

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

June 22, 2021

Dear Secretary Chiavetta:

Enclosed please find attached

TED UHLMAN'S OBJECTION
TO PROTECTED INFORMATION
BY PECO ENERGY COMPANY

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
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 Reasonably Necessary for the Convenience and Welfare of the Public : : P-2021-3024328
DATED: June, 2021

**TED UHLMAN’S OBJECTION
TO PROTECTED INFORMATION
BY PECO ENERGY COMPANY**

1 On February 26, 2021, PECO Energy Company (“PECO”) filed a Petition for a finding pursuant to 53 P.S. § 10619. PECO’s Petition seeks a finding 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 June 9, 2021, ALJ DeVoe issued a Protective Order.

3 Paragraph 3 of that order states, “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 Paragraph 11 of that order states: **“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.**

5 Review of the protected material shows that almost all of the information claimed by PECO to be proprietary and/or confidential does not meet the criteria spelled out in paragraph 3 of the protective order, and therefore should not be covered by the protective order.

6 The file [CONFIDENTIAL PECO 00442-000548.pdf](#) includes information concerning alternate locations, emergency response planning, and the ambient noise study, all of which contain no information of a proprietary, confidential, or security protected nature.

7 [PECO000572-PECO000761 - CONFIDENTIAL.pdf](#) includes the results of groundwater studies, and, On Pages PECO000756 to PECO000761, there is a heavily redacted copy of agreement(s) between PECO and the previous owner of the property at the corner of Sproul and Cedar Grove Roads; however, any confidential information has been removed.

8 PECO002441-PECO003310 CONFIDENTIAL Production.pdf includes information on a wide variety of topics, including production data, emergency response, stormwater management, USDA soil reports, maps of the pipeline from West Conshohocken, brochures for tanks (PECO002800-PECO002804) and meters and pumps (PECO002805-PECO002810) , safety data sheets for diesel fuel (PECO002811-PECO002822), and an extensive catalogue of parts and equipment by the XXX Mfg. Company (PECO003127-PECO003165).

9 PECO002441-PECO003310 CONFIDENTIAL Production.pdf also includes bids, quotes, pricing and terms information, and other business correspondence that could be considered proprietary or confidential as defined in paragraph #3 of the Protective Order. Therefore, the following pages should remain confidential: PECO002866 TO PECO002869, PECO002894 TO PECO002921, PECO002942, PECO002944 TO PECO002950, PECO002958 TO PECO002960, PECO002977, PECO003020 TO PECO003024, PECO00302, PECO003028, PECO003033, PECO003037, PECO003041, PECO003043 TO PECO003047, PECO003052, PECO003053, PECO003064, PECO003073, PECO003243, PECO003244, PECO003252, PECO003253, PECO003254, PECO003288, PECO003289, PECO003295 to PECO003310.

10 WHEREFORE, for all the reasons set forth above, Ted Uhlman respectfully requests that Your Honor issue the attached revised protective order.



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

Exhibit A

**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 Reliability Station in Marple Township, Delaware County Is Reasonably Necessary for the Convenience and Welfare of the Public : : P-2021-3024328
DATED: June 22, 2021

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

WHEREAS, the entry of a PROTECTIVE ORDER is necessary and appropriate to govern the discovery of Proprietary Information in this matter, IT IS HEREBY ORDERED that each of the signing parties and their counsel shall be bound 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 Paragraph 2 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 Paragraph 2 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 appear on the following files and pages: File PECO002441-PECO003310 CONFIDENTIAL Production.pdf: PECO002844 TO PECO002856, PECO002846, PECO002863 TO PECO002864, PECO002865, PECO002866 TO PECO002869, PECO002894 TO PECO002921, PECO002942, PECO002944 TO PECO002950, PECO002958 TO PECO002960, PECO002977, PECO003020 TO PECO003024, PECO00302, PECO003028, PECO003033, PECO003037,

PECO003041, PECO003043 TO PECO003047, PECO003052, PECO003053, PECO003064, PECO003073, PECO003243, PECO003244, PECO003252, PECO003253, PECO003254, PECO003288, PECO003289, PECO003295 to PECO003310.

3 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.

4 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:

4.1 The Commission at any hearing in this proceeding or in connection with motions filed in this proceeding;

4.2 Counsel of record for all named parties to this action and their immediate supervisor;

4.3 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.

4.4 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;

4.5 Court reporters;

4.6 Any witness during the course of that witness's deposition or examination;

4.7 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.

5 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:

5.1 The Commission at any hearing in this proceeding or in connection with motions filed in this proceeding;

5.2 Court reporters;

5.3 Any witness during the course of that witness's deposition or examination

5.4 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.

6 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.

7 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.

8 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.

9 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.

10 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.

11 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.

12 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 ORDERED AND APPROVED:

Date:

/s/

Emily I. DeVoe
Administrative Law Judge

CERTIFICATE OF SERVICE

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

**ANSWERS OF TED UHLMAN
TO INTERROGATORIES AND REQUESTS FOR DOCUMENTS
FROM PECO ENERGY COMPANY**

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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Respectfully Submitted,
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June 17, 2021