*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**

**GRANTING MARPLE TOWNSHIP AND DELAWARE COUNTY’S**

**MOTION TO COMPEL DISCOVERY DIRECTED TO PECO ENERGY COMPANY**

On April 26, 2021, Marple Township (Marple or the Township) and Delaware County (County) (collectively, Joint Movants) jointly served discovery requests, including Interrogatories and Requests for Production of Documents upon PECO Energy Company (PECO or Company). On May 5, 2021, PECO served its responses.

On May 17, 2021, Joint Movants filed a Motion to Compel Discovery Directed at PECO Energy Company (Motion to Compel), requesting the undersigned direct PECO to provide responses to Interrogatory Nos. 7, 8, and 11 and Request for Production Nos. 2, 13, 18, 19, 20, 22, 25, 30, 32, and 33.

On May 24, 2021, PECO filed its response to the Motion to Compel, arguing that the Interrogatories and Requests for Production were seeking irrelevant information and that the motion to compel was moot with regard to some requests because it had provided the requested information.

The Motion to Compel is now ripe for ruling.

Applicable Rules

52 Pa.Code § 5.321. Scope

(c) *Scope.* Subject to this subchapter, a party may a party may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of another party, including the existence, description, nature, content, custody, condition and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of a discoverable matter. It is not ground for objection that the information sought will be inadmissible at hearing if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

52 Pa.Code § 5.361. Limitation of scope of discovery and deposition.

(a) Discovery or deposition is not permitted which:

(1) Is sought in bad faith.

(2) Would cause unreasonable annoyance, embarrassment, oppression, burden or expense to the deponent, a person or party.

(3) Relates to a matter which is privileged.

(4) Would require the making of an unreasonable investigation by the deponent, a party or witness.

Discussion

The Commission’s rules permit discovery between parties in adversarial formal proceedings[[1]](#footnote-1) and provide that a party may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action, or any matter which appears reasonably calculated to lead to the discovery of admissible evidence.[[2]](#footnote-2)

PECO objects to all the disputed discovery requests upon the basis of relevance, and objects to Request for Production No. 20 on the basis of being overly broad and unduly burdensome. Regarding its arguments regarding relevance, PECO argues, *inter alia*,

The seminal question in this proceeding is whether the proposed situation of the buildings in question is reasonably necessary for the convenience or welfare of the public. In other words, the Commission must “determine whether the site of the [proposed facility] is appropriate to further the public interest.” Del-AWARE Unlimited, Inc. v. Pa. Pub. Util. Comm’n, 513 A.2d 593 (Pa. Cmwlth. 1986) (emphasis in original). The scope of inquiry in this proceeding does not include “whether the selected site is absolutely necessary or the best possible site, or whether the service to be provided by the public utility facilities is reasonably necessary for the convenience or welfare of the public.” May 18, 2021 Interim Order, at 2 (emphasis added).

This matter concerns PECO’s 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 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 at 2090 Sproul Road, Marple Township, Delaware County, Pennsylvania, 19008 (2090 Sproul Road) 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 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.

PECO avers in its application that its current natural gas distribution system in Delaware County is experiencing, or soon will be experiencing, design day constraints. Consequently, PECO plans to utilize an existing Liquified Natural Gas tank located elsewhere on its system (in West Conshohocken) as a source of supply for Delaware County generally and Marple Township in particular. This larger Natural Gas Reliability Project consists of: (i) upgrading PECO’s natural gas plant in West Conshohocken; (ii) installing 11.5 miles of new gas main; and (iii) constructing the Gas Reliability Station in Marple Township, Delaware County to receive and distribute the natural gas transported by the full Reliability Project. The Petition at issue in the instant matter pertains only to the Gas Reliability Station.

Article VI of the Pennsylvania Municipalities Planning Code (MPC)[[3]](#footnote-3) provides that “[T]he governing body of each municipality . . . , may enact, amend and repeal zoning ordinances to implement comprehensive plans . . .”[[4]](#footnote-4) Article VI of the MPC does not apply to a proposed building to be used by a public utility corporation if, after notice to the municipality and corporation and public hearing, the Commission decides that the present or proposed situation of the building in question is reasonably necessary for the convenience or welfare of the public.[[5]](#footnote-5)

Therefore, a municipality may zone a public utility building unless the Commission determines that the building is reasonably necessary for the convenience or welfare of the public. If the Commission finds that the building is reasonably necessary, the building is exempt from a local zoning ordinance under the MPC.[[6]](#footnote-6) Section 619 of the MPC does not require a utility to prove that the site it has selected is absolutely necessary or that it is the best possible site, it need only show that the building is reasonably necessary.[[7]](#footnote-7) The Commonwealth Court has explained, “We do not interpret [Section 619 of the MPC] as requiring the [Commission] to reevaluate the entire project. [Section 619 of the MPC] merely directs [the Commission] to determine whether the *site* of the [proposed facility] is appropriate to further the public interest.”[[8]](#footnote-8)

Additionally, the Commission has adopted a final policy statement order intending to further the State’s goal of making State agency actions consistent with sound land use planning by considering the impact of its decisions upon local comprehensive plans and zoning ordinances.[[9]](#footnote-9) The policy statement provides that the Commission will consider the impacts of its decisions upon local comprehensive plans and zoning ordinances when reviewing applications for the following:

1. Certificates of public convenience.
2. Siting electric transmission lines.
3. Siting a public utility “building” under section 619 of the Municipalities Planning Code (53 P.S. §10619).
4. Other Commission decisions.[[10]](#footnote-10)

Therefore, the issue in this case is whether the siting of the Gas Reliability Station at 2090 Sproul Road is reasonably necessary for the convenience or welfare of the public. In other words, whether it is reasonably necessary for the convenience or welfare of the public that the Gas Reliability Station be sited at 2090 Sproul Road. It is the *siting of the buildings* that is at issue in this matter. In deciding this issue, the Commission will consider the impact of its decision upon local comprehensive plans and zoning ordinances.

Interrogatory No. 7

In Interrogatory No. 7, the County and Township ask PECO to “provide the noise levels generated at all other Gas Reliability Stations operated by PECO or its affiliates.” PECO objects to this interrogatory arguing it is not relevant to the proper scope of this proceeding.[[11]](#footnote-11) PECO notes it has provided Joint Movants with the noise levels for this specific facility argues the noise levels at other PECO gate stations is not relevant to the subject matter involved in the pending action.[[12]](#footnote-12)

As discussed above, in deciding whether the siting of the Gas Reliability Station at 2090 Sproul Road is reasonably necessary for the convenience or welfare of the public, the Commission will consider the impact of its decision upon local comprehensive plans and zoning ordinances. The expected level of noise level of the proposed facility is reasonably related to the impact the granting of PECO’s Petition would have upon local comprehensive plans and zoning ordinances. The noise levels of *other* gas reliability stations facilities is reasonably related to these issues as it relates to how accurate PECO’s estimate of the noise level of the proposed facility may be.

Interrogatory No. 8

In Interrogatory No. 8, the County and Township ask PECO to “provide the content and quantity of emissions levels generated at all other Gas Reliability Stations operated by PECO or is [sic] affiliates.” PECO objects to this interrogatory arguing it is not relevant to the proper scope of this proceeding.[[13]](#footnote-13)

As discussed above, in deciding whether the siting of the Gas Reliability Station at 2090 Sproul Road is reasonably necessary for the convenience or welfare of the public, the Commission will consider the impact of its decision upon local comprehensive plans and zoning ordinances. The content and quantity of emissions levels expected to be generated by the proposed facility is reasonably related to these issues. The content and quantity of emissions levels of *other* gas reliability stations facilities is also reasonably related to these issues as it relates to how accurate PECO’s estimate of the content and quantity of emissions levels expected to be generated by the proposed facility may be.

Interrogatory No. 11

In Interrogatory No. 11, the Joint Movants ask whether PECO is in possession of plans, schematics, specifications and/or data sheets for all equipment and machinery to be utilized at the site. PECO avers that it has produced documents and information responsive to this Interrogatory in the Direct Testimony of Timothy Flanagan.[[14]](#footnote-14) It explains that Exhibit TF-1 is a zoning site plan of the Natural Gas Reliability Station, which shows the proposed Station at 2090 Sproul Road. It also notes that Exhibit TF-2-CONFIDENTIAL is another site plan of the Natural Gas Reliability Station which shows generally the equipment that will be contained within the Station’s Main Building.[[15]](#footnote-15) It further explains that Exhibit TF-3 provides a preliminary conceptual design of the Natural Gas Reliability Station showing the Main Building, the Fiber Building, and Security Fence.[[16]](#footnote-16) Finally, it notes that Mr. Lewis’ Testimony provides general information concerning the equipment and machinery that will be housed in these buildings.[[17]](#footnote-17) PECO argues that any more particularized information regarding the equipment (i.e. specifications and data sheets for particular pieces of equipment is not relevant to the subject matter of this proceeding as it does not pertain to the siting of the proposed buildings.[[18]](#footnote-18)

In its Motion, Joint Movants argue that this interrogatory seeks information regarding the equipment and machinery that will be housed in the facility that PECO claims is “necessary.” The Joint Movants argue “specific information regarding the equipment and machinery is wholly relevant to evaluate whether the proposed building is necessary as alleged.” This argument misstates the issue in this matter. The issue is not whether *the proposed facility* is necessary, but whether the *siting* of the proposed facility is reasonably necessary for the convenience or welfare of the public.

However, as discussed above, in deciding whether the siting of the Gas Reliability Station at 2090 Sproul Road is reasonably necessary for the convenience or welfare of the public, the Commission will consider the impact of its decision upon local comprehensive plans and zoning ordinances. The plans, schematics, specifications and/or data sheets for all equipment and machinery to be utilized at the site is reasonably related to the noise, emissions, etc. of the proposed facility, is reasonably related to the impact the granting of PECO’s Petition would have upon local comprehensive plans and zoning ordinances, and could reasonably lead to admissible information in this matter.

Request for Production No. 2

In Request for Production No. 2, Joint Movants seek “studies, projections and/or documentation or the demand which PECO alleges pushing this construction.” Joint Movants argue PECO avers in its initial filing that its “current natural gas distribution system in Delaware County is experiencing, or soon will be experiencing design day constraints.”[[19]](#footnote-19) Joint Movants argue they are entitled to information which supports these averments.

In its answer to the Motion, PECO explains that it has provided the requested information and documents in the Direct Testimony of PECO witness Ryan Lewis.[[20]](#footnote-20) PECO notes that Mr. Lewis sponsors Exhibit RL-1, which is a chart that depicts Delaware County historical and projected normalized gas usage from 2011 to 2030.[[21]](#footnote-21) PECO also explains that Mr. Lewis sponsors Exhibit RL-2, which is a chart that depicts the Marple Township area’s historical and projected normalized gas usage from 2011 to 2030.[[22]](#footnote-22) Thus, PECO argued it has produced relevant information and documents responsive to Request No. 2 and Intervenors’ Motion is moot with respect to Request No. 2.[[23]](#footnote-23)

Although PECO initially objected to this Request for Production on the basis of relevance[[24]](#footnote-24), it appears PECO subsequently provided responsive information. PECO did not address its initial objection as to relevance in its response to the Motion to Compel. Regardless, this Request for Production is directly related to an averment in PECO’s Petition, is listed as the reason why PECO believes the gas reliability station is necessary, and is reasonably related to why PECO may have selected 2090 Sproul Road as the site for the station.

Request for Production No. 13

In Request for Production No. 13, Joint Movants seek “reports, etc. identifying how the Marple Gas Reliability Station will benefit the public surrounding the plant who do not have natural gas.” Joint Movants argue this Request for Production seeks information that is reasonably calculated to lead to the discovery of admissible evidence, but does not expound upon this argument.

In its response to the Motion, PECO argues, “As a preliminary matter, PECO has no obligation to demonstrate that everyone, including individuals who do not have natural gas service, will benefit from the proposed buildings and that issue is not relevant to this proceeding.”[[25]](#footnote-25) PECO then notes, “As explained in the Direct Testimony of Jim Moylan, the construct of the proposed Gas Reliability Station will have the added public benefit of addressing contamination at the property which existed prior to PECO executing an agreement to purchase the site. See PECO Energy Company Statement No. 5, at 9-10.”[[26]](#footnote-26)

The siting of the Gas Reliability Station at 2090 Sproul Road is at issue in this matter. Therefore, the reasons why this particular site was selected by PECO is unquestionably relevant. Whether and how the surrounding public may benefit from the siting of the facility at 2090 Sproul Road, as identified in the discovery request, is reasonably calculated to lead to the discovery of admissible evidence in this matter.

Request for Production No. 18

In Request for Production No. 18, Joint Movants seek “plans, schematics, specifications and data sheets for all equipment and machinery to be used in or part of the Marple Gas Reliability Station.” This request mirrors Interrogatory No. 11.

In its initial discovery response to Joint Movants, PECO objected to this Request for Production on the basis of relevance.

In its Answer to the Motion, however, PECO avers it has produced documents and information responsive to this Request for Production in the Direct Testimony of Timothy Flanagan.[[27]](#footnote-27) Thus, PECO argues the Motion is moot with respect to Request for Production No. 18. PECO did not address its initial objection as to relevance in its answer to the Motion.

As discussed above, the plans, schematics, specifications and/or data sheets for all equipment and machinery to be utilized at the site are reasonably related to the noise, emissions, etc. of the proposed facility, is reasonably related to the impact the granting of PECO’s Petition would have upon local comprehensive plans and zoning ordinances, and could reasonably lead to admissible information in this matter.

Request for Production No. 19

In Request for Production No. 19, Joint Movants seek “operation and Maintenance manual and/or guidelines for the facility/equipment.”

PECO argues this request seeks information and documents that are entirely irrelevant to the subject matter of this proceeding and maintains that the operation and maintenance manual or guidelines for the equipment that is to be housed in the proposed buildings is not relevant to whether the situation of the proposed buildings is reasonably necessary for the convenience or welfare of the public.[[28]](#footnote-28)

PECO advises, however, it nevertheless produced several technical and administrative procedure documents related to facility procedures that are responsive to this Request as part of CONFIDENTIAL PECO 000437-000520, which includes procedures titled “Gas Emergency Response,” “Response to Gas Odor Calls at PECO Gate Stations,” “Gate Station Inspection and Maintenance Schedule,” “Response to Relief Valve Alarms at the West Conshohocken Gate Stations.”[[29]](#footnote-29) Thus, PECO argue that to the extent this Request can be fairly deemed to be seeking information relevant to the siting of the buildings or the facility, PECO has already provided responsive information and the Motion is moot with respect to Request No. 19.[[30]](#footnote-30)

The operation and maintenance manuals and/or guidelines for the facility and the equipment to be utilized at the site are reasonably related to the noise, emissions, etc. of the proposed facility, is reasonably related to the impact the granting of PECO’s Petition would have upon local comprehensive plans and zoning ordinances, and could reasonably lead to admissible information in this matter.

Request for Production Nos. 20 and 22

Requests Nos. 20 and 22 seek “risk assessment for the Marple Gas Reliability Station site and process” and “safety data sheets for all chemicals stored on site,” respectively. PECO argues these requests are irrelevant as they do not pertain to the siting of the buildings or the facility.[[31]](#footnote-31) Moreover, with respect to Request No. 20, PECO notes the Direct Testimony of Timothy Flanagan explains the safety and emergency response protocols that PECO will utilize for the Natural Gas Reliability Station, including but not limited to 24/7 monitoring and the ability to respond to an incident within an hour.[[32]](#footnote-32) PECO maintains that, to the extent Request No. 20 can be fairly deemed to be seeking information relevant to the siting of the buildings or the facility, PECO has already provided the relevant information, and the request is moot.

The Joint Movants argue these Requests seek information reasonably calculated to lead to the discovery of admissible evidence. Furthermore, the Joint Movants argue that specific information regarding any and all chemicals stored at the site is wholly relevant to evaluate whether the proposed building is necessary as alleged.

Joint Movants misstate the issue in this case. It is not whether the *buildings* are reasonably necessary; rather it is whether the *siting* is reasonably necessary. Regardless, the risk assessment for the proposed facility site and process and the safety data sheets for all chemicals stored on site are reasonably related to the impact the granting of PECO’s Petition would have upon local comprehensive plans and zoning ordinances and could reasonably lead to admissible evidence in this matter.

Request for Production Nos. 25 and 30

Requests Nos. 25 and 30 seek the “results of any studies done on the impacts of the proposed facility” and “environmental impact statement or study for the site of the proposed Marple Gas Reliability Station,” respectively.

PECO argues that, as explained on page 9 of the Direct Testimony of Jim Moylan, the site is currently vacant but was most recently occupied by a Texaco gasoline filling station.[[33]](#footnote-33) PECO further explains that during the acquisition of the property, it conducted a Phase I and Phase II environmental assessment which have been produced in PECO’s supplemental production[[34]](#footnote-34), the results of which identified residual contamination at the property from its prior use and further confirmed that the site was subject to a tank removal and soil and remediation and mitigation under Pennsylvania law.[[35]](#footnote-35) As a result of the contamination, PECO avers the property is subject to an environmental covenant, dated May 13, 2013 and approved by the Pennsylvania Department of Environmental Protection, which restricts the future use of the property to non-residential uses only.[[36]](#footnote-36) Mr. Moylan’s Direct Testimony explains that PECO will remove the additional soil contamination and will proceed in a manner consistent with the restrictions in the environmental covenant and other applicable environmental laws, thereby benefitting the community by removing and/or capping pollutants that currently exist at the property.[[37]](#footnote-37)

The Joint Movants argue these Requests seek information reasonably calculated to lead to the discovery of admissible evidence, but do not expound upon this argument.

The results of any studies done on the impacts of the proposed facility and environmental impact statement(s) or stud(ies) for proposed site are reasonably related to the impact the granting of PECO’s Petition would have upon local comprehensive plans and zoning ordinances and are reasonably calculated to lead to admissible evidence in this matter.

Request for Production Nos. 32 and 33

Requests Nos. 32 and 33 seek the “Pollution Prevention and Contingency (PPC) plan for the site or similar facilities” and “Phase 1/Phase 2 Environmental Site Assessment for the site,” respectively. PECO first argues that information and documents regarding other PECO facilities are not relevant to the subject matter of this proceeding.[[38]](#footnote-38) Similarly, PECO argues its plan to prevent pollution at the proposed location is not relevant to “whether it is reasonably necessary for the convenience or welfare of the public that the Gas Reliability Station be sited at 2090 Sproul Road.”[[39]](#footnote-39) Nonetheless, PECO explains that Mr. Moylan’s Direct Testimony contains PECO’s plan to remediate pollution that currently exist at the property and utilize the land in a manner consistent with the restrictions in the environmental covenant and other applicable environmental laws.[[40]](#footnote-40) Moreover, PECO notes it has produced the Phase I and Phase II Environmental Site Assessment for the proposed site.[[41]](#footnote-41) Therefore, PECO argues Intervenors’ Motion is moot with respect to Requests Nos. 32 and 33.

The Joint Movants argue these Requests seek information reasonably calculated to lead to the discovery of admissible evidence as the Requests seek information related to the convenience and welfare of the public in accordance with MPC § 619, 53 P.S. § 10619. Joint Movants argue the information is relevant to evaluate whether the proposed building is necessary as alleged.

Joint Movants misstate the issue in this case. It is not whether the *buildings* are reasonably necessary; rather it is whether the *siting* is reasonably necessary. Regardless, Requests Nos. 32 and 33 are reasonably related to the impact the granting of PECO’s Petition would have upon local comprehensive plans and zoning ordinances and could reasonably lead to admissible evidence in this matter.

THEREFORE,

IT IS ORDERED:

1. That the Motion of Marple township and Delaware County to Compel Discovery Directed to PECO Energy Company is granted.

2. That PECO Energy Company shall, within five business days of service of this Order, serve full and complete responses to Interrogatory Nos. 7, 8 and 11, and Requests for Production Nos. 2, 13, 18, 19, 20, 22, 25, 30, 32, and 33 upon Delaware County and Marple Township, and file a certificate of service evidencing service of the discovery responses required herein.

3. That to the extent PECO believes the responses to be produced in Ordering Paragraph 2 contain confidential or proprietary information, PECO shall serve those responses consistent with a to-be-issued Interim Order on PECO’s Amended Motion for a Protective Order.

Date: June 1, 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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1. *See* 52 Pa.Code § 5.321 *et seq.* [↑](#footnote-ref-1)
2. 52 Pa.Code § 5.321(a). [↑](#footnote-ref-2)
3. 53 P.S. §10101 *et seq.* [↑](#footnote-ref-3)
4. 53 P.S. § 10601. [↑](#footnote-ref-4)
5. *See* 53 P.S. § 10619. [↑](#footnote-ref-5)
6. *Del-AWARE Unlimited, Inc. v. Pa. Pub. Util. Comm’n,* 513 A.2d 593 (Pa. Cmwlth. 1986). [↑](#footnote-ref-6)
7. *O’Connor v. Pa. Pub. Util. Comm’n*, 582 A.2d 427 (Pa. Cmwlth. 1990). [↑](#footnote-ref-7)
8. *Del-AWARE Unlimited, Inc. v. Pa. Pub. Util. Comm’n*, 513 A.2d 593 (Pa. Cmwlth. 1986) (emphasis in original). [↑](#footnote-ref-8)
9. *See* 31 Pa. Bull. 951 (February 17, 2001). [↑](#footnote-ref-9)
10. 52 Pa.Code § 69.1101. [↑](#footnote-ref-10)
11. PECO Answer to Motion, ¶¶ 13-14. [↑](#footnote-ref-11)
12. *Id.* [↑](#footnote-ref-12)
13. PECO Answer to Motion, ¶¶ 13-14. [↑](#footnote-ref-13)
14. PECO Answer to Motion, ¶ 15. [↑](#footnote-ref-14)
15. *Id.* [↑](#footnote-ref-15)
16. *Id.* [↑](#footnote-ref-16)
17. *Id.* [↑](#footnote-ref-17)
18. *Id.* [↑](#footnote-ref-18)
19. *See* PECO’s Petition at *¶* 10. [↑](#footnote-ref-19)
20. PECO Answer to Motion, ¶ 16. [↑](#footnote-ref-20)
21. *Id.* [↑](#footnote-ref-21)
22. *Id.* [↑](#footnote-ref-22)
23. *Id.* [↑](#footnote-ref-23)
24. *See* Motion to Compel. [↑](#footnote-ref-24)
25. PECO Answer to Motion, ¶ 17. [↑](#footnote-ref-25)
26. *Id.* [↑](#footnote-ref-26)
27. PECO Answer to Motion ¶ 18. [↑](#footnote-ref-27)
28. PECO Answer to Motion, ¶ 19. [↑](#footnote-ref-28)
29. *Id.* [↑](#footnote-ref-29)
30. *Id.* [↑](#footnote-ref-30)
31. PECO Answer to Motion, ¶ 20. [↑](#footnote-ref-31)
32. *Id. See* PECO Energy Company Statement No. 4, at 11:8-9. [↑](#footnote-ref-32)
33. PECO Answer to Motion, ¶ 21. *See* PECO Energy Company Statement No. 5, at 9:10. [↑](#footnote-ref-33)
34. *See* CONFIDENTIAL PECO000572- PECO000684. [↑](#footnote-ref-34)
35. PECO Answer to Motion, ¶ 21. *See* PECO Energy Company Statement No. 5, at 9:11-16. [↑](#footnote-ref-35)
36. PECO Answer to Motion, ¶ 21. The environmental covenant is attached to Mr. Moylan’s Direct Testimony as PECO Exhibit JM-1. [↑](#footnote-ref-36)
37. PECO Answer to Motion, ¶ 21. *See* PECO Energy Company Statement No. 5, at 9:23-10:3. [↑](#footnote-ref-37)
38. PECO Answer to Motion, ¶ 23. *See* May 18, 2021 Interim Order, at 5. [↑](#footnote-ref-38)
39. PECO Answer to Motion, ¶ 23. *See* May 18, 2021 Interim Order, at 6. [↑](#footnote-ref-39)
40. PECO Answer to Motion, ¶ 23. [↑](#footnote-ref-40)
41. *Id.* [↑](#footnote-ref-41)