

# Morgan Lewis

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February 5, 2021

## **VIA eFILING**

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

**Re: Letter Of Notification Of PECO Energy Company, Filed Pursuant To 52 Pa. Code Chapter 57 Subchapter G, For Approval To Site and Construct 0.5 Miles Of Transmission Lines In Lower Chanceford Township, York County, Pennsylvania To Interconnect To The Transmission Grid The New 500-230 KV Furnace Run Substation Proposed by Transource Pennsylvania, LLC  
Docket No. A-2020-3023303**

**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**

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Rosemary Chiavetta, Secretary  
February 5, 2021  
Page 2

**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 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 **Motion to Hold Proceedings in Abeyance of PECO Energy Company** in the above-referenced matters. As evidenced by the Certificate of Service, copies of the Motion have been served upon Deputy Chief Administrative Law Judge Mark A. Hoyer, Administrative Law Judge Emily I. 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**

Letter Of Notification Of PECO Energy : A-2020-3023303  
Company, Filed Pursuant To 52 Pa. Code :  
Chapter 57 Subchapter G, For Approval To Site :  
and Construct 0.5 Miles Of Transmission Lines :  
In Lower Chanceford Township, York County, :  
Pennsylvania To Interconnect To The :  
Transmission Grid The New 500-230 KV :  
Furnace Run Substation Proposed by Transource :  
Pennsylvania, LLC :

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 :  
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And Kay L. Taylor In Lower Chanceford :  
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 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 **Motion to Hold Proceedings in Abeyance 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**

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The Honorable Emily I. DeVoe  
 Administrative Law Judge  
 Pennsylvania Public Utility Commission  
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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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Dated: February 5, 2021

*Counsel for PECO Energy Company*

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Letter Of Notification Of PECO Energy Company, : A-2020-3023303  
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0.5 Miles Of Transmission Lines In Lower :  
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**MOTION TO HOLD PROCEEDINGS IN ABEYANCE**

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**I. INTRODUCTION**

Pursuant to 52 Pa. Code § 5.103, PECO Energy Company (“PECO” or the “Company”) hereby requests that Deputy Chief Administrative Law Judge Mark A. Hoyer and Administrative Law Judge Emily I. DeVoe (the “ALJs”) enter an order to hold the above-captioned proceedings in abeyance pending the Pennsylvania Public Utility Commission’s (the “Commission’s”) issuance of a final decision in *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*, pending at Docket Nos. A-2017-2640195 and A-2017-2640200 (the “Transource Siting Proceeding”). The above-captioned Letter of Notification and Applications all relate to PECO’s proposal 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”).

As explained below, the relief requested herein is appropriate to ensure efficiency in the conduct of these proceedings because the Transource Siting Proceeding involves common issues related to the need for PECO’s proposed Project. In support of this Motion, PECO states as follows:

## **II. RELEVANT BACKGROUND**

1. The Project is necessary to interconnect Transource’s proposed Furnace Run 500/230 kV Substation to the bulk power transmission system that is under the functional control of PJM Interconnection, L.L.C. (“PJM”). As previously explained, the Furnace Run 500/230 kV Substation is part of Transource’s larger IEC Project.

2. 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.

3. 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
- (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”).

4. 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

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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.

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.<sup>2</sup>

5. 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.<sup>3</sup>

6. On December 22, 2020, Administrative Law Judge Elizabeth H. Barnes issued a Recommended Decision in the Transource Siting Proceeding (the "Transource R.D.") finding, among other things, that the 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). Judge Barnes 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, Judge Barnes recommended that the Commission deny siting approval for the entire IEC Project and dismiss any related eminent domain applications. Exceptions to the Transource R.D. and Reply Exceptions were filed on January 12 and January 22, 2021, respectively.

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<sup>2</sup> At the Prehearing Conference, the ALJs stated that they would take PECO's consolidation request under advisement because the Letter of Notification has not yet been assigned to the Office of Administrative Law Judge.

<sup>3</sup> The prior procedural history of the Transource Siting Proceeding is set forth in detail in PECO's Prehearing Conference Memorandum (pp. 4-5).

7. In response to the Transource R.D., 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 incur any new obligations pending the outcome of the PA PUC proceeding relating to the IEC Project”. On January 20, 2021, PJM sent a subsequent clarifying letter to the developers involved in the IEC Project, including PECO, that “expenditures and obligations should only be incurred as they are reasonably necessary and prudent to timely and safely complete the project.” The January 20<sup>th</sup> letter also noted: “Neither this January 20 letter nor the January 8 letter change the designated Transmission Owners’ existing obligations to develop Project 9A.”

### **III. ARGUMENT**

8. The Commission’s regulations at 52 Pa. Code § 5.483(a) provide presiding officers broad authority to “regulate the course of the proceeding”. The ALJs should exercise the discretion and authority conferred by Section 5.483(a) to hold these proceedings in abeyance pending resolution of the Transource Siting Proceeding to ensure a fair, reasonable and efficient disposition of issues related to the need for the Company’s proposed Project.

9. As explained in the Letter of Notification and 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’s proposed Project is contingent on the Commission’s approval of the IEC Project. Therefore, PECO asserts that the outcome of the Transource Siting Proceeding will have a direct and material impact on the disposition of PECO’s Letter of Notification and Eminent Domain Applications. While Exceptions have been filed and the matter is now pending before the Commission, there is no deadline by which the Commission is required to enter a final decision in the Transource Siting Proceeding.

10. As a consequence, granting this Motion would allow the ALJs to consider any guidance in the Commission's decision in the Transource Siting Proceeding regarding the need for the Project prior to commencement of formal litigation in these proceedings. Such action could avoid the potential for a subsequent appeal of the proceedings related to PECO's proposed Project and conserve the resources of the Commission and the parties. For these reasons, it is in the public interest to hold this proceeding in abeyance pending resolution of the Transource Siting Proceeding.

11. As of the date of this Motion, no parties to the above-captioned proceedings have indicated that they oppose the relief requested herein.<sup>4</sup>

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<sup>4</sup> See Office of Consumer Advocate ("OCA") Prehearing Conference Memorandum, p. 3 (agreeing with PECO that Commission review and approval of the Project is, in part, dependent upon the outcome of the Transource Siting Proceeding). In addition, the OCA, the Harbolds, the Taylors, and counsel for the known heirs of Clarence A. Pyle appeared at the Prehearing Conference and indicated that they do not oppose this Motion.

WHEREFORE, for the reasons set forth above, the PECO respectfully requests that the Administrative Law Judges grant this Motion and enter an order holding this proceeding in abeyance pending resolution of the Transource Siting Proceeding.

Respectfully submitted,

A handwritten signature in blue ink that reads "AJG Johnson". The signature is written in a cursive, flowing style.

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Dated: February 5, 2021

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