

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of PECO Energy Company for a Finding	:	
Of Necessity Pursuant to 53 P.S. §10619 that the	:	
Situation of Two Buildings Associated with a Gas	:	Docket No.: P-2021-3024328
Reliability Station in Marple Township, Delaware	:	
County Is Reasonably Necessary for the	:	
Convenience and Welfare of the Public	:	

**PREHEARING MEMORANDUM
OF DELAWARE COUNTY**

Pursuant to Section 5.222(d) of the Pennsylvania Public Utility Commission's ("PUC" or "Commission") Regulations, 52 Pa. Code § 5.222(d), the County of Delaware, Pennsylvania ("Delaware County" or "the County") hereby submits the following Prehearing Memorandum. For the purposes of the Prehearing Conference, Carl Ewald, Esq. will be the primary speaker.

- I. PRESENTLY IDENTIFIED ISSUES.** The following list represents Delaware County's preliminary determination of potential issues in these proceedings, pending discovery and analysis of party positions. Delaware County specifically reserves the right to address other appropriate issues that may emerge during discovery. The County adopts and joins in the preliminary issues raised by Marple Township as follows:
- a. Reasonable Necessity.** Whether the proposed site and/or the proposed project is reasonably necessary for the convenience or welfare of the public. It is Delaware County's position that PECO Energy Company ("PECO") cannot meet its burden on either issue as it has not produced any evidence, including but not limited to studies, data, testing, etc. of the need for any Gas Reliability Station, or any need for a Gas Reliability Station at the proposed location.

- b. Suitability. It is Delaware County’s position that the proposed site is not suitable for a Gas Reliability Station. PECO did not meaningfully consider any other location for this station. PECO’s proposed use as a Gas Reliability Station is not appropriate for the Property and would be injurious to public health, safety and general welfare.
- c. Zoning and Comprehensive Plans. The Commission, per its policy statement, must consider the impact of its decisions upon local comprehensive plans and zoning ordinances. Additionally, PECO should exhaust its remedies with the Courts prior to seeking intervention of the PUC.
- d. Safety. It is Delaware County’s position that the proposed project is in dangerous proximity to an already high-volume traffic and accident-prone intersection increasing the risk and severity of accident-related injury and property damage. The unknown circumstances regarding a response to an emergency and whether local first responders will have access to render aid is highly concerning. Finally, the safety of the operation of the Gas Reliability Station itself has not been proven by PECO.
- e. Noise and light. PECO has not produced satisfactory information regarding the noise level (given the “first of its kind” nature of the station) and lighting in and around the site.
- f. Novelty and site visit. Given the novelty of the proposed Gas Reliability station, these proceedings should not be rushed. Delaware County requests adequate time to fully analyze any and all evidence and data provided by PECO, including ample time for expert evaluation and reports. A site visit is also appropriate in this particular situation.

- g. Community Outreach. Delaware County was never approached by PECO about this project until after the County filed its Petition to Intervene. The County is willing to work with PECO and Marple Township to find a more suitable location for the proposed facility.
- h. The County does not have the burden of proof in this proceeding and cannot anticipate all issues that may arise. The County therefore reserves the right to raise additional issues as this matter proceeds and further information and discovery is obtained from PECO.

II. PROPOSED PLAN AND DISCOVERY SCHEDULE. PECO, Delaware County and Marple Township met on April 19, 2021 to discuss a proposed discovery schedule. The County and Marple Township have agreed to serve PECO with its discovery requests by Friday, April 23, 2021. The County requests adequate time to review discovery and engage expert witnesses.

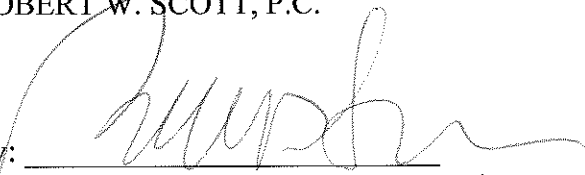
III. PROPOSED WITNESSES. Delaware County will cooperate with Marple Township in developing witnesses to present evidence and testimony at the hearings and not duplicate testimony. In addition to the witnesses set forth on Marple Township's list, the County may present the following witnesses, without being limited thereto:

- a. Timothy Boyce, Director of Delaware County's Department of Emergency Services and as the County's Emergency Management Coordinator, 360 N. Middletown Road, Lima, PA 19063.
- b. Delaware County reserves the right to call witnesses as necessary to address issues that may arise during the course of discovery and during these proceedings and will provide the ALJ and other parties to this matter reasonable notice thereof.

- IV. PROPOSED LITIGATION SCHEDULE.** Delaware County will work with the parties to develop a mutually agreeable schedule. PECO has proposed a schedule. The County believes the schedule is too aggressive and has requested that PECO agree to extending the timeline to allow the County and other intervenors adequate time to review discovery responses and prepare testimony. At a minimum, the County requests at least thirty (30) days after the receipt of PECO's response to the County's discovery requests to present its rebuttal to PECO's case in chief and/or to present the County's case and two (2) weeks to submit its reply brief.
- V. DEADLINE FOR PROTEST.** Delaware County has no objection to the requested extension of the deadline for filing of protests to allow the additional protestants to file.

Respectfully submitted,

ROBERT W. SCOTT, P.C.

By: 
Robert W. Scott, Attorney ID No. 59329
Carl W. Ewald, Attorney ID No. 85639
205 North Monroe Street
Media, PA 19063

Dated: April 20, 2021