

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

Re: Docket No. P-2021-3024328

May 17, 2021

Dear Secretary Chiavetta:

Enclosed please find attached

OBJECTION TO MOTION FOR PROTECTIVE ORDER

Copies of this document have been served in accordance with the attached Certificate of Service.

Thank you for your attention to this matter.

Respectfully Submitted,



Ted Uhlman
2152 Sproul Rd
Broomall, PA 19008

**BEFORE THE
COMMONWEALTH OF PENNSYLVANIA
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 Reliability Station in	:	
Marple Township, Delaware County Is	:	Docket No. P-2021-3024328
Reasonably Necessary for the Convenience	:	
and Welfare of the Public	:	
		May 17, 2021

OBJECTION TO MOTION FOR PROTECTIVE ORDER

Ted Uhlman hereby requests that the Honorable [—]Administrative Law Judge Emily DeVoe (the “ALJ”) reject PECO’s Protective Order in these proceedings pursuant to the provisions of 52 Pa. Code § 5.365(a), and in support thereof represents as follows:

- 1 On February 26, 2021, PECO filed a petition seeking a finding from the Commission that: (1) the situation of two buildings for a proposed 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; 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.

- 2 On May 7, 2021, PECO 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.
- 3 On May 12, 2021, the Court filed an INTERIM ORDER SETTING DEADLINES FOR RESPONSES TO PECO'S PROPOSED PROTECTIVE ORDER AND PROTESTANT UHLMAN'S MOTION TO COMPEL, which stated, in part, that "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.
- 4 Therefore, Ted Uhlman submits the following OBJECTION TO PECO's MOTION FOR PROTECTIVE ORDER

4.1 the specific language that is being objected to:

4.1.1 (Paragraph 2) The information subject to this Protective Order is all correspondence, documents, data, information, studies, methodologies and other materials, furnished in these proceedings, **which are believed by the producing party to be of a proprietary or Confidential nature and which are so designated by being marked "Confidential" or "Proprietary."** Such materials will be referred to herein 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.

4.1.2 This Protective Order applies to the following categories of materials: the parties may designate as "Confidential" or "Proprietary" (a) those materials that customarily are treated by that party as sensitive or proprietary, which are not available to the public, and which, if disclosed freely, **would subject that party or its clients to risk of competitive disadvantage or other business injury;** (b) those materials that are of

such a commercially sensitive nature among the parties or of such a private, personal nature that the producing party is able to justify a heightened level of Confidential protection with respect to those materials. For purposes of example... [*and no examples are given; just more generalities about proprietary information*]

4.1.3 A Producing Party shall designate data or documents as constituting or containing Proprietary Information by **affixing an appropriate Confidential stamp or typewritten or handwritten designation on such data or documents.**

4.2 a legal citation to the statute, regulation, or court opinion that supports the objection:

4.2.1 52 Pa. Code § 5.365 – A petition for protective order to limit the disclosure of a trade secret or other confidential information on the public record **will be granted only when a party demonstrates that the potential harm to the party of providing the information would be substantial and that the harm to the party if the information is disclosed without restriction outweighs the public’s interest in free and open access to the administrative hearing process.** A protective order to protect trade secrets or other confidential information will apply **the least restrictive means** of limitation which will provide the necessary protections from disclosure. In considering whether a protective order to limit the availability of proprietary information should be issued, the Commission or the presiding officer should consider, along with other relevant factors, the following [52 Pa. Code § 5.365(a)].

4.2.1.1 The extent to which the disclosure would cause unfair economic or competitive damage.

4.2.1.2 (2) The extent to which the information is known by others and used in similar activities.

4.2.1.3 (3) The worth or value of the information to the party and to the party's competitors.

4.2.1.4 (4) The degree of difficulty and cost of developing the information.

4.2.1.5 (5) Other statutes or regulations dealing specifically with disclosure of the information.

5 clear legal analysis supporting the objection,

5.1 In defiance of both the letter and the spirit of 52 Pa. Code § 5.365(a), the proposed protective order seeks to cover any information that PECO **claims** to be confidential, security, and/or proprietary information , without having to first demonstrate

5.1.1 potential **harm**

5.1.2 potential **substantial** harm

5.1.3 that the harm to the party if the information is disclosed without restriction outweighs the public's interest in free and open access to the administrative hearing process.

5.2 If the protective order that PECO has proposed is accepted, it leaves the other parties to object to that claim, repeatedly, which is not the intent of the language in 52 Pa. Code § 5.365. Treatment of confidential security and proprietary information as set forth in the proposed protective order is not justified.

5.3 As a Public Utility and a controlled monopoly, PECO has no competition, and thus can not claim competitive disadvantage.

5.4 PECO has already disclosed extensive information concerning the rates that are charged, for example, for firm vs. interruptible service, and it is difficult to imagine business injury more damaging than release of pricing policies.

6 and proposed alternate language. Language should include a clear description of the information to be protected, and a clear demonstration of substantial harm. For Example: The

information subject to this Protective Order is all correspondence, documents, data, information, studies, methodologies and other materials, furnished in these proceedings, related to

6.1 The salaries of any employees, including senior executive **because** that would be a personal intrusion into the lives of said employees.

6.2 Negotiation details of pending contracts with suppliers for natural gas supplies, and its transportation, and/or storage, **because** it would damage the business relationship and hurt the company's negotiating position.

7 WHEREFORE, for all the reasons set forth above, Ted Uhlman respectfully requests that Your Honor reject PECO's protective order, and require PECO to negotiate with the active parties to find verbiage more in accordance with the spirit and the letter of 52 Pa. Code § 5.365(a) .

8 However, since PECO seems to be dragging their feet in Discovery as well, it is unlikely that a solution to the problem of a Protection Order will be easily reached.



Respectfully Submitted,
Ted Uhlman
2152 Sproul Rd
Broomall, PA 19008
May 17, 2021

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true and correct copy of the foregoing

**MOTION REQUESTING THE PRESIDING OFFICER TO
DISMISS AN OBJECTION AND COMPEL THAT
THE INTERROGATORY BE ANSWERED**

upon the parties listed below, in accordance with the requirements of 52 PA Code § 1.54 (relating to service by a participant) in the manner listed below upon the parties listed below:

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