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May 27, 2021

VIA ELECTRONIC FILING

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

Re: 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

Docket No. P-2021-3024328

Dear Secretary Chiavetta:

Enclosed please find PECO Energy Company's Amended Motion for Protective Order. Copies have been served in accordance with the attached Certificate of Service.

Thank you for your attention to this matter.

Respectfully,

/s/ Christopher A. Lewis

Christopher A. Lewis

Enclosures

cc: Certificate of Service List (w/ encl.)

**BEFORE THE
COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of PECO Energy Company for a : Docket No. P-2021-3024328
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 :
:

NOTICE TO PLEAD

TO: All Intervenors

The attached Amended Motion for Protective order of PECO Energy Company (“PECO”) has been filed with the Pennsylvania Public Utility Commission in the above-captioned proceeding. If you wish to respond to the Amended Motion, you must, pursuant to the provisions of 52 Pa. Code § 5.103, take action within twenty (20) days after this Amended Motion is served, or within such shorter period of time as the Administrative Law Judge might direct, by filing a response with the Secretary of the Pennsylvania Public Utility Commission and serving a copy of that response upon all parties of record. You are warned that if you fail to do so, the case may proceed without you and an order or a judgment may be entered against you by the Commission without further notice.

**BEFORE THE
COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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AMENDED MOTION FOR PROTECTIVE ORDER

PECO Energy Company (“PECO” or the “Company”) hereby requests that the Honorable Administrative Law Judge Emily DeVoe enter a Protective Order in these proceedings pursuant to the provisions of 52 Pa. Code § 5.365(a), and in support thereof represents as follows:

I. INTRODUCTION

PECO commenced this proceeding before the Pennsylvania Public Utility Commission (“Commission” or “PUC”) to obtain a finding that the situation of two proposed buildings associated with a Gas Reliability Station in Marple Township, Delaware County is reasonably necessary for the convenience and welfare of the public. *See* 53 P.S. § 10619. Despite the limited purpose of this proceeding, several parties who oppose PECO’s Petition have sought the disclosure of information and documents that go well beyond the scope of discovery in this proceeding. In the spirit of cooperation, PECO has produced many of the requested documents including certain documents that constitute confidential security and proprietary information.¹ To protect PECO and

¹ By way of example, PECO has produced to Intervenor Marple Township and Delaware County certain discovery in this proceeding upon their agreement to abide by the provisions of the proposed protective order pending a ruling on this Motion for Protective Order.

the public from the potential harm that would result from the public disclosure of such information, the Company respectfully requests that ALJ DeVoe enter a protective order substantially in the form of the proposed protective order attached hereto as **Exhibit A**.

II. FACTUAL BACKGROUND

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 with the Commission requesting that ALJ DeVoe enter a protective order in the above-captioned matter. A proposed protective order is attached to PECO’s Motion as Exhibit A.² Attached to the proposed protective order is Appendix A, which provides for remedies in case of breach of the protective order’s confidentiality requirements.

3. On May 20, 2021, ALJ DeVoe entered an Interim Order directing PECO to submit an Amended Motion for Protective Order that: 1) identifies the trade secrets or confidential or proprietary information for which PECO is requesting protection; 2) demonstrates how the potential harm of providing the information would be substantial and how the harm outweighs the public’s interest in free and open access to the administrative hearing process; and 3) provides a

² The proposed protective order included as Exhibit A to the Amended Motion is identical in all material respects to the proposed protective order included with PECO’s May 7 Motion, except for the insertion of a claw back provision in Paragraph 2 of the proposed protective order.

legal basis for ALJ DeVoe's authority to enforce any remedies identified in the proposed protective order or Appendix A attached thereto.

4. As part of discovery in this proceeding and in accordance with Section 5.365(c)(4) of the Commission's regulations, 52 Pa. Code § 5.365(c)(4), upon their agreement to abide by the provisions of a proposed protective order (materially identical to the form attached hereto as Exhibit A) pending a ruling on PECO's Motion for Protective Order ("PECO's Motion), PECO has produced to Intervenors Marple Township and Delaware County (collectively, "the Stipulating Intervenors") certain confidential security and proprietary information. Intervenors Julia Baker and Ted Uhlman have not yet agreed to abide by the terms of the proposed protective order pending a ruling on PECO's Motion, so PECO has refrained from disclosing confidential information to each of them pending a ruling on this Amended Motion.

5. The confidential security and proprietary information produced by PECO to the Stipulating Intervenors include documents identifying the location and design of PECO's sensitive energy infrastructure including gas pipelines, gate stations, and the proposed Natural Gas Reliability Station; environmental and sound surveys; and emergency response plans. As explained below, information pertaining to the location of sensitive infrastructure and emergency response plans, in addition to being proprietary, also trigger security concerns which the Commission is obligated to protect under the Public Utility Confidential Security Information Disclosure Protection Act ("CSIDA").

6. In addition, PECO has produced to the Stipulating Intervenors proprietary information including, but not limited to, that certain Purchase and Sale Agreement effective June 29, 2020 (as amended to date, the "PSA") related to the Company's acquisition of the land upon which the proposed Gas Reliability Station will be constructed. The Company has also disclosed

to the Stipulating Intervenors the Company's methods and internal processes and evaluation used for selecting the proposed Natural Gas Reliability Station. These documents constitute confidential and proprietary information.

7. Treatment of PECO's confidential security and proprietary information as set forth in the proposed protective order is justified because the potential harm to PECO and the public resulting from the unrestricted disclosure of such information would be substantial, and such harm outweighs the public's interest in free and open access to the administrative process.

III. LEGAL STANDARD

8. An ALJ or the Commission may issue a protective order to limit or prohibit disclosure of confidential or proprietary information where "a party demonstrates that the potential harm to the party of providing the information would be substantial and that harm to the party if the information is disclosed without restriction outweighs the public's interest in having access to the administrative hearing process." 52 Pa. Code § 5.365(a).

9. In applying this standard, the relevant factors to be considered include: (1) the extent to which disclosure would cause unfair economic or competitive damage; (2) the extent to which the information is known by others and used in similar activities; (3) the worth or value of the information to the party and to the party's competitors; (4) the degree of difficulty and cost of developing the information; and (5) other statutes or regulations dealing specifically with disclosure of the information. 52 Pa. Code § 5.365(a)(1)-(5).

10. Moreover, the Commission has an affirmative duty to protect from disclosure confidential security information under the CSIDA. Confidential security information is defined as "[i]nformation contained within a record maintained by an agency in any form, the disclosure of which would compromise security against sabotage or criminal or terrorist acts and the

nondisclosure of which is necessary for the protection of life, safety, public property or public utility facilities.” 35 Pa. Stat. Ann. § 2141.2 (West); *see also* 52 Pa. Code § 102.2.

IV. ARGUMENT

A. The Company is seeking protection of confidential security information, trade secrets and proprietary information for which protection is sought.

11. The ALJ’s May 20, 2021 Interim Order instructs PECO to identify the types of trade secrets or confidential or proprietary information for which protection is sought.

12. PECO is seeking protection for certain information regarding the location and design of PECO’s sensitive energy infrastructure, including PECO’s pipelines, gate stations, and proposed Natural Gas Reliability Station, as well as PECO’s emergency response procedures.

13. Under the CSIDA, “confidential security information” is defined as information “...the disclosure of which could compromise security against sabotage or criminal or terrorist acts and the nondisclosure of which is necessary for the protection of life, safety, public property *or public utility facilities.*” 35 Pa. Stat. Ann. § 2141.2 (Emphasis supplied.)

14. As an example, the CSIDA provides that confidential security information includes, but is not limited to, “[a] plan, map or other drawing or data which shows the location or reveals location data on community drinking water wells and surface water intakes.” 35 Pa. Stat. Ann. § 2141.2(3). Information regarding the location of community drinking water is considered confidential because the legislature acknowledges that the disclosure of said location compromises the ability to protect against criminal or terroristic acts of sabotage. The same logic applies to detailed information regarding the location of natural gas equipment and facilities, as contemplated by the non-exclusive definition of confidential security information stating “Information...*including, but not limited to*, all of the following...” 35 Pa. Stat. Ann. § 2141.2 (emphasis added).

15. Likewise, the CSIDA provides that confidential security information includes:

Portions of emergency response plans that are submitted to the Department of Environmental Protection, the Pennsylvania Public Utility Commission or any other Federal, State or local agency dealing with response procedures or plans prepared to prevent or respond to emergency situations, except those portions intended for public disclosure, the disclosure of which would reveal vulnerability assessments, specific tactics, specific emergency procedures or specific security procedures.

35 Pa. Stat. Ann. § 2141.2(2)

16. The Commission has an obligation to protect against the widespread dissemination of such information. *See, e.g., In Re Standards & Safeguards for Competitive Servs.*, 86 Pa. P.U.C. 239 (Aug. 6, 1996) (finding that design and operational information was worthy of protection from public disclosure); *Pennsylvania Pub. Util. Comm'n Bureau of Investigation & Enf't*, No. C-2018-3006534, 2020 WL 2764457, at *7 (May 21, 2020) (“The public version of the report shall not contain information that is proprietary or contains information subject to the Public Utility Confidential Security Information Disclosure Protection Act.”)

17. PECO’s critical energy infrastructure information is proprietary information that should remain confidential either as confidential security information under the CSIDA or as trade secrets worthy of protection.

18. In addition to the critical energy infrastructure information, PECO also has disclosed to the Stipulating Intervenors proprietary information that are trade secrets under Pennsylvania law or for “which disclosure would cause unfair economic or competitive damage”.³

Pennsylvania has adopted the Uniform Trade Secrets Act, which defines a “trade secret” as:

information, including a formula, drawing, pattern, compilation including a customer list, program, device, method, technique or process that: (1) derives independent economic value, actual or potential, from not being generally known to, and not being readily

³ 52 Pa. Code § 5.365 (1).

ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use, and (2) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

12 P.S. § 5302.

19. PECO seeks protection for trade secrets or information for which disclosure would cause unfair economic or competitive damage that include, but are not limited to, the PSA, PECO's internal processes and considerations for selecting the siting of its gas reliability stations, engineering and design data, and environmental and sound surveys that were developed by PECO or its contractors.

B. The potential harm of providing the information would be substantial and outweighs the public's interest in free and open access to the administrative hearing process.

20. By enacting the CSIDA, the General Assembly has already determined that confidential security information should be withheld from the public in administrative proceedings.

21. As regards PECO's proprietary information that is not confidential security information, the Company, or other parties with whom it has agreements (e.g., the PSA), would sustain unfair economic or competitive damage from the public disclosure of such information.

22. As an example, PECO routinely engages in the acquisition of property for public utility purposes. If potential sellers of real estate are made privy to the PECO's internal processes and/or procedures concerning site selection, the Company would be substantially disadvantaged in its negotiations with potential sellers and the cost of acquiring public utility property would rise.

23. Moreover, the PSA includes a nondisclosure provision restricting PECO's dissemination of its terms. This provision protects the seller as well, since public disclosure of the

provisions of the PSA would affect the price and terms on which the seller could later sell the property if this transaction failed to close.

24. Similarly, PECO would sustain economic damage from the disclosure of engineering data, business protocols, and other trade secrets. This information has independent economic value from not being generally known and not readily obtainable. PECO has expended a considerable amount of time, effort, and money to develop these assets, a fact which weighs in favor of protection under 52 Pa. Code § 5.365(a)(4).

25. In deciding whether a protective order is appropriate, the Commission must consider other statutes or regulations dealing specifically with disclosure of the information. 52 Pa. Code § 5.365(a)(5). The fact that the information for which protection is sought is protected by the CSIDA and constitutes trade secrets under the Uniform Trade Secrets Act weighs in favor of granting protection.

26. On the other hand, disclosure of this information will not benefit the public. In the non-confidential versions of its Direct Testimony, PECO has already produced: (1) a schematic showing the general location of equipment at the site (Exhibit TF-1); (2) renderings showing the situation of the buildings and proposed Security Fence (Exhibits TF-3 and TF-4); (3) a map showing at a high level the general locations of natural gas pipelines and gate stations in PECO's service territory (Exhibit TF-5); a chart listing every community in which a PECO gate station is located, together with the estimated number of gas customers within a ½ mile radius of the facility, a statement as to whether the neighborhood surrounding the information is residential or industrial, and the distance to the closest residence (Exhibit TF-6); and the non-proprietary version of the "Ambient Sound Survey and Noise Impact Assessment" for the Station, issued by Hoover & Keith Inc. (Exhibit TF-7). In short, in its non-confidential Direct Testimony and accompanying exhibits,

PECO has disclosed on the public record all the information that is germane to the proper scope of the inquiry in this proceeding; namely, whether the situation of the buildings is reasonably necessary for the convenience and welfare of the public.

C. The Commission has the Authority to Enter the Proposed Protective Order.

21. The May 20, 2021 Interim Order directs PECO to provide legal citations demonstrating that ALJ DeVoe has the authority to issue an order providing for each remedy (in case of breach of confidentiality) contained in the protective order and Appendix A attached thereto.

22. To be clear, PECO understands that neither the ALJ nor the Commission has the statutory authority to provide the remedies set forth in Appendix A. However, the ALJ and the Commission do have the statutory and regulatory authority to limit and condition a party's receipt of proprietary information. *See* 52 Pa. Code § 5.365(a) and (e) (authorizing the Commission to enter a protective order to "limit the disclosure of a trade secret or other confidential information" and to issue "special restrictions").

23. Here, PECO is requesting that the Commission make access to PECO's confidential security and proprietary information available to Ms. Baker and Mr. Uhlman (and to other persons who are not counsel in the proceedings) only upon the imposition of a condition: their *voluntary* agreement to allow PECO to pursue a legal remedy in the event of breach. Effectively, PECO is requesting that the ALJ exercise her authority to limit and condition the release of the Company's confidential security and propriety information to those parties who are willing to enter into a nondisclosure agreement with PECO (Appendix A) to appropriately protect that information.

24. This condition has substantial merit. It gives PECO a remedy in the event a breach occurs—one that is available in court and not before the Commission (which, as noted above, has

no power to provide a remedy in the event of breach).⁴ It does not exceed the ALJ's or Commission's authority, as the ALJ has express authority under Section 5.365(e) to place special restrictions on the disclosure of proprietary information, including but not limited to a total ban. It causes no prejudice to other parties. The remedies are not self-executing and would require PECO to prove the elements of a claim in court or before an administrative body that does have jurisdiction and authority to grant the relief. Further, the expectation is that parties will comply with the terms of the protective order, in which case the issue of remedies for breach will be a moot point.

WHEREFORE, for all the reasons set forth above, PECO respectfully requests that Your Honor issue the attached proposed protective order.

/s/Christopher A. Lewis
Christopher A. Lewis, Esquire
Frank L. Tamulonis, Esquire
Stephen C. Zumbrun, Esquire
BLANK ROME LLP
One Logan Square
Philadelphia, PA 19103
Counsel for PECO Energy Company

Dated: May 27, 2021

⁴ In Appendix A, a signatory agrees to submit "to the jurisdiction of the administrative and judicial bodies of the Commonwealth of Pennsylvania for the enforcement of the Protective Order." This provision does not confer jurisdiction or authority where none exists. Instead, it permits the non-breaching party to seek relief in any judicial or administrative forum that does have jurisdiction.

EXHIBIT A

**BEFORE THE
COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of PECO Energy Company for a : Docket No. P-2021-3024328
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:

**PROPOSED
PROTECTIVE ORDER
FOR THE DISCOVERY OF
PROPRIETARY INFORMATION**

WHEREAS, the parties whose signatures appear below have stipulated to the signing and entry of this Protective Order for the Discovery of Proprietary Information (“Protective Order”), IT IS HEREBY ORDERED that each of the signing parties and their counsel shall be governed by the following terms and conditions concerning Proprietary Information in the above-captioned action:

1. This Protective Order is hereby GRANTED with respect to all materials and information identified at Ordering Paragraphs 2 and 3 herein which are filed with the Pennsylvania Public Utility Commission (the “Commission”), produced in discovery, or otherwise presented during these proceedings. All persons now and hereafter granted access to the materials and information identified in Ordering Paragraphs 2 and 3 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, 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. Any Proprietary Information inadvertently produced without being marked “Confidential” or “Proprietary” may be so designated by a producing party by written notice to the receiving party within a reasonable time following the discovery that the Proprietary Information was produced without such designation.

3. 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; and (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 not limitation, Proprietary Information includes trade secrets, unpatented inventions, technical development and engineering data, and sensitive information whose public disclosure could increase the security threat to critical infrastructure. In addition, information subject to protection under the Public Utility Confidential Security Information Disclosure Protection Act (35 P.S. §§ 2141.1 to 2141.6) and PUC Regulations at 52 Pa. Code §§ I 02.1-102.4 will be designated as Proprietary Information.

4. Proprietary Information shall be made available to counsel for a party, subject to the terms of this Protective Order. For so long as they are Active Parties in this

proceeding, Proprietary Information shall also be made available to Protestants Julia Baker and Theodore Uhlman, provided that prior to any such disclosure such person has signed and delivered to all counsel a letter in the form attached hereto as Appendix A. All persons receiving Proprietary Information shall use or disclose the Proprietary Information only for purposes of preparing or presenting evidence, cross examination, argument, or settlement in these proceedings. The designation of material as Proprietary Information shall not itself affect the rights of the designator (or the designator's authorized representative) to give or disclose the Proprietary Information to any person for any reason, and such giving or disclosing of Proprietary Information shall not be deemed a waiver of this Agreement, unless such information is made publicly available by designator.

5. To the extent required for participation in this proceeding, a party's counsel may afford access to Proprietary Information made available by another party ("the Producing Party") to:

- i. The Commission at any hearing in this proceeding or in connection with motions filed in this proceeding;
- ii. Counsel of record for all named parties to this action and their immediate supervisor;
- iii. Other counsel not of record, not to exceed five (5) individuals, provided only that said individuals are duly employed on a full-time basis with the organizations that are named parties to this action.
- iv. The Commissioners of Marple Township, The Township Manager of Marple Township, the Township Engineer of Marple Township, the Commissioners of Delaware County, the Executive Director of Delaware County, the Fire Marshal, and the Chief of the Fire Department, provided that prior to any such disclosure such person has signed and delivered to all counsel a letter in the form attached hereto as Appendix A. It shall be the further obligation of counsel, upon learning of any breach or threatened breach of this Protective Order by any person to whom such counsel has delivered Confidential Information, promptly to notify opposing counsel of such breach or threatened breach;

- v. Court reporters;
- vi. Any witness during the course of that witness's deposition or examination;
- vii. Experts consulted by the named parties or their counsel in connection with this action, whether or not retained to testify at trial, provided that prior to any such disclosure counsel for the party making the disclosure shall deliver a copy of this Protective Order to the expert, shall explain its terms to the expert, shall secure the signature of the expert on a letter in the form attached hereto as Appendix A and shall deliver such letter to all counsel of record. It shall be the further obligation of counsel, upon learning of any breach or threatened breach of this Protective Order by any expert and/or advisor, promptly to notify opposing counsel of such breach or threatened breach.

6. To the extent required for participation in this proceeding, Ms. Baker and Mr. Uhlman may afford access to Proprietary Information made available by a Producing Party to:

- i. The Commission at any hearing in this proceeding or in connection with motions filed in this proceeding;
- ii. Court reporters;
- iii. Any witness during the course of that witness's deposition or examination;
- iv. Experts in connection with this action, whether or not retained to testify at trial, provided that at least fifteen (15) days prior to any such disclosure, Ms. Baker and Mr. Uhlman has delivered to all counsel of record a letter disclosing the identity of such expert, has delivered a copy of this Protective Order to the expert, has explained its terms to the expert, and has secured the signature of the expert on a letter in the form attached hereto as Appendix A and delivered such letter to all counsel of record. It shall be the further obligation of Ms. Baker and Mr. Uhlman, upon learning of any breach or threatened breach of this Protective Order by any expert, promptly to notify opposing counsel of such breach or threatened breach.

7. 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 subsequent objection or motion, seek further protection with respect to Proprietary Information including, but not limited to, total prohibition of disclosure or limitation of disclosure only to particular persons or parties.

8. 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. Where only part of data compilations or multi-page documents constitutes or contains Proprietary Information, the Producing Party, insofar as reasonably practicable within discovery and other time constraints imposed in this proceeding, shall designate only the specific data or pages of documents that constitute or contain Proprietary Information.

9. Any public reference to Proprietary Information by the Commission or by counsel or persons afforded access thereto shall be to the title or exhibit reference in sufficient detail to permit persons with access to the Proprietary Information to fully understand 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.

10. Part of any record of any proceedings containing the 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 Ordering Paragraph No. 9, 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 or pursuant to an order of an Administrative Law Judge or the Commission. Unresolved challenges arising under Ordering Paragraph No. 11, below, shall be decided on motion or petition by the presiding officer and/or the Commission as provided in 52 Pa. Code § 5.365(a). All such challenges will be resolved in conformity with existing rules, regulations, orders, statutes, and precedent to the extent such guidance is available.

11. The parties affected by the terms of this Protective Order shall retain the right to question or challenge the Confidential or proprietary nature of Proprietary Information; to question or challenge the admissibility of Proprietary Information on any proper ground, including but not limited to irrelevance, immateriality or undue burden; to seek an order permitting disclosure of Proprietary Information beyond that allowed in this Protective Order; and to seek additional measures of protection of Proprietary Information beyond those provided in this Protective Order. If a challenge is made to the designation of a document or information as Proprietary, the party claiming that the information is Proprietary retains the burden of demonstrating that the designation is necessary and appropriate.

12. Upon completion of this proceeding, including any administrative or judicial review thereof, all copies of all documents and other materials, that contain any Proprietary Information, shall be immediately returned to the party furnishing such Proprietary Information. In the alternative, parties represented by counsel may provide an affidavit affirming that the materials containing or reflecting Proprietary Information have been destroyed. This provision shall not apply to the Commission and its Staff.

13. Nothing contained in this Protective Order shall be construed as inferring that any Proprietary Information must be produced. Rather, this Protective Order is intended to set forth how Proprietary Information shall be handled by other parties to this matter if voluntarily or upon Order of the Commission are produced to other parties in this matter.

SO AGREED:

Dated: _____

/s/Christopher A. Lewis
Christopher A. Lewis, Esquire
Frank L. Tamulonis, Esquire

Stephen C. Zumbrun, Esquire
BLANK ROME LLP
One Logan Square
Philadelphia, PA 19103
Counsel for PECO Energy Company

Dated: .

Adam Matlawski, Esquire
Kaitlyn T. Searls, Esquire
1223 N. Providence Road
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amatlawski@mbmlawoffice.com
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Solicitors for Marple Township

Dated: .

Robert W. Scott, Esquire
Carl W. Ewald, Esquire
Robert W. Scott, P.C.
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rscott@robertwsottpc.com
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Dated: .

Julia Mary (Julie) Baker
2150 Sproul Rd
Broomall, PA 19008
jbakeroa@msn.com

Dated: _____

Ted Uhlman
2152 Sproul Rd
Broomall, PA 19008
uhlmantr@yahoo.com

SO ORDERED AND APPROVED:

Dated: _____

Emily I. DeVoe
Administrative Law Judge

APPENDIX A

COMMONWEALTH OF PENNSYLVANIA
BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of PECO Energy Company for a : Docket No. P-2021-3024328
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:

The undersigned has read and understands the Protective Order issued in the above-captioned proceeding, which deals with the treatment of Proprietary Information. The undersigned agrees to be bound by, and comply with, the terms and conditions of said Protective Order. In the case of an independent expert, the undersigned represents that he/she has complied with the terms of the Protective Order prior to submitting this Affidavit. The undersigned agrees that any Proprietary Information, as addressed and defined in the Protective Order, shall be used and disclosed only for purposes of preparation for, and the conduct of, the above-captioned proceeding, and any administrative or judicial review thereof, and shall not be disclosed or used for any other purposes whatsoever. The undersigned agrees that, if he or she is an Active Party and Protestant in this matter, he or she will return all Proprietary Information. All other signatories shall either return or destroy all Proprietary Information.

The undersigned understands and agrees that money damages may not be a sufficient remedy for any breach of the Protective Order and the undersigned hereby agrees that the non-breaching party will be entitled to obtain in any court of competent jurisdiction a decree of specific performance or other injunctive relief as a remedy for any such breach in favor of the non-breaching party, without the necessity of posting a bond or other security. Such remedy shall not be deemed to be the exclusive remedy for any such breach but shall be in addition to all other remedies available at law or equity to the non-breaching party. The prevailing party shall be entitled to recover from the non-prevailing party its reasonable attorneys' fees and expenses incurred in enforcing the Protective Order.

The undersigned further agrees to be bound by the terms of the Protective Order and to subject himself/herself to the jurisdiction of the administrative and judicial bodies of the Commonwealth of Pennsylvania for the enforcement of the Protective Order and understands that, in the event that he/she fails to abide by the provisions of this Order, he/she may be subject to sanctions by the administrative and judicial courts of this Commonwealth.

Signature

Print Name

Job Title and Description

Business Address

Employer

If Independent Expert, List Persons/Entities Retaining You

Role in Proceeding

Date

CERTIFICATE OF SERVICE

I hereby certify that on this day I served a true copy of the foregoing Amended Motion for Protective Order upon the parties listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party) via electronic mail.

Honorable Emily I. DeVoe
PO Box 3265
Harrisburg, PA 17105-3265
edevoe@pa.gov

Kaitlyn T Searls, Esquire
J Adam Matlawski, Esquire
McNichol, Byrbe & Matlawski, P.C.
1223 N Providence Road
Media, PA 19063
ksearls@mbmlawoffice.com
amatlawski@mbmlawoffice.com
Accepts EService
Representing Marple Township

Robert W. Scott, Esquire
Carl Ewald, Esquire
ROBERT W SCOTT PC
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