. I&E’s Complaint sought the following relief: (1) PECO be ordered to pay a civil penalty in the amount of \$790,000.00 pursuant to 66 Pa.C.S. § 3301 (c); (2) PECO be ordered to establish MAOP in its medium pressure system based on operating pressure records from June 25, 2009 to June 25, 2014; (3) PECO be ordered modify its procedures; (4) PECO be ordered to submit the modifications to the Commission’s Gas Safety Division no later than six months after a final resolution is reached in this matter; (5) PECO be ordered to cease and desist from committing any further violations of Gas Safety regulations; and (6) such other relief as the Commission deems just and reasonable.

4. On December 21, 2015, PECO filed an Answer at the above docket.¹ In PECO's Answer, the Company, *inter alia*, generally denies the allegations in I&E's Complaint and avers that its MAOP is in compliance with federal requirements.

5. On February 9, 2016, I&E served Interrogatories and Requests for Production of Documents, Set I, on PECO. Pursuant to the Commission's regulations, PECO's discovery responses would have been due within twenty days, or on or about March 1, 2016.

6. Prior to the due date, PECO requested an extension of time to respond to I&E's First Set of discovery. I&E agreed to extend the due date for the responses to April 5, 2016.

7. On or about March 22, 2017, I&E filed a Prehearing Conference memorandum in which it identified as one of its witnesses Chris McLaren, Transportation Specialist with the Pipeline and Hazardous Materials Safety Administration ("PHMSA").

8. On or about March 22, 2017, more than four months after receiving I&E's witness list and less than one month before I&E's direct testimony was due, PECO filed a Prehearing Conference memorandum in which it identified as its sole witness, PECO employee David Bonner.

9. On August 4, 2017, PECO filed a Motion in Limine to preclude the testimony of Chris McLaren.

¹ By Secretarial Letter dated November 24, 2015, PECO was granted an extension of time until December 21, 2015 to respond to I&E's Complaint.

10. I&E filed an Answer to PECO's Motion in Limine on August 23, 2017, along with a modified witness list that *inter alia* removed Mr. McLaren as an I&E witness.

11. On August 29, 2017, I&E served PECO with the Prepared Direct Testimony and Exhibits of its witnesses.

12. On November 13, 2017, I&E received an updated witness list from PECO, in which PECO added three additional witnesses: Brian Camfield, Mark Hereth, and Glen Armstrong.

13. On November 29, 2017, PECO served I&E with copies of Rebuttal Testimony and Exhibits of PECO's witnesses: Brian Camfield (PECO Statement No. 1); Mark Hereth (PECO Statement No 2.); David Bonner (PECO Statement No. 3); and Glen Armstrong (PECO Statement No. 4).

14. As PECO stated in its Application for Depositions by Oral Examination, "[th]e PHMSA regulations at issue in this proceeding are highly complex and interrelated."

15. I&E wishes to obtain discovery from PECO's witnesses concerning their rebuttal testimony and exhibits, their familiarity with and knowledge of PECO's systems and record keeping procedures, their knowledge and understanding of the PHMSA regulations and interpretations regarding MAOP, and PECO's practices regarding establishment of its MAOP.

16. Pursuant to Section 5.322 of the Commission's regulations, the parties may informally agree to modify discovery or deposition procedures. 52 Pa. Code § 5.322.

17. PECO has informally agreed to the depositions by oral examination.

Further, the parties have agreed that the depositions occur on the date and time, and in the location, set forth in the Notice, attached as Exhibit A.

18. Pursuant to the Public Utility Code, parties shall be able to take depositions of witnesses upon oral examination for purposes of discovering relevant, unprivileged information, subject specific conditions. 66 Pa. C.S. § 333(b).

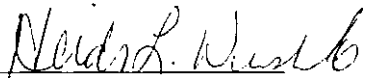
19. I&E asserts that the information it seeks is relevant, unprivileged, and not subject to any of the conditions set forth in the Public Utility Code. In particular, I&E asserts that taking of the deposition will not result in undue delay and there is no good cause to deny I&E's application.

20. Furthermore, allowing depositions of PECO's witnesses may serve to expedite the hearings scheduled in this matter by reducing the issues I&E would have to address during cross-examination.

II. CONCLUSION

WHEREFORE, for the reasons set forth above, the Bureau of Investigation and Enforcement respectfully requests that Your Honor issue an Order granting I&E's Application for Depositions by Oral Examination.

Respectfully submitted,


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

Michael L. Swindler
Deputy Chief Prosecutor
PA Attorney ID No. 43319

Bradley R. Gorter
Prosecutor
PA Attorney ID No. 312666

Bureau of Investigation & Enforcement
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265
717.214.9594
hwushinske@pa.gov

Dated: December 14, 2017

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Exhibit A

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement.	:	
Complainant	:	
	:	
v.	:	Docket No. C-2015-2511928
	:	
PECO Energy Company,	:	
Respondent	:	

**THE BUREAU OF INVESTIGATION AND ENFORCEMENT’S NOTICE OF
INTENTION TO TAKE THE ORAL DEPOSITIONS OF DAVID BONNER, BRIAN
CAMFIELD, AND MARK HERETH**

PLEASE TAKE NOTICE that, pursuant to Section 333(b) of The Public Utility Code, 66 Pa.C.S. § 333(b) (the “Code”), and Section 5.343 of the Pennsylvania Public Utility Commission’s (“PUC” or “Commission”) regulations, 52 Pa. Code § 5.343, the Bureau of Investigation and Enforcement (“I&E”) will take the following depositions of the persons named below on the date and at the time and place indicated below. The depositions shall be conducted before a person duly authorized by law to administer oaths, shall be recorded by audio and/or stenographic means, and shall continue from day to day thereafter until completed.

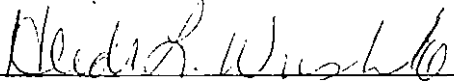
WITNESS: David Bonner
BUSINESS ADDRESS: PECO Energy Company, 2301 Market Street,
Philadelphia, PA 19103
DATE: January 3, 2018
TIME: 10:00 a.m., Eastern Standard Time
PLACE: Pennsylvania Public Utility Commission
801 Market Street, 4th Floor
Philadelphia, PA 19107
Phone: (717)214-9594

WITNESS: Brian Camfield
BUSINESS ADDRESS: PECO Energy Company, 2301 Market Street,
Philadelphia, PA 19103
DATE: January 3, 2018
TIME: 2 p.m., Eastern Standard Time
PLACE: Pennsylvania Public Utility Commission
801 Market Street, 4th Floor
Philadelphia, PA 19107
Phone: (717)214-9594

WITNESS: Mark Hereth
BUSINESS ADDRESS: Process Performance Improvement Consultants,
LLC, the Blacksmith Group, 3939 West Alabama, Suite 567, Houston, Texas
77027
DATE: January 4, 2018
TIME: 10:00 a.m., Eastern Standard Time
PLACE: Pennsylvania Public Utility Commission
801 Market Street, 4th Floor
Philadelphia, PA 19107
Phone: (717)214-9594

I&E wishes to obtain discovery from PECO's witnesses concerning:

1. Their rebuttal testimony and exhibits;
2. Their familiarity with and knowledge of PECO's systems and record keeping procedures;
3. Their knowledge and understanding of the PHMSA regulations and interpretations regarding MAOP; and
4. PECO's practices regarding establishment of its MAOP.


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

Michael L. Swindler
Deputy Chief Prosecutor
PA Attorney ID No. 43319

Bradley R. Gorter
Prosecutor
PA Attorney ID No. 312666

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Harrisburg, PA 17105-3265
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hwushinske@pa.gov

Dated: December 14, 2017

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PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
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Complainant	:	
	:	
v.	:	Docket No. C-2015-2511928
	:	
PECO Energy Company,	:	
Respondent	:	

PROPOSED ORDER

The application for an Order to take the oral depositions of David Bonner, Brian Camfield, and Mark Hereth in the above-captioned matter is granted.

So Ordered this _____ day of _____, 2017.

Date: _____

Honorable Christopher P. Pell
Deputy Chief Administrative Law Judge

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

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v.

PA PUC
SECRETARY'S BUREAU
Docket No. C-2015-2511928K

PECO Energy Company,
Respondent

CERTIFICATE OF SERVICE

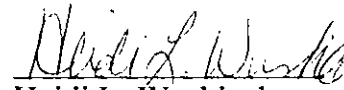
I hereby certify that I have this day served a true copy of the foregoing document upon the parties, listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

Service by First Class Mail:

Christopher A. Lewis, Esq.
Blank Rome
One Logan Square
130 N. 18th Street
Philadelphia, PA 19103

Michael S. Swerling, Esq.
Romulo L. Diaz, Esq.
PECO Energy Company
2301 Market Street
Legal Dept. S23-1
Philadelphia, PA 19103

The Honorable Christopher P. Pell
Office of Administrative Law Judge
Pennsylvania Public Utility Commission
801 Market Street
Philadelphia, PA 19107


Heidi L. Wushinske
Senior Prosecutor
Attorney ID #93972

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Dated: December 14, 2017