

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

Dear Secretary Chiavetta:

Enclosed please find attached Certificate of Service for

TED UHLMAN'S RESPONSE
TO PECO'S ENERGY COMPANY'S
MOTION IN LIMINE

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
July 12, 2021

**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: July 12, 2021

**TED UHLMAN’S RESPONSE
TO PECO’S ENERGY COMPANY’S
MOTION IN LIMINE**

1. In multiple filings, PECO has averred that any evidence or testimony that is not germane to the issue at hand¹ should be struck from the record, citing *Petition of UGI Penn Nat. Gas Inc. for A Finding That Structures to Shelter Pipeline Facilities in the Borough of W. Wyoming, Luzerne Cty., to the Extent Considered to Be Buildings Under Loc. Zoning Rules, Are Reasonably Necessary for the Convenience or Welfare of the Pub.*, No. P-2013-2347105. While there is no argument that irrelevant testimony and evidence should be discarded, there are many differences between current case (P-2021-3024328) and the West Wyoming case, (P-2013-2347105), and these differences have a profound bearing upon which issues are germane and which issues are irrelevant. These differences include:

2. **The Surrounding Neighborhood:** The site in Luzerne County was “...on an approximately 3.2 acre property in a rural, forested area of West Wyoming Borough.” and

¹ that the proposed structures ...are reasonably necessary for the convenience or welfare of the public, and therefore, exempt from local zoning ordinances

“...approximately 1,500 feet from the nearest dwelling...”². In the Final Decision by the full Commission, “*The ALJ further stated that the evidence supported a finding that the West Wyoming Gate Station will be appropriately located, because it will be at the intersection of the Auburn II Line and the existing Transco interstate pipeline and will be in a rural area that is adjacent to an electric utility corridor.*”³ On the other hand, the current case involves a lot of about 0.5 acres, on Sproul Road, the “Main Street” of Marple Township, surrounded by a strip mall, a restaurant with outdoor dining, and a densely populated residential area, and the nearest dwelling is approximately 100 feet from the facility. Therefore, any evidence or testimony regarding negative effects upon the local residents, such as property values, noise, odors, traffic, vandalism/terrorism, local environmental and health concerns, safety, and/or the ambiance of the neighborhood, should be an important part of the record in determining if the location of the buildings is reasonably necessary for the convenience and welfare of the public.

3. **The Purpose of the Facility:** The site in Luzerne County was a gate station designed primarily to accept “frack gas” produced locally and feed it into the interstate natural gas transportation system “*The West Wyoming Gate Station will interconnect the future Auburn II gathering line (the “Auburn II Line”) that will be owned and operated by UGI Energy Services, Inc. (“UGIES”) with an existing pipeline owned and operated by Transcontinental Pipe Line Company, LLC (“Transco”).* And “*The West Wyoming Gate Station will provide an interconnection that will facilitate the delivery of lower-cost, locally-produced natural gas delivered by the Auburn II Line into the Transco system...*”⁴, whereas the current case involves a project that is purportedly designed to solve a problem of low natural gas pressure in the vicinity of Sproul and Lawrence Roads. “...*the Marple Township/Broomall area area is projected to have a 3% annual increase in customer count over a 10-year period...*” and “a

2 P-2013-2347105, Initial Decision (August 16, 2013) Findings of Fact, page 5, paragraphs 12 and 13

3 P-2013-2347105 OPINION AND ORDER (December 19, 2013) page 12

4 P-2013-2347105, Initial Decision (August 16, 2013) Findings of Fact, page 3, paragraphs 4 and 5

1% annual increase over the 10-year period... ”⁵. “In fact, the lowest pressure area is found at the intersection of Lawrence Road and Sproul Road in Marple Township.”⁶ Therefore, because PECO claims that the combination of low pressure at the corner of Sproul and Lawrence Road, and future growth of natural gas use in Delaware County is an important part of the reasonable necessary for the convenience and welfare of the public, any evidence or testimony that refutes PECO’s analysis of current or future low gas pressures should be an important part of the record in determining if the location of the buildings is reasonably necessary for the convenience and welfare of the public.

4. **Location of Existing Infrastructure:** The site in Luzerne County was chosen by the corporation because it was a large parcel in a rural area, 1,500 feet from the nearest dwelling, but, more importantly, because “ *it is at the intersection of the Transco and Auburn II Lines*”.⁷ On the other hand, PECO states that “*This 16-inch trunk line is supplied by two gate stations, one in Brookhaven, Delaware County, and another in West Conshohocken.*”⁸, suggesting that almost anywhere along Sproul Rd, or even farther, is physically possible. Further, although PECO claims that “*PECO determined that the Natural Gas Reliability Station could be located within a half-mile radius of the intersection of Sproul Road and Lawrence Road and still function properly.*”⁹, PECO has provided no evidence to support this claim. Therefore, any testimony or exhibits that relate to the the function or location of infrastructure, such as the existing natural gas main trunk line on Sproul Road, the new pipeline that ends near the proposed facility, and the LNG storage facility that feeds the proposed facility, should be an important part of the record in determining if the location of the buildings is reasonably necessary for the convenience and welfare of the public.

5 PECO Statement No. 3 (Ryan D. Lewis) – Non-Confidential.pdf page 5, lines 4 - 7

6 PECO Statement No. 3 (Ryan D. Lewis) – Non-Confidential.pdf: page 5, lines 22 - 24

7 P-2013-2347105, Initial Decision (August 16, 2013) Findings of Fact, page 5, paragraph 13

8 PECO Statement No. 3 (Ryan D. Lewis) – Non-Confidential.pdf: page 5, lines 16 to 18

9 PECO Statement No. 3 (Ryan D. Lewis) – Non-Confidential.pdf: page 7, lines 14 to 17

5. **Future need:** The site in Luzerne County was designed to accept “frack gas” from the surrounding natural gas wells. Natural gas production in Pennsylvania showed an obvious and extreme increase between 2010 and 2013, with a logical expectation that the increase would continue. The Initial Decision states, “*The West Wyoming Gate Station and the existing Transco pipeline will provide PNG with access to lower-cost, locally-produced natural gas without the expense and environmental impacts associated with the construction of a new pipeline.*”¹⁰ And, in fact, Pennsylvania Natural Gas Production has continued to increase, tripling since 2013¹¹. The trend from 1970 until 2013 certainly suggested that additional infrastructure was needed, contributing to the reasonable necessity for the facility. Similarly, PECO's claim of future need in Delaware County and in Marple Township is an integral part of PECO's argument for the location of this facility “*...the Marple Township/Broomall area area is projected to have a 3% annual increase in customer count over a 10-year period...*” and “*a 1% annual increase over the 10-year period...*”¹². However, while the increasing trend of frack gas production was evident from 2010 to 2013¹³, PECO has shown no evidence of said need; only a high level, unsubstantiated claim exists. Your Honor has written, “*PECO argues it has submitted direct testimony that establishes that the proposed Station is needed to address increasing demands for natural gas in Marple Township and Delaware County.*”¹⁴ PECO has been very tight-fisted in releasing data, usually giving the high level results of regression analyses or reporting figures such as CFF/HDD¹⁵, with little primary data. In fact, HDD has been decreasing for years¹⁶, which, by itself, increases the value of CFF/HDD. In one of the few cases where PECO listed primary data¹⁷, an

10 P-2013-2347105, Initial Decision (August 16, 2013) Findings of Fact, page 5, paragraph 14

11 See Appendix, Exhibit TU-1

12 PECO Statement No. 3 (Ryan D. Lewis) – Non-Confidential.pdf page 5, lines 4 - 7

13 See Appendix, Exhibit TU-1

14 1709506.docx: INTERIM ORDER GRANTING IN PART AND DENYING IN PART PECO'S OBJECTIONS TO PUBLIC INPUT HEARING EXHIBITS AND MOTIONS TO STRIKE TESTIMONY OFFERED BY GREGORY FAT (June 30, 2021) - page 5.

15 PECO Statement No. 3 (Ryan D. Lewis) – Non-Confidential.pdf Appendix, Exhibit RL-1 and RL-2

16 See Appendix, Exhibits TU-7 and TU-8

17 PECO002441-PECO003310 CONFIDENTIAL.pdf – pages PECO002449 to PECO002473

analysis of the data shows downward trends over several years in the [REDACTED FOR CONFIDENTIALITY]¹⁸. Analysis of the data in PECO002474 through PECO002488 also shows a downward trend in [REDACTED FOR CONFIDENTIALITY]¹⁹. Also, significant evidence at the state level shows that natural gas usage has been flat or declining in Pennsylvania since 1970, except for purposes of electrical generation²⁰, and PECO refuses to explain why Delaware County is different. Because the future need in Luzerne County was based upon the recent historical and planned future expansion of natural gas production, which was obvious from the readily available trends, arguing against the future need, would have been dubious, as well as being beyond the scope of the scope of the discussion. However, because PECO states that the purpose of these buildings is to address future need (as opposed to production) right here in Marple Township and in Delaware County, evidence and testimony about future need in Marple Township and Delaware County should be an important part of the record in determining if the location of the buildings is reasonably necessary for the convenience and welfare of the public. PECO has not supplied data supporting increasing need, and data from several sources (including primary data supplied by PECO) argue against it. Again, testimony and exhibits questioning PECO's claim of future need in Marple Township and Delaware County do not seek to question the need for the project in general; however, such testimony and exhibits are legitimate concerns in determining if PECO has proven that the location of the buildings is reasonably necessary for the convenience and welfare of the public.

6. For example, may I respectfully suggest that, while it is true that Gregory Fat's Exhibits GF-B and GF-C, depict Natural Gas consumption at the state level, and are not, on their own, relevant to the case, it is NOT true that PECO has established that the proposed station is needed to address increasing demands for Marple Township and Delaware County. Although perhaps PECO could show

18 See Appendix, Exhibit TU-2 and TU-3

19 See Appendix, Exhibit TU-6

20 See Appendix, Exhibits TU-4 and TU-5

data that establishes the need, it has not done so to date.²¹ While GF-B and GF-C cannot be used to question the value of the entire project (because that issue is beyond the scope of this case), this information can and should be used to cast doubt on PECO’s assertions of increasing need, which are, as yet, unproven. If PECO cannot show increasing need in Marple Township and in Delaware County, if PECO cannot explain why Delaware County and Marple Township face increasing need, while the rest of Pennsylvania faces decreasing need, then that bears heavily on the decision determining if the location of the buildings is **reasonably** necessary for the convenience and welfare of the public.²²

7. **Public Engagement:** Although this topic does not have a corollary in the Luzerne County case, in the current proceedings, PECO has submitted testimony concerning its engagement with the public, i.e. *“Throughout every stage of this project, PECO has been intentional about working collaboratively with Marple Township and Delaware County elected officials and their residents regarding the location and design of the Natural Gas Reliability Station.”*²³ However, the quality of that engagement is best described as *“to enter into contest or battle with”*²⁴. In the first conversations between PECO and Marple Township, PECO was warned that the corner of Sproul and Cedar Grove Roads was not an appropriate location for the proposed facility, but PECO continued on this path, and the only purpose of the current proceeding is to circumvent the decision of the Marple Township Zoning Hearing Board. Perhaps it is telling that PECO expresses the power that it wields in stating, *“Although public utility facilities, such as the proposed Natural Gas Reliability Station, are exempt from local zoning regulations, in the spirit of collaboration and in keeping with the Commission’s policies, PECO filed a Zoning Application with Marple Township...”*²⁵ Meanwhile, for example, the

21 The closest PECO has come to releasing data to support its claims of increasing need in Marple Township and Delaware County is found in PECO002441-PECO003310 CONFIDENTIAL.pdf – pages PECO002449 to PECO002473, which actually shows a decreasing trend in [REDACTED FOR CONFIDENTIALITY]

22 If PECO wanted to establish need for these buildings, it could easily release data (since 1970) on the daily flow into the natural gas main trunk from the two gate stations (Brookhaven and West Conshhohocken), as it has similarly released limited data in PECO002441-PECO003310 CONFIDENTIAL.pdf – pages PECO002449 to PECO002473.

23 PECO Statement No. 1 (Douglas I. Oliver) – Non-Confidential.pdf: page 7, lines 4 to 6

24 <https://www.merriam-webster.com/dictionary/engage> Transitive Verb, #6 (accessed July 9, 2021)

25 PECO Statement No. 1 (Douglas I. Oliver) – Non-Confidential: page 10, line 22 to page 11 line 4

Manager of Marple Township has stated, “...*There were two meetings in January of this year [2021] held virtually or electronically which included not only PECO and Township representatives, but also representatives of County Council and State Representative O’Mara. At these meetings, the public parties asked PECO to consider alternative sites for the project, to which PECO expressed its intentions to put its efforts into pursuing approvals of the site at Cedar Grove and Sproul Roads.*”²⁶ and, “...*the Township has consistently told PECO that it would support a zoning application for use of an appropriate alternate site for the proposed Gas Reliability Station.*”²⁷ While PECO may claim that such testimony and exhibits are not germane to the issue at hand, it bears heavily on PECO’s claim that alternative locations were not (and are not) available because they were not for sale, too expensive, or because of zoning conflicts. The testimony of the Marple residents who spoke at the Virtual Public Input Hearing is also vital to the decision of this case. While the testimony of both sides concerning PECO’s public engagement is important in determining if the location of the buildings is reasonably necessary for the convenience and welfare of the public, in addition, it would be a great disservice if such testimony and exhibits were to be struck from the record.

8. Therefore, due to the differences between the current case (P-2021-3024328) and the West Wyoming case, (P-2013-2347105), and also due to PECO’s frequent insistence that it has adhered to high standards of community engagement, it is respectfully requested that Your Honor allow evidence and testimony that refer to the surrounding neighborhood, the purpose of the facility, the location of existing infrastructure, analysis of future need (in Marple Township and in Delaware County), and community engagement. Unlike the case of a 3.5 acre lot in a rural, wooded area, this case requires that a broader view be taken in considering which topics are germane to the issue of determining if the location of the buildings is reasonably necessary for the convenience and welfare of the public.

26 Rebuttal Testimony - Larry Gentile - Statement No. 1.pdf: page 7, lines 6 to 10

27 Rebuttal Testimony - Larry Gentile - Statement No. 1.pdf: page 8, lines 7 to 9

9. Finally, Counsel for PECO, on July 12, 2021, argued that “*On July 6, 2021, Intervenors Julie Baker, Ted Uhlman, Delaware County, and Marple Township submitted written rebuttal testimony and exhibits. The rebuttal testimony included issues that are not relevant to a Section 619 hearing, including issues related to noise, community approval, health concerns, air emissions, evacuation plans, and climate change.*”²⁸, again resting his case on the interpretation of relevance found in P-2013-2347105. For reasons stated above in paragraphs 2 through 6, there are more differences than similarities between P-2013-2347105 and P-2021-3024328 , and the issues that will negatively impact the residents of Marple Township are much more imminent than the concerns of the residents of West Wyoming in Luzerne County. Therefore, when considering the relative necessity for the location of the buildings, local concerns about noise, health, safety, and the ambiance of the community need to be given much more weight than in the rural, wooded example.

10. CONCLUSION

WHEREFORE, Ted Uhlman respectfully requests that Administrative Law Judge Emily DeVoe (1) order and direct that those concerns that will directly effect the residents of Marple Township, such as noise, health, safety, and the ambiance of the community, are within the scope of this proceeding and are directly relevant to the issues of whether the situation of two buildings for a proposed Natural Gas Reliability Station is reasonably necessary for the convenience and welfare of the public; and (2) carefully consider the testimony and exhibits submitted on behalf of the Intervenors.



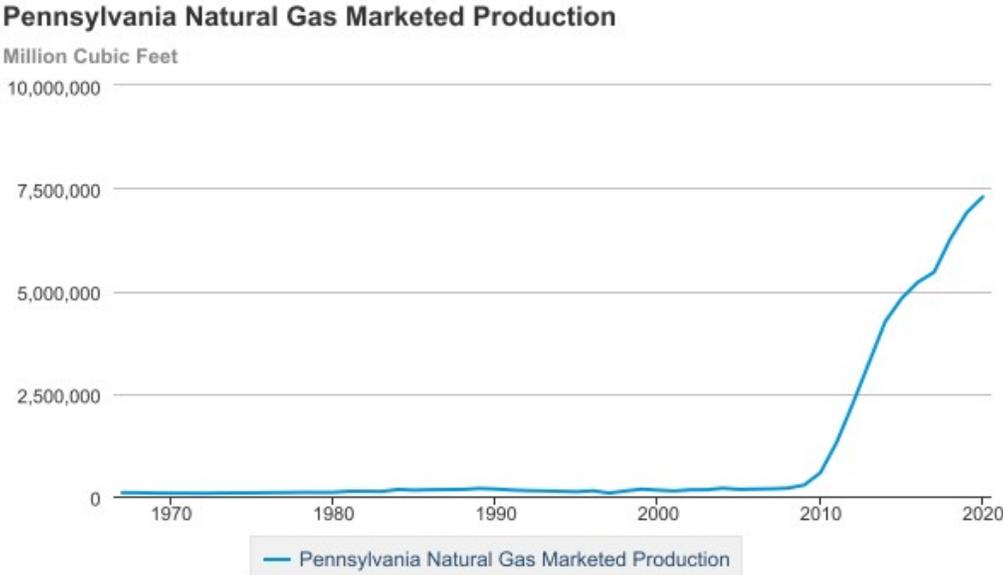
Respectfully Submitted,

Ted Uhlman
2152 Sproul Rd
Broomall, PA 19008
July 12, 2021

28 PECO ENERGY COMPANY’S MOTION IN LIMINE TO LIMIT THE SCOPE OF THE EVIDENTIARY HEARING AND TO EXCLUDE CERTAIN PORTIONS OF THE INTERVENORS’ TESTIMONY AND EXHIBITS (July 12, 2021) , page 3, paragraph 7

APPENDIX

EXHIBIT TU-1



 Source: U.S. Energy Information Administration

<https://www.eia.gov/dnav/ng/hist/n9050pa2a.htm>

EXHIBIT TU-2

PECO002449 through PECO002473

Column 4

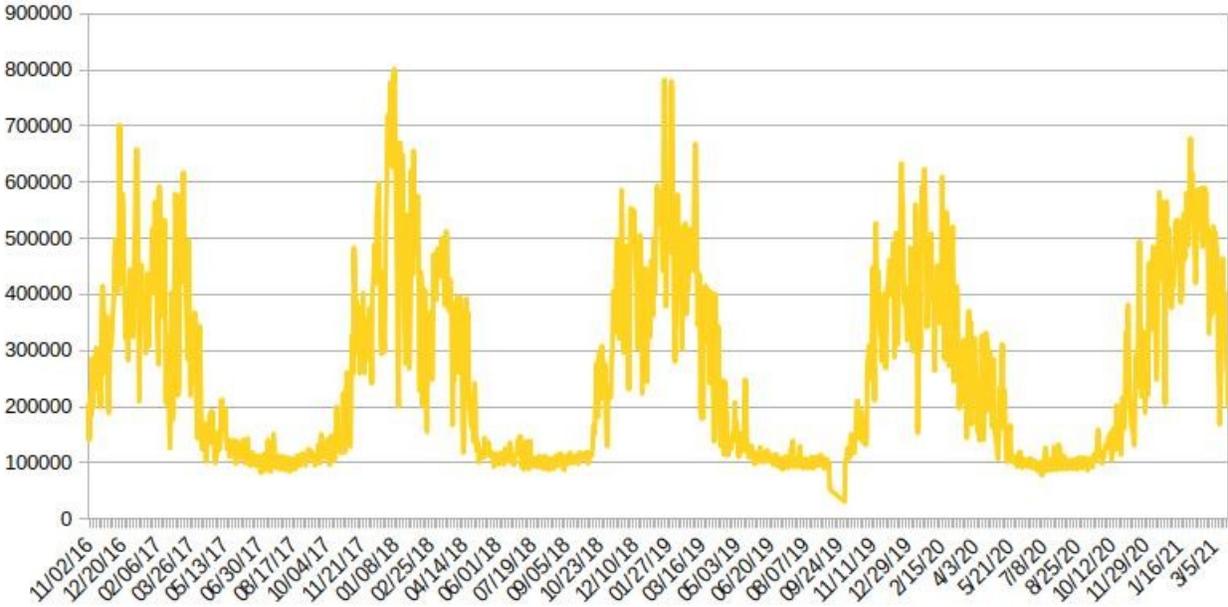


EXHIBIT TU-3

PECO002449 through PECO002473

Column 9

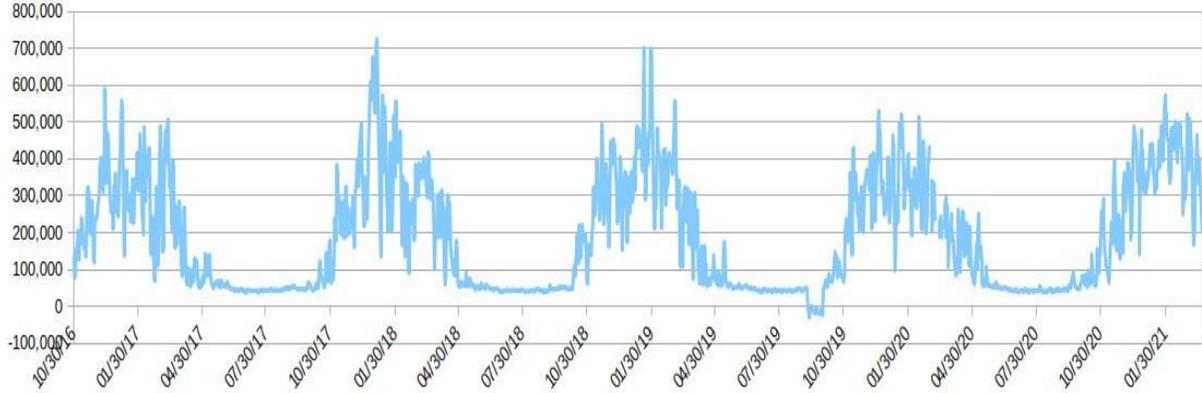
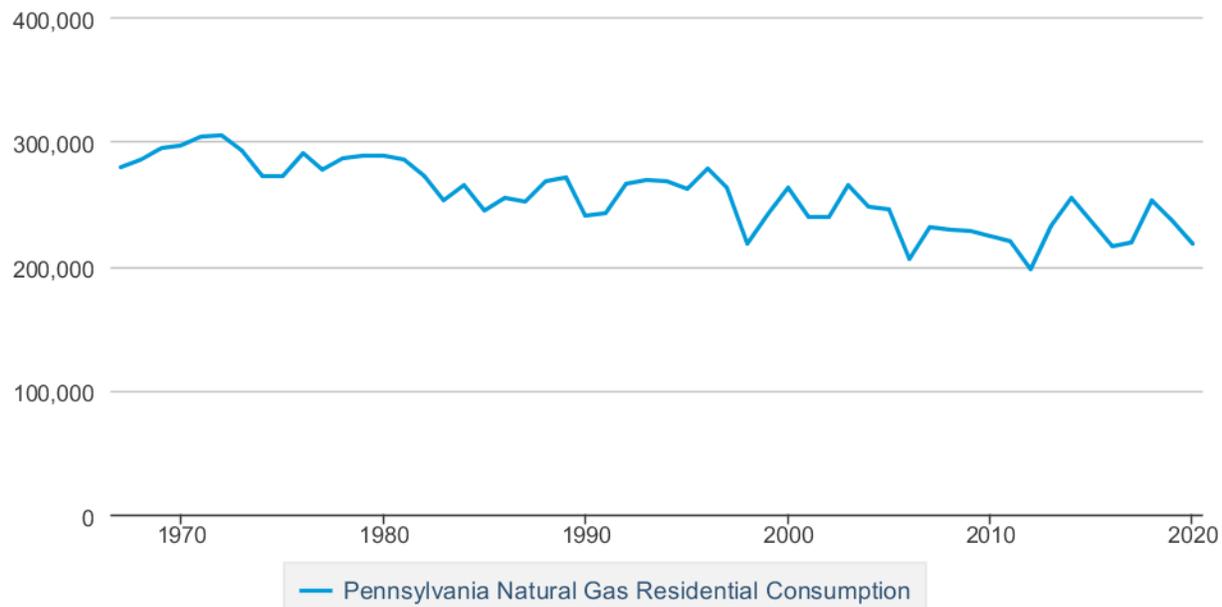


EXHIBIT TU-4: Pennsylvania Natural Gas Residential Consumption

Pennsylvania Natural Gas Residential Consumption

Million Cubic Feet

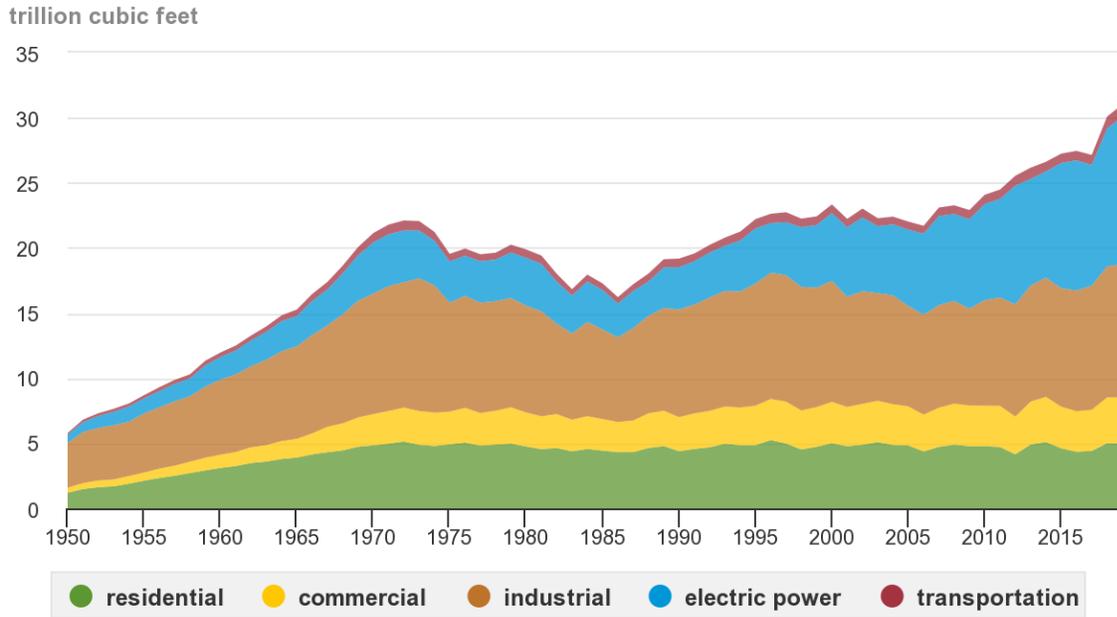


 Source: U.S. Energy Information Administration

<https://www.eia.gov/dnav/ng/hist/n3010pa2a.htm>

EXHIBIT TU-5: U.S. Natural Gas Consumption by sector, 1950-2019

U.S. natural gas consumption by sector, 1950-2019



Source: U.S. Energy Information Administration, *Monthly Energy Review*, Table 4.3, June 2020, preliminary data for 2019

www.eia.gov/energyexplained/natural-gas/use-of-natural-gas.php

EXHIBIT TU-6:

Alternative Analysis of PECO002474 through PECO002488

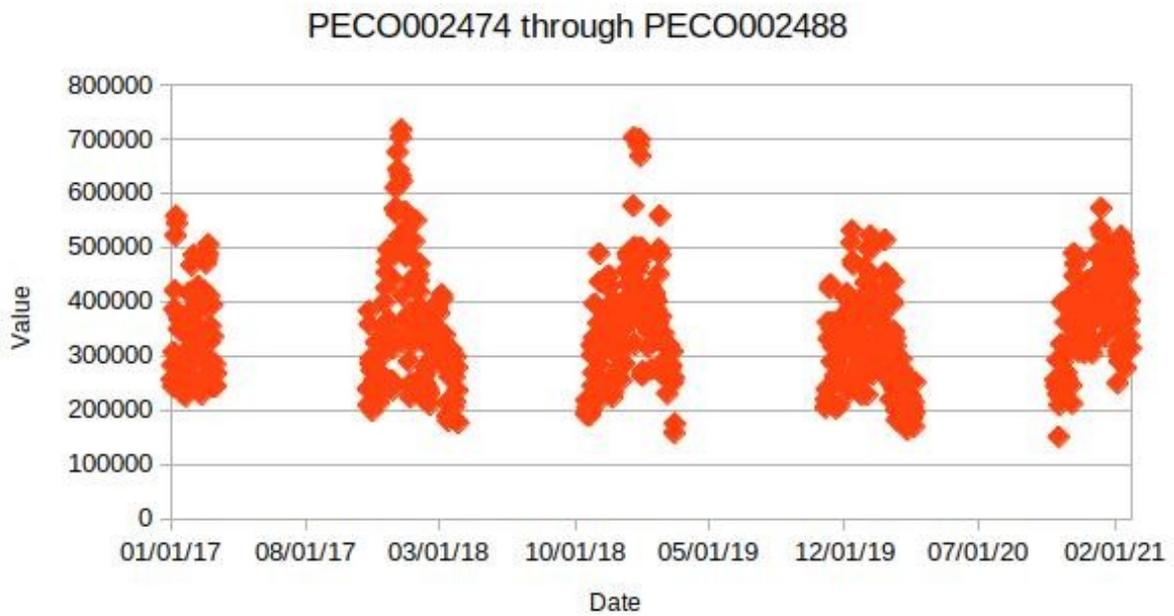
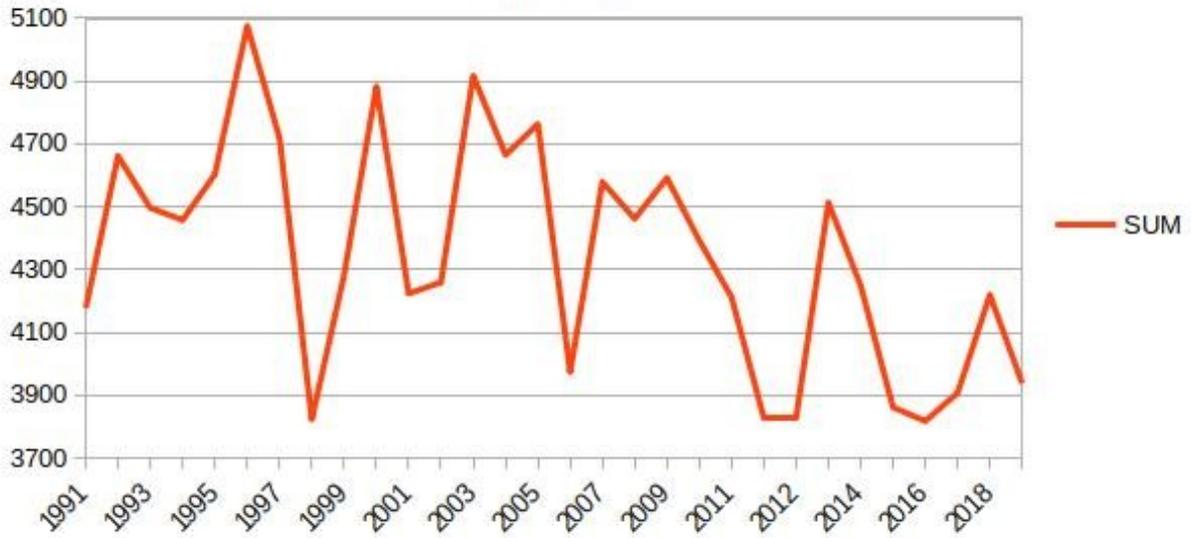


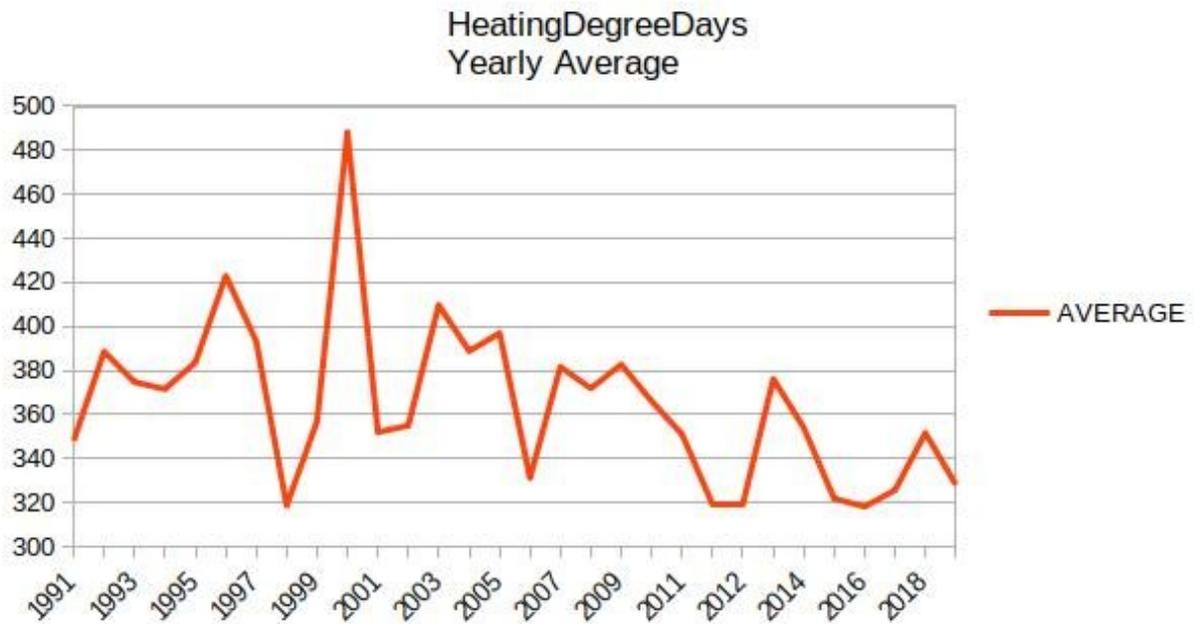
EXHIBIT TU-7:

HeatingDegreeDays
Yearly Total



<http://www.climate.psu.edu/data/state/degreedays.php?station=KPHL>

EXHIBIT TU-8:



<http://www.climate.psu.edu/data/state/degreedays.php?station=KPHL>

CERTIFICATE OF SERVICE

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

**TED UHLMAN'S RESPONSE
TO PECO'S ENERGY COMPANY'S
MOTION IN LIMINE**

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:

CHRISTOPHER A. LEWIS ESQUIRE
FRANK L. TAMULONIS ESQUIRE
STEPHEN C. ZUMBRUN ESQUIRE
BLANK ROME, LLP
ONE LOGAN SQUARE
130 NORTH 18TH STREET
PHILADELPHIA PA 19103
215-569-5793
lewis@blankrome.com
ftamulonis@blankrome.com
szumbrun@blankrome.com
Accepts eService
Representing PECO Energy Company

JACK R. GARFINKLE ESQUIRE
PECO ENERGY COMPANY
2301 MARKET STREET
PO BOX 8699
PHILADELPHIA PA 19101-8699
215.841.6863
jack.garfinkle@exeloncorp.com
Accepts eService

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
ROBERT W. SCOTT P.C.
205 NORTH MONROE STREET
MEDIA PA 19063
610.891.0108
rscott@robertwscottpc.com
carlewald@gmail.com
Accepts eService
Representing County of Delaware

JULIA M. BAKER
2150 SPROUL RD
BROOMALL PA 19008
610.745.8491
jbakeroca@msn.com
Accepts eService



Respectfully Submitted,
Ted Uhlman
2152 Sproul Rd
Broomall, PA 19008
July 12, 2021