*Via electronic service only due to Emergency Order at M-2020-3019262*

**BEFORE THE**

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of PECO Energy Company for a Finding : P-2021-3024328

Of Necessity Pursuant to 53 P.S. § 10619 that the :

Situation of Two Buildings Associated with a Gas :

Reliability Station in Marple Township, Delaware :

County Is Reasonably Necessary for the :

Convenience and Welfare of the Public :

**INTERIM ORDER**

**SETTING DEADLINES FOR RESPONSES TO**

**PECO’S PROPOSED PROTECTIVE ORDER AND**

**PROTESTANT UHLMAN’S MOTION TO COMPEL**

**NOTE: Please read this document in its entirety as it provides important information about this case.**

On February 26, 2021, PECO Energy Company (PECO) filed a Petition for a Finding of Necessity Pursuant to 53 P.S. § 10619 that the Situation of Two Buildings Associated with a Gas Reliability Station in Marple Township, Delaware County Is Reasonably Necessary for the Convenience and Welfare of the Public (Petition). In the Petition, PECO requests that the Pennsylvania Public Utility Commission (Commission), pursuant to 52 Pa.Code § 5.41 and Section 619 of the Municipalities Planning Code (MPC), 53 P.S. § 10619, make a finding that: (1) the situation of two buildings (Buildings) for a proposed gas reliability station (Gas Reliability Station) is reasonably necessary for the convenience and welfare of the public and, therefore, exempt from any zoning, subdivision, and land development restriction of the Marple Township Subdivision and Land Development Ordinance and the Marple Township Zoning Code pursuant to MPC § 619, and (2) a proposed security fence appurtenant to the Gas Reliability Station is a “facility” under 66 Pa.C.S. § 102 and is therefore exempt from local zoning requirements.

Pursuant to 52 Pa.Code § 5.14(d)(9), applications to secure exemption under section 619 of the Pennsylvania Municipalities Planning Code (53 P.S. § 10619) must be published in the *Pennsylvania Bulletin* and are subject to a 15-day protest period.

On March 10, 2021, the Commission issued a Telephonic Prehearing Conference Notice scheduling a prehearing conference for 10:00 a.m. on April 21, 2021.

On March 11, 2021, Marple Township, Delaware County (Marple Township) filed a Petition to Intervene in the proceeding. A ruling on this Petition to Intervene is still outstanding.

On March 18, 2021, PECO filed an Answer to Marple Township’s Petition to Intervene, advising it does not oppose it.

On March 27, 2021, notice of the Petition and the prehearing conference was published in the *Pennsylvania Bulletin*. The published notice further advised that the protest deadline was April 12, 2021.[[1]](#footnote-1) PECO also published notice of the Petition and the protest deadline in the *Daily Times* *and* *Sunday Times* as well as the *Daily and Sunday Times Digital* on March 26, 2021.[[2]](#footnote-2)

On April 1, 2021, the undersigned’s legal assistant received an email containing comments regarding the above-captioned matter. By Interim Order dated April 2, 2021, the comments were attached to the record.

On April 5, 2021, a Prehearing Conference Order was issued.

On April 12, 2021, Marple Township filed an Answer, New Matter, and Formal Protest to the Petition.

On April 12, 2021, the County of Delaware, Pennsylvania (Delaware County) filed a Petition to Intervene.

Sixty-three timely protests were filed by *pro se* protestants on or about April 12, 2021. Two individuals filed a Petition to Intervene in addition to their Protest, Theodore Uhlman (Mr. Uhlman) and Julia Baker. Two individuals filed untimely protests, Sylva Baker and Joseph Baker.

On April 13, 2021, Mr. Uhlman filed a Motion requesting the protest period be extended.

On April 14, 2021, an Interim Order was entered providing information to *pro se* protestants.

On April 15, 2021, an Interim Order was entered regarding Mr. Uhlman’s Motion to extend the protest period.

PECO, the Township, the County, and several protestants filed prehearing memoranda.

Shortly before the prehearing conference on April 21, 2021, counsel for the Company submitted a proposed litigation schedule that had been agreed to by counsel for both the Township and the County.

A prehearing conference was held on April 21, 2021 as scheduled. PECO, the Township, and the County were represented by counsel. Twenty-five *pro se* protestants were present, as were Mr. and Mrs. Baker. The parties discussed a variety of matters, including the litigation schedule, the scheduling of public input hearings, Mr. Uhlman’s Motion to extend the protest period, filing and service, the protestants’ option of participating in this proceeding as active parties, Mr. and Mrs. Baker’s late-filed protests, and the proposed protective order attached to PECO’s prehearing memoranda. The undersigned adopted the litigation schedule proposed by counsel, denied Mr. Uhlman’s Motion to extend the protest period, denied Mr. and Mrs. Baker’s requests to file late filed protests, and agreed to the scheduling of public input hearings. Additionally, as the County, the Township, and several protestants raised objections to PECO’s proposed protective order, the undersigned instructed PECO to file a motion for a protective order after the conference so the other parties would have an opportunity to respond in writing. Finally, the undersigned advised the protestants to file a signed statement to that effect on or before April 28, 2021.

Protestants Mr. Uhlman and Julia Baker (Ms. Baker) subsequently filed timely statements indicating their intent to participate as active parties. On April 28, 2021, PECO filed responses indicating it had no objection to Mr. Uhlman and Ms. Baker participating as active parties.

On May 3, 2021, PECO filed a Reply to Marple Township’s New Matter.

On May 4, 2021, the Commission issued a Telephonic Public Input Hearing Notice, scheduling public input hearings for May 25, 2021 and May 26, 2021, at 1 pm and 6 pm both days.[[3]](#footnote-3)

On May 7, 2021, Mr. Uhlman filed a Motion to Compel, requesting the undersigned compel PECO to submit responses to interrogatories propounded by him upon the Company.

Also on May 7, 2021, the Company filed a Motion for a Protective Order, which contains a Notice to plead directing the other parties to file responses, if any, within 20 days of service.

The litigation schedule adopted in this matter calls for responses to remaining discovery to be served on or before May 28, 2021 and evidentiary hearings to be held on June 28, 2021, and June 29, 2021. Therefore, it is important for the undersigned to make expeditious rulings on Mr. Uhlman’s Motion to Compel and PECO’s Motion for a Protective Order.

THEREFORE,

IT IS ORDERED:

1. Any objection to PECO’s Motion for a Protective Order shall be filed and served by **12:00 noon on Monday, May 17, 2021**. Any objection shall clearly identify the specific language that is being objected to; a legal citation to the statute, regulation, or court opinion that supports the objection; clear legal analysis supporting the objection, and proposed alternate language.

2. Any response to Mr. Uhlman’s Motion to Compel shall be filed and served on or before **12:00 noon on Monday, May 17, 2021**.

Date: May 12, 2021  /s/

Emily I. DeVoe

Administrative Law Judge

**P-2021-3024328 – 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 RELIABILITY STATION IN MARPLE TOWNSHIP, DELAWARE COUNTY IS REASONABLY NECESSARY FOR THE CONVENIENCE AND WELFARE OF THE PUBLIC.**

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*Revised 4/29/21*

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**P-2021-3024328 – 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 RELIABILITY STATION IN MARPLE TOWNSHIP, DELAWARE COUNTY IS REASONABLY NECESSARY FOR THE CONVENIENCE AND WELFARE OF THE PUBLIC**

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1. Fifteen days from March 27, 2021, is April 11, 2021, a Sunday. Therefore, the protest deadline was set for the next business day, Monday, April 12, 2021. [↑](#footnote-ref-1)
2. PECO filed proof of publication on April 8, 2021. [↑](#footnote-ref-2)
3. The Commission provided courtesy copies of the Notice to Mr. and Mrs. Baker. [↑](#footnote-ref-3)