

# Morgan Lewis

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January 21, 2021

## **VIA eFILING**

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2nd Floor  
Harrisburg, PA 17120

**Re: Application of PECO Energy Company Under 15 Pa.C.S. § 1511(c) For A Finding And Determination That The Service To Be Furnished By The Applicant Through Its Proposed Exercise Of The Power Of Eminent Domain To Acquire A Certain Portion Of The Land Of William S. Harbold And Sandra A. Harbold In Lower Chanceford Township, York County, Pennsylvania For The Siting And Construction Of Connecting Transmission Lines Associated With The Independence Energy Connection-East Project Is Necessary Or Proper For The Service, Accommodation, Convenience Or Safety Of The Public  
Docket No. A-2020-3023332**

**Re: Application of PECO Energy Company Under 15 Pa.C.S. § 1511(c) For A Finding And Determination That The Service To Be Furnished By The Applicant Through Its Proposed Exercise Of The Power Of Eminent Domain To Acquire A Certain Portion Of The Land Of Samuel W. Taylor And Kay L. Taylor In Lower Chanceford Township, York County, Pennsylvania For The Siting And Construction Of Connecting Transmission Lines Associated With The Independence Energy Connection-East Project Is Necessary Or Proper For The Service, Accommodation, Convenience Or Safety Of The Public  
Docket No. A-2020-3023335**

**Re: Application of PECO Energy Company Under 15 Pa.C.S. § 1511(c) For A Finding And Determination That The Service To Be Furnished By The Applicant Through Its Proposed Exercise Of The Power Of Eminent Domain To Acquire A Certain Portion Of The Land Of Clarence A. Pyle In Lower**

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Rosemary Chiavetta, Secretary  
January 21, 2021  
Page 2

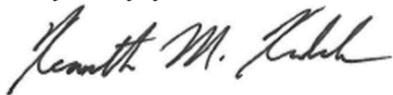
**Chanceford Township, York County, Pennsylvania For The Siting And  
Construction Of Connecting Transmission Lines Associated With The  
Independence Energy Connection-East Project Is Necessary Or Proper For  
The Service, Accommodation Convenience Or Safety Of The Public  
Docket No. A-2020-3023337**

Dear Secretary Chiavetta:

Enclosed for filing is the **Prehearing Conference Memorandum of PECO Energy Company** in the above-referenced matters. As evidenced by the Certificate of Service, copies of the Prehearing Conference Memorandum have been served upon Deputy Chief Administrative Law Judge Mark A. Hoyer, Administrative Law Judge Emily DeVoe, and all parties of record.

If you have any questions, please do not hesitate to contact me.

Very truly yours,



Kenneth M. Kulak

KMK/tp  
Enclosures

c: Certificate of Service (w/encls.)

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of PECO Energy Company : A-2020-3023332  
Under 15 Pa.C.S. § 1511(c) For A Finding :  
And Determination That The Service To :  
Be Furnished By The Applicant Through :  
Its Proposed Exercise Of The Power Of :  
Eminent Domain To Acquire A Certain :  
Portion Of The Land Of William S. :  
Harbold And Sandra A. Harbold In :  
Lower Chanceford Township, York :  
County, Pennsylvania For The Siting :  
And Construction Of Connecting Transmission :  
Lines Associated With The Independence :  
Energy Connection-East Project Is :  
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Accommodation, Convenience Or Safety :  
Of The Public :

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Construction Of Connecting Transmission :

Lines Associated With The Independence :  
Energy Connection-East Project Is Necessary :  
Or Proper For The Service, Accommodation, :  
Convenience Or Safety Of The Public :

**CERTIFICATE OF SERVICE**

I hereby certify and affirm that I have this day served copies of the **Prehearing Conference Memorandum of PECO Energy Company** on the persons listed below in the manner specified in accordance with the requirements of 52 Pa. Code § 1.54:

**VIA ELECTRONIC MAIL**

The Honorable Mark A. Hoyer  
Deputy Chief Administrative Law Judge  
Pennsylvania Public Utility Commission  
Piatt Place – Suite 220  
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Pittsburgh, PA 15222  
[mhoyer@pa.gov](mailto:mhoyer@pa.gov)

The Honorable Emily DeVoe  
Administrative Law Judge  
Pennsylvania Public Utility Commission  
Piatt Place – Suite 220  
301 Fifth Avenue  
Pittsburgh, PA 15222  
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**VIA FEDERAL EXPRESS**

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David C. Miller  
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Connie C. Hogan  
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Albuquerque, NM 87112

\*The heirs of Clarence A. Pyle are William C. Miller, Mary E. Snyder, David C. Miller, John C. Miller, Donald D. Glatfelter, David D. Glatfelter, Steven S. Glatfelter, Barbara B. Buckley, Joanne G. Glatfelter, Linda L. Donley and Connie C. Hogan.

Respectfully submitted,



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[brooke.mcglinn@morganlewis.com](mailto:brooke.mcglinn@morganlewis.com)

Dated: January 21, 2021

*Counsel for PECO Energy Company*

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of PECO Energy Company : A-2020-3023332  
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**PREHEARING CONFERENCE MEMORANDUM OF  
PECO ENERGY COMPANY**

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**TO DEPUTY CHIEF ADMINISTRATIVE LAW JUDGE MARK A. HOYER AND  
ADMINISTRATIVE LAW JUDGE EMILY I. DEVOE:**

Pursuant to the December 29, 2020 Prehearing Order issued by Deputy Chief Administrative Law Judge Mark A. Hoyer and Administrative Law Judge Emily I. DeVoe (the “ALJs”) and the Pennsylvania Public Utility Commission’s (“Commission’s”) regulations at 52 Pa. Code § 5.222(d), PECO Energy Company (“PECO” or the “Company”) hereby submits its Prehearing Conference Memorandum in the above-captioned proceedings.

**I. BACKGROUND AND HISTORY OF THE PROCEEDINGS**

This proceeding arises from the Letter of Notification that PECO filed with the Commission on December 16, 2020, seeking approval to site and construct two new 500 kV connecting transmission lines approximately 0.5 miles in length in Lower Chanceford Township, York County, Pennsylvania (the “Project”). The new transmission lines will tap PECO’s existing Peach Bottom-TMI 500 kV Transmission Line in order to connect it to the new 500 kV/230 kV Furnace Run Substation that Transource Pennsylvania, LLC (“Transource”) plans to construct and operate as part of its proposed Independence Energy Connection Project (“IEC Project”).

PJM Interconnection, L.L.C. (“PJM”) originally identified the IEC Project through its 2014/2015 Regional Transmission Expansion Plan (“RTEP”) solicitation process to alleviate transmission congestion constraints that have economic or wholesale market effects. The IEC Project was reviewed by PJM’s Transmission Expansion Advisory Committee in June 2016 and added as a “required” baseline project in the 2016 RTEP. The East portion of the IEC Project involves construction of the new 500 kV/230 kV Furnace Run Substation and 230 kV transmission lines from the Furnace Run 500 kV/230 kV Substation to the existing Conastone Substation located near Norrisville, Harford County, Maryland. PECO’s existing Peach Bottom-TMI 500 kV Transmission Line will provide the 500 kV power source to the 500 kV side of the proposed Furnace Run 500 kV/230 kV Substation. PECO anticipates that construction of its Project would need to begin in June 2021 to support the projected in-service date (December 31, 2022) for the IEC Project.

The proposed route for the Project requires PECO to obtain rights-of-way and easements across four parcels, all of which are located in Lower Chanceford Township, York County, Pennsylvania:

- (1) Lot 77, owned by David L. Druck and Christine Y. Druck (Tax Parcel No. 34000FN0077) (the “Druck Parcel”);
- (2) Parcel formerly owned by Clarence A. Pyle, formerly part of Lot 77 (no Tax Parcel number has been assigned to this property) (the “Pyle Parcel”);
- (3) Lot 78, owned by Samuel W. Taylor and Kay L. Taylor (Tax Parcel No. 34000FN0078) (the “Taylor Parcel”);<sup>1</sup> and

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<sup>1</sup> The York County Tax Maps purport to show that the Pyle Parcel is part of the Taylor Parcel. However, when PECO’s surveyor plotted the legal description of the Taylor Parcel, he discovered that it does not in fact include the Pyle Parcel. PECO then engaged in a thorough search for the owner of the Pyle Parcel. PECO engaged a York County law firm to do a title abstract of the Pyle Parcel. Ultimately, PECO found no evidence that the Pyle Parcel has been conveyed to anyone since it was acquired by Clarence A. Pyle in 1918. After further extensive research, PECO identified eleven known heirs of Clarence A. Pyle, who inherited the Pyle Parcel. PECO has sent letters to each of these individuals for whom it was able to find an address. The letter offered to pay fair market value to the rightful owners of the Pyle Parcel as their interest may appear.

- (4) Lot 79, owned by William S. Harbold and Sandra A. Harbold (Tax Parcel No. 34000FN0079) (the “Harbold Parcel”).

PECO anticipates that it will enter into an agreement to obtain the necessary right-of-way and easement over the Druck parcel, which will be purchased by Transource. PECO filed the above-captioned Applications contemporaneous with the Letter of Notification for the necessary Commission findings and determinations to exercise the power of eminent domain over the remaining parcels (collectively, the “Eminent Domain Applications”).

The Letter of Notification was served on the governmental agencies, municipalities, other public entities, and all record owners of land subject to the right-of-way and easement in accordance with 52 Pa. Code § 57.72(d)(3), as well as the known heirs of Clarence A. Pyle who inherited the Pyle Parcel. In addition, PECO published notice of the Letter of Notification in the York Daily Record on December 16, 2020. On December 29, 2020, the Office of Consumer Advocate filed a Notice of Intervention and Public Statement in PECO’s Letter of Notification proceeding (Docket No. A-2020-3023303).

Notice of the Eminent Domain Applications appeared in the *Pennsylvania Bulletin* on January 9, 2021. The deadline for filing Formal Protests, Petitions to Intervene, and Answers in each of the above-captioned dockets is February 14, 2021.

A Notice of Telephonic Prehearing Conference was issued on December 28, 2020, scheduling the Initial Prehearing Conference in the above-captioned eminent domain proceedings for January 25, 2021.

PECO’s exercise of the siting authority and the power of eminent domain requested in the Letter of Notification and Eminent Domain Applications is contingent upon the Commission granting Transource the siting and other authority to construct and operate the proposed IEC Project that Transource has requested in separate Commission proceedings. On December 27,

2017, Transource filed an application for Commission approval to site and construct the East and West portions of the IEC Project in Pennsylvania (the “2017 Application”).<sup>2</sup> After extensive litigation, Transource entered into settlements in October 2019 with several parties to the proceeding to propose an amendment to the 2017 Application using PPL Electric Utilities’ (“PPL’s”) existing right-of-way and transmission infrastructure in York County for the East Portion of the IEC Project. On January 29, 2020, Transource and PPL filed a Joint Amended Application pursuant to the settlement agreements.

On December 22, 2020, Administrative Law Judge Elizabeth H. Barnes issued a Recommended Decision finding, among other things, that Transource’s proposed IEC Project approved by PJM in 2016 does not satisfy the public need requirement for additional transmission service in York and Franklin Counties within the meaning of the Commission’s siting regulations at 52 Pa. Code § 57.76(a). The ALJ reasoned that: (1) the congestion costs that the IEC Project was designed to alleviate have declined by over \$400 million since 2014; (2) any projected benefit to the PJM region of \$32.5 million over a period of 15 years is outweighed by a projected \$400 million net increase in wholesale power prices in Pennsylvania; and (3) Transource’s claims of potential reliability violations occurring in 2023 in the absence of the IEC Project are unsupported. Based on these findings, the ALJ recommended that the Commission deny siting approval for the entire IEC Project and dismiss any related eminent domain applications. Thereafter, on January 8, 2021, PJM sent a letter to the developers involved in the IEC Project, including PECO, directing them to “neither incur any unnecessary expenditures nor

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<sup>2</sup> See *Application of Transource Pennsylvania, LLC filed for Approval of the Siting and Construction of the 230 kV Transmission Line Associated with the Independence Energy Connection-East and West Projects in Portions of York and Franklin Counties Pennsylvania*, Docket Nos. A-2017-2640195 and A-2017-2640200 (filed Dec. 27, 2017) (the “Transource IEC Project Siting Proceeding”).

incur any new obligations pending the outcome of the PA PUC proceeding relating to the IEC Project.”

## **II. CONSOLIDATION OF RELATED PROCEEDINGS**

The Eminent Domain Applications filed at the above-captioned dockets and the Letter of Notification filed at Docket No. A-2020-3023303 all relate to PECO’s proposed Project. Issues related to the need for the Project and its siting are closely interrelated with the finding and determinations requested in the Eminent Domain Applications. Therefore, in the Letter of Notification and Eminent Domain Applications contemporaneously filed on December 16, 2020, PECO requested that all four matters be consolidated for the purpose of conducting hearings, if necessary, and issuance of a final decision pursuant to 52 Pa. Code § 57.75(i)(1). PECO’s consolidation request remains pending before the Commission and the ALJs.

## **III. STATEMENT OF ISSUES**

The issue before the Commission in these proceedings is whether PECO has satisfied the criteria for the findings and determinations necessary to obtain authority to exercise the power of eminent domain under 15 Pa.C.S. § 1511(c). As explained in the Eminent Domain Applications, PECO has established that there is a need for the Project based on the need for Transource’s larger IEC Project, and that the Company has chosen a reasonable route for the siting of the Project. However, as previously explained, the Company’s proposed Project is contingent on the Commission’s approval of the IEC Project. Therefore, PECO intends to file a motion to hold these proceedings and the Letter of Notification proceeding in abeyance pending the resolution of the Transource IEC Project Siting Proceeding within two weeks of the Prehearing Conference.

## **IV. WITNESSES**

On December 16, 2020, PECO submitted its Eminent Domain Applications along with the direct testimony and accompanying exhibits of Daniel F. Pacheco. Mr. Pacheco is PECO’s

Manager, Acquisition & Taxes. Mr. Pacheco's business address is 2301 Market Street, Philadelphia, PA, 19103, and his telephone number is (215) 841-5193. He explains how the Pyle Parcel, Taylor Parcel, and Harbold Parcel relate to the proposed Project. Mr. Pacheco also describes the Company's proposed right of way and easement over those properties.

PECO may present additional witnesses in rebuttal of the direct testimony of other parties. However, such witnesses cannot be identified until other parties file their testimony and the issues raised in that testimony have been evaluated.

## **V. DISCOVERY**

PECO will work with the other parties and the ALJ to develop a reasonable schedule for ongoing discovery. In addition, PECO proposes that a Protective Order be adopted in this case to protect from public disclosure any sensitive information that may be produced in response to discovery or presented for the record. Therefore, PECO respectfully requests that the ALJs approve the proposed Protective Order attached hereto as Appendix "A," which is similar to the Protective Order entered in PECO's most recent base rate case proceeding at Docket No. R-2020-3018929.

## **VI. SERVICE LIST**

Pursuant to 52 Pa. Code § 1.55, PECO hereby designates the following individual for the service list in this proceeding:

Jennedy S. Johnson  
PECO Energy Company  
2301 Market Street  
P.O. Box 8699  
Philadelphia, PA 19103-2921  
Phone: 215.841.4353  
E-mail: [jennedy.johnson@exeloncorp.com](mailto:jennedy.johnson@exeloncorp.com)

Parties are requested to also serve documents on the following attorneys as a courtesy:

Anthony E. Gay, Esquire  
Jack R. Garfinkle  
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In accordance with the ALJs' direction, PECO will serve all documents in this proceeding electronically until further notice in light of the Governor's Emergency Order with respect to the COVID-19 pandemic. PECO has served copies of this Prehearing Memorandum by overnight mail on the parties to the above-captioned proceedings for whom it was not able to locate an e-mail address.

## **VII. POSSIBILITY OF SETTLEMENT**

PECO intends to engage in settlement discussions with the other parties in these proceedings and all affected landowners with the goal of facilitating an effective resolution of these matters.

## VIII. CONCLUSION

**WHEREFORE**, PECO Energy Company respectfully submits this Prehearing Conference Memorandum.

Respectfully submitted,



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Jack R. Garfinkle (Pa. No. 81892)  
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Dated: January 21, 2021

*Counsel for PECO Energy Company*

# **APPENDIX A**

## **Proposed Protective Order**

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of PECO Energy Company : A-2020-3023332  
Under 15 Pa.C.S. § 1511(c) For A Finding :  
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**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. A "Restricted Person" shall not include an expert for the Office of Small Business Advocate or Office of Consumer Advocate.

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 (other than an expert or expert firm retained by the Office of Small Business Advocate or Office of Consumer Advocate), 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. § 67.708(b)(11)) 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: \_\_\_\_\_, 2021

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Mark A. Hoyer  
Deputy Chief Administrative Law Judge

Emily I. DeVoe  
Administrative Law Judge

**APPENDIX A**

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of PECO Energy Company : A-2020-3023332  
Under 15 Pa.C.S. § 1511(c) For A Finding :  
And Determination That The Service To :  
Be Furnished By The Applicant Through :  
Its Proposed Exercise Of The Power Of :  
Eminent Domain To Acquire A Certain :  
Portion Of The Land Of William S. :  
Harbold And Sandra A. Harbold In :  
Lower Chanceford Township, York :  
County, Pennsylvania For The Siting :  
And Construction Of Connecting Transmission :  
Lines Associated With The Independence :  
Energy Connection-East Project Is :  
Necessary Or Proper For The Service, :  
Accommodation, Convenience Or Safety :  
Of The Public :

Application of PECO Energy Company : A-2020-3023335  
Under 15 Pa.C.S. § 1511(c) For A Finding :  
And Determination That The Service To :  
Be Furnished By The Applicant Through :  
Its Proposed Exercise Of The Power Of :  
Eminent Domain To Acquire A Certain :  
Portion Of The Land Of Samuel W. Taylor :  
And Kay L. Taylor In Lower Chanceford :  
Township, York County, Pennsylvania :  
For The Siting And Construction Of :  
Connecting Transmission Lines :  
Associated With The Independence :  
Energy Connection-East Project Is :  
Necessary Or Proper For The Service, :  
Accommodation, Convenience Or Safety :  
Of The Public :

Application of PECO Energy Company : A-2020-3023337  
Under 15 Pa.C.S. § 1511(c) For A Finding :  
And Determination That The Service To :  
Be Furnished By The Applicant Through :  
Its Proposed Exercise Of The Power Of :  
Eminent Domain To Acquire A Certain :

Portion Of The Land Of Clarence A. Pyle :  
In Lower Chanceford Township, York :  
County, Pennsylvania For The Siting And :  
Construction Of Connecting Transmission :  
Lines Associated With The Independence :  
Energy Connection-East Project Is Necessary :  
Or Proper For The Service, Accommodation, :  
Convenience Or Safety Of The Public :

**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: \_\_\_\_\_