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Petition of PECO Energy  
Company for a finding of  
Necessity Pursuant to  
53 P.S. Section 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

Call-In Telephonic  
Evidentiary Hearing  
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Pages 794 - 1017

Judge's Chambers  
Piatt Place  
301 5<sup>th</sup> Avenue  
Pittsburgh, PA

July 15, 2021  
Commencing at 10:10

INDEX TO EXHIBITS  
Docket No. P-2021-3024328  
Hearing Date: July 15, 2021

NUMBER

Uhlman Exhibit:

Statement-1 Testimony of  
Dr. Huang with  
ZH-1, CV  
(NOT ADMITTED/NOT ATTACHED)

Statement-2 Testimony of  
Ted Uhlman  
(NOT ADMITTED/NOT ATTACHED)

TU-1 Change in  
Delaware County  
Population  
(NOT ADMITTED/NOT ATTACHED)

TU-2 PA Natural Gas  
Consumption Chart 834  
(NOT ADMITTED/NOT ATTACHED)

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INDEX TO EXHIBITS (cont.)  
Docket No. P-2021-3024328  
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NUMBER

Uhlman Exhibit: (contd.)

TU-3            U.S. Natural Gas  
                 Consumption Chart  
(NOT ADMITTED/NOT ATTACHED)

TU-4            Same Data as TF-6  
(NOT ATTACHED)

TU-5            Heating Degree  
                 Days Chart  
(NOT ADMITTED/NOT ATTACHED)

TU-6            Total Send Out  
                 2016-2021  
(NOT ADMITTED/NOT ATTACHED)

TU-7            Total Send Out  
                 2016-2021  
(NOT ADMITTED/NOT ATTACHED)

Baker Exhibit:

Statement-1 Julie Baker  
                 Testimony  
(NOT ADMITTED/NOT ATTACHED)

Statement-2 Testimony of  
                 Roberta Winters  
                 with RW-1, her CV  
(NOT ADMITTED/NOT ATTACHED)

Statement-3 Testimony of C.  
                 Thomas Avedisian  
(NOT ADMITTED/NOT ATTACHED)

Statement-4 Testimony of  
                 Edward Ketyer  
(NOT ADMITTED/NOT ATTACHED)

JB-1            3501 Williamson  
                 SPL Measurements  
(NOT ADMITTED/NOT ATTACHED)

INDEX TO EXHIBITS (cont.)  
Docket No. P-2021-3024328  
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NUMBER

Baker Exhibit: (contd.)

JB-2 Christine Howe Affidavit  
(NOT ADMITTED/NOT ATTACHED)

JB-3 Facebook Screenshot  
(NOT ADMITTED/NOT ATTACHED)

JB-4 Invoices  
(NOT ADMITTED/NOT ATTACHED)

JB-5 Holly Cross Affidavit  
(NOT ADMITTED/NOT ATTACHED)

JB-6 Petition (41 Pages)  
(NOT ADMITTED/NOT ATTACHED)

JB-7 Affidavits for Petition  
(NOT ADMITTED/NOT ATTACHED)

JB-8 Residents' Addresses  
(NOT ADMITTED/NOT ATTACHED)

NUMBER

PECO Exhibit:

Statement-1

Direct Testimony of  
Douglas Oliver  
(CONFIDENTIAL)

DIO-1 Non-Confidential Email  
dated 11/19/19

DIO-2 Non-Confidential Email  
dated 12/9/19

NUMBER

PECO Exhibit:

Statement 7-SR:

Surrebuttal Testimony  
of Michele Garrity

MG-1 Letter  
(PART OF STATEMENT 7-SR)

INDEX TO EXHIBITS (cont.)  
Docket No. P-2021-3024328  
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NUMBER

PECO Exhibit: (contd.)

MG-2 FAQ Letter  
(PART OF STATEMENT 7-SR)

MG-3 Proposed Reliability Station  
(PART OF STATEMENT 7-SR)

NUMBER

Marple Township Exhibit:

Statement 1:  
    Written Rebuttal  
    Testimony of  
    Mr. Gentile  
(CONFIDENTIAL)

LG-1 12/9/19 Email

LG-2 Document

**PECO ENERGY COMPANY  
STATEMENT NO. 1**

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PETITION OF PECO ENERGY COMPANY FOR A FINDING OF  
NECESSITY

PURSUANT TO 53 P.S. § 10619

Docket No. P-2021-3024328

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DIRECT TESTIMONY

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WITNESS: DOUGLAS I. OLIVER

NON-CONFIDENTIAL VERSION

SUBJECT: PECO'S PUBLIC UTILITY STATUS AND GAS  
OPERATIONS; OVERVIEW OF PECO'S  
PETITION; AND PECO'S OUTREACH TO  
THE COMMUNITY REGARDING THE  
LOCATION AND AESTHETICS OF THE  
NATURAL GAS RELIABILITY STATION

DATED: MAY 14, 2021

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1 **DIRECT TESTIMONY OF DOUGLAS I. OLIVER**

2 **I. INTRODUCTION**

3 **Q. Please state your name and business address.**

4 A. My name is Douglas I. Oliver. My business address is PECO Energy Company, 2301  
5 Market Street, Philadelphia, Pennsylvania 19103.

6 **Q. What is your educational background?**

7 A. I received a Bachelor of Arts degree in Journalism and Mass Communications from Lock  
8 Haven University, a Master of Arts degree in Professional Communication from LaSalle  
9 University, and a Master of Business Administration degree from St. Joseph’s University.

10 **Q. Please describe your work experience relevant to your Direct Testimony.**

11 A. I currently serve as PECO’s Vice President of Governmental & External Affairs. In this  
12 capacity, I am responsible for managing relationships with state legislators and with more  
13 than 270 Townships across PECO’s five-county service territory. I have been in this  
14 position since September 2019. Prior to my current role, I served as PECO’s Director of  
15 Communications and Vice President of Communications. I have been employed with the  
16 Company since August 2016.

17 **Q. Do you have any other experiences or training that would be relevant to your  
18 Direct Testimony?**

19 A. Prior to joining PECO, I worked for Philadelphia Gas Works (“PGW”), the nation’s  
20 largest municipally owned natural gas distribution company. I served as PGW’s Senior  
21 Vice President of Marketing and Corporate Communications for five years and then as  
22 Vice President of External Affairs before leaving to join PECO. In my various roles with  
23 PGW my responsibilities included, but were not limited to, establishing and maintaining

1 PGW's relationships with the City and external stakeholders, including Philadelphia City  
2 Council, community-based organizations and new business customers.

3 **II. PURPOSE OF TESTIMONY**

4 **Q. What is the purpose of your Direct Testimony in this proceeding?**

5 A. The purpose of my testimony is to: (1) generally describe PECO's public utility status  
6 and gas operations and PECO's Natural Gas Reliability Project; (2) provide an overview  
7 of the relief requested in this proceeding and the testimony filed in support of that relief;  
8 and (3) describe PECO's efforts to inform and engage with the community and local,  
9 county, and state officials to address their concerns about the project.

10 **Q. Are you sponsoring any exhibits?**

11 A. Yes. I am sponsoring Exhibits DIO-1-PARTLY CONFIDENTIAL and DIO-2, which are  
12 email communications regarding the proposed Natural Gas Reliability Station exchanged  
13 between PECO and the Marple Township Manager.

14 **III. PECO'S PUBLIC UTILITY STATUS AND GAS OPERATIONS**

15 **Q. Mr. Oliver, is PECO a public utility?**

16 A. Yes. PECO is a public utility operating under the authority of the Pennsylvania Public  
17 Utility Commission ("PUC" or "Commission"). The Public Service Commission, a  
18 predecessor to the PUC, granted PECO a Certificate of Public Convenience in 1929.  
19 Today, PECO supplies natural gas to customers in southeastern Pennsylvania, and, more  
20 particularly, in Delaware County, including Marple Township.

21 **Q. Please provide an overview of PECO's gas operations.**

22 A. PECO provides natural gas service to approximately 534,000 retail customers and  
23 provides transportation service to 1,800 large commercial and industrial customers.

1 Residential customers account for nearly 50% of total metered volume. PECO's natural  
2 gas service region is located throughout a 1,900 square-mile area in southeastern  
3 Pennsylvania adjacent to, but exclusive of, the City of Philadelphia. The Company's gas  
4 service territory comprises all of, or portions of, Bucks, Chester, Delaware, Montgomery  
5 and Lancaster Counties.

6 **Q. Please describe PECO's commitment to safety.**

7 A. PECO has been, and is committed to, maintaining the highest standards of safety and  
8 reliability for its customers, employees, contractors, and the communities it serves.

9 Accordingly, PECO complies with federal and state law and Commission regulations by  
10 achieving comprehensive safety and reliability objectives which are managed through  
11 various programs that assess risks, track trends, and develop corrective/preventive action  
12 plans.

13 For example, PECO ranks in the first decile for Percent First Responder Calls Under  
14 One-Hour, which reflects PECO's ability to respond to natural gas odor calls within one  
15 hour of receiving notice. Additionally, PECO has received a number of safety awards,  
16 including: (1) the Energy Association of Pennsylvania's Safety Achievement Award,  
17 which recognizes member companies that have 100,000 or more hours worked, with an  
18 exceptionally low incidence rate for the calendar year; and (2) since its inception, the  
19 American Gas Association's Safety Achievement Award, which recognizes worker safety  
20 for having the lowest injury rate for similar companies.

1 **IV. OVERVIEW OF PROPOSED NATURAL GAS RELIABILITY STATION**

2 **Q. Please summarize the relief that PECO is requesting through its Petition.**

3 A. PECO proposes to construct and operate a Natural Gas Reliability Station on a property  
4 currently known as 2090 Sproul Road, Marple Township, Delaware County,  
5 Pennsylvania, 19008. PECO is the equitable owner of the property. The Natural Gas  
6 Reliability Station will allow PECO to comply with its statutory obligation to provide an  
7 adequate, safe and reliable supply of natural gas to meet growing demand in Delaware  
8 County and throughout PECO’s service territory. PECO is seeking from the Commission:  
9 (1) a finding that the proposed situation of two buildings associated with the Natural Gas  
10 Reliability Station is reasonably necessary for the convenience and welfare of the public  
11 and therefore exempt from the Marple Township Subdivision, Land Use and Zoning  
12 Codes; and (2) a finding that a proposed security fence that will surround the Natural Gas  
13 Reliability Station is a public utility facility as defined at 66 Pa. C.S. § 102 and is  
14 therefore exempt from a local zoning requirement limiting its height to 6 feet.

15 **Q. Please provide a brief description of PECO’s Natural Gas Reliability Project?**

16 A. PECO’s Natural Gas Reliability Project is designed to permit PECO to provide an  
17 adequate and reliable supply of gas to its customers in Delaware County. The Project  
18 consists of three components: (1) upgrades to PECO’s West Conshohocken natural gas  
19 plant; (2) the installation of 11.5 miles of a new high pressure uninterrupted gas main  
20 ending at a point in Delaware County where gas pressure was at its lowest point (the,  
21 “Terminus”); and (3) the construction and operation of a Natural Gas Reliability Station  
22 at the Terminus.

1 **Q. What needs are met by the proposed Natural Gas Reliability Project and Natural**  
2 **Gas Reliability Station?**

3 A. The proposed Natural Gas Reliability Project meets several important needs.  
4 Fundamentally, as explained by PECO Witness Carlos Thillet in PECO Statement No. 2,  
5 it will help to ensure the reliability of natural gas supply within PECO’s service territory  
6 by providing an additional source of supply to meet increasing design day requirements.  
7 A reliable supply of natural gas is essential for customers who rely on natural gas for heat  
8 and cooking, as the nation saw poignantly when the supply was disrupted in Texas this  
9 past winter.

10 As explained by Carlos Thillet in PECO Statement No. 2, the additional supply will  
11 reduce PECO’s reliance on spot market purchases, thereby reducing price volatility.  
12 Further, because PECO will own the gas, the Project also helps to mitigate reliance on  
13 third party suppliers. Finally, as explained by Ryan Lewis in PECO Statement No. 3,  
14 PECO decided to locate the Natural Gas Reliability Station in Marple Township,  
15 Delaware County, because that location was optimal for serving increasing customer  
16 counts and usage within Delaware County; particularly, Marple Township.

17 **Q. When does PECO intend to begin the construction of the Natural Gas Reliability**  
18 **Station?**

19 A. To the extent possible, PECO would like to begin construction by September 2021 in  
20 order to ensure that the project is completed in time for the 2022-2023 heating season.

1 **Q. Please identify the other witnesses providing direct testimony on behalf of PECO in**  
2 **this proceeding.**

3 A. In addition to myself, the following witnesses will be responsible for presenting PECO's  
4 case-in-chief:

5 **Carlos Thillet** (PECO Statement No. 2) is the Manager of PECO's Gas Supply and  
6 Transportation Department. Mr. Thillet explains in detail the need for the Natural Gas  
7 Reliability Station from the standpoint of ensuring the reliability of PECO natural gas  
8 supply to meet design day requirements. Mr. Thillet sponsors Exhibits CPT-1 through  
9 CPT-4.

10 **Ryan Lewis** (PECO Statement No. 3) is PECO's Manager of Gas Engineering & Asset  
11 Performance. Mr. Lewis discusses the gas distribution considerations that led PECO to  
12 site the Natural Gas Reliability Station in Marple Township, Delaware County. Mr.  
13 Lewis sponsors Exhibits RL-1, RL-2, and RL-3-CONFIDENTIAL.

14 **Tim Flanagan** (PECO Statement No. 4) is the Manager for Gas System Control and  
15 Plant Operations. Mr. Flanagan explains the operation of the Natural Gas Reliability  
16 Station and why the two buildings that are part of the Station are necessary for the  
17 convenience and welfare of the public. He also explains why the security fence is  
18 necessary for the convenience and welfare of the public. Mr. Flanagan sponsors Exhibits  
19 TF-1, TF-2-CONFIDENTIAL, and TF-3 through TF-7.

20 **Jim Moylan** (PECO Statement No. 5) is employed by PECO as a real estate specialist.  
21 Mr. Moylan describes the criteria and process used by PECO to select the location for the  
22 proposed Natural Gas Reliability Station. He also describes how PECO acquired the  
23 property. Mr. Moylan sponsors Exhibit JM-1.

1        **V.     PECO’S OUTREACH TO INFORM AND ENGAGE THE COMMUNITY**

2        **Q.     Did PECO make any effort to solicit community input before selecting a site for its**  
3        **Natural Gas Reliability Station?**

4        A.     Yes. Throughout every stage of this project, PECO has been intentional about working  
5        collaboratively with Marple Township and Delaware County elected officials and their  
6        residents regarding the location and design of the Natural Gas Reliability Station. On  
7        November 19, 2019, even before PECO identified the current proposed location for the  
8        Station, PECO met with Larry Gentile, Township Manager of Marple Township, and  
9        informed him about PECO’s project and indicated that PECO was seeking an appropriate  
10       site to build its Natural Gas Reliability Station. Following that meeting, PECO’s External  
11       Affairs Manager, Michele Garrity, emailed Mr. Gentile a map of the Natural Gas  
12       Reliability Project and thanked him for taking the time to meet with PECO  
13       representatives concerning the Project. *See* Exhibit DIO-1. Shortly thereafter, in  
14       December 2019, PECO solicited Mr. Gentile’s suggestions for suitable locations for its  
15       Natural Gas Reliability Station. *See* DIO-2. Also, on January 10, 2020, PECO met with  
16       Pennsylvania State Representative Jennifer O’Mara to brief her on the proposed Natural  
17       Gas Reliability Station and also informed her that PECO was in search of a suitable site.  
18       Although PECO considered sites proposed by Township and County officials, each of  
19       those sites was either unavailable or unsuitable for the Natural Gas Reliability Station as  
20       explained in more detail in the testimony of Jim Moylan. (*See* PECO Statement No. 5).

1 **Q. Did PECO engage community stakeholders after it identified a potential site for the**  
2 **Natural Gas Reliability Station?**

3 A. Yes. In June and July 2020, PECO informed Mr. Gentile and Representative O'Mara  
4 that it had executed an agreement of sale to purchase the current proposed site located at  
5 Sproul Road and Cedar Grove Road.

6 Subsequently, PECO provided Mr. Gentile with copies of written materials the Company  
7 intended to distribute to Marple Township's 1,336 residents to inform them of the  
8 project. Mr. Gentile also issued a reverse 911 call to let residents know about upcoming  
9 road closures to install the line that would bring the gas from PECO's West  
10 Conshohocken LNG facility.

11 In late October 2020, PECO met with Mr. Gentile, Joe Rufo (President of the Marple  
12 Township Board of Commissioners), Mike Molinaro (Marple Township Ward  
13 Commissioner), Joe Mastronardo and Bridget Gillen (Marple Township Engineers), and  
14 Adam Matalawski (Marple Township Solicitor) to discuss how PECO and Marple  
15 Township could work effectively together to complete this project. Later, on January 7,  
16 2021, PECO met with Representative O'Mara, Pennsylvania State Senator Tim  
17 Kearney's Chief of Staff, and Brian Madden, Elaine Schaefer, and Christine Reuther,  
18 who are members of Delaware County's Council. In fact, PECO tried to meet with every  
19 elected official in Delaware County and Marple Township to keep them apprised of this  
20 project and to obtain their input.

1 **Q. In addition to meeting with stakeholders, did PECO make any other efforts to**  
2 **engage the community with respect to this project?**

3 A. Yes. In October 2020, PECO informed Mr. Gentile that it would host four virtual open  
4 houses to discuss the project with Marple Township residents and answer any questions.  
5 PECO also invited Representative O’Mara to attend the open houses; she indicated she  
6 was unavailable, but offered to post the information concerning the open houses on her  
7 website. As promised, on October 27 and 28, 2020, PECO held four virtual public  
8 meetings to provide Marple Township residents with information regarding the proposed  
9 Natural Gas Reliability Station and to receive public input.

10 **Q. Were the open houses well attended?**

11 A. No. Over the course of the four meetings, a total of only 42 residents attended.

12 **Q. Did PECO hold any more open houses?**

13 A. Yes. On November 16, 2020, PECO held an additional virtual open house for Marple  
14 Township residents who had further questions following the October open houses.  
15 Additionally, on April 10, 2021, at the request of Representative O’Mara, PECO held  
16 another virtual open house for Marple Township residents which included various  
17 breakout sessions to provide the public with information on site selection, design,  
18 community impact, and safety. In addition to these open houses, PECO has conducted  
19 numerous one-on-one meetings with residents, responded to dozens of individual emails,  
20 and provided extensive written communications to the community.

1 **Q. Did PECO make any effort to address any concerns regarding the project that were**  
2 **raised by Marple Township and Delaware County officials or residents?**

3 A. Yes. As a preliminary matter, PECO has not received many complaints opposing the  
4 Natural Gas Reliability Project altogether. Instead, those comments provided by some  
5 Marple Township and Delaware County residents and officials have generally been that  
6 the proposed location simply should be elsewhere. However, when PECO has been  
7 presented with workable recommendations, the Company has taken reasonable steps to  
8 address them. For example, State Senator Kearney raised concerns about the aesthetics of  
9 the proposed building and encouraged PECO to consider using a building design that  
10 would provide aesthetic value to the location. As a result of Senator Kearney’s suggestion  
11 related to curbside architecture, PECO considered three new designs, one of which would  
12 increase the total cost of construction by roughly \$1 million dollars.  
13 Also, as described in detail by Tim Flanagan in PECO Statement No. 4, PECO conducted  
14 an ambient sound survey and made numerous design changes to reduce ambient sound  
15 from the facility.

16 **Q. Did PECO consider local subdivision, land use and zoning regulations as it assessed**  
17 **possible sites for the proposed Natural Gas Reliability Station?**

18 A. Yes. When choosing a site for any public utility facility, PECO considers potential  
19 impacts on local subdivision, land use and zoning. As explained in more detail by PECO  
20 witness Jim Moylan, the applicable provisions of Marple Township’s subdivision, land  
21 use and zoning code require PECO to obtain a special exception to construct its Natural  
22 Gas Reliability Station at the proposed site. Although public utility facilities, such as the  
23 proposed Natural Gas Reliability Station, are exempt from local zoning regulations, in the

1 spirit of collaboration and in keeping with the Commission’s policies, PECO filed a  
2 Zoning Application with Marple Township seeking: (1) a special exception to operate the  
3 Natural Gas Reliability Station—a public utility facility—at the property; and (2) a  
4 variance to erect a security fence measuring 8 feet in height around the Station. On  
5 October 21, 2020, the Zoning Hearing Board held a virtual hearing during which PECO  
6 conclusively met its burden for both the special exception and variance by, among other  
7 things, presenting extensive evidence and testimony from seven (7) witnesses, six (6) of  
8 whom were experts. Yet, on November 18, 2020, the Marple Township Zoning Hearing  
9 Board entered an Order denying PECO’s Zoning Application.<sup>1</sup> On December 18, 2020,  
10 PECO appealed the Zoning Hearing Board’s Order to the Court of Common Pleas of  
11 Delaware County, which appeal is currently pending.<sup>2</sup>

12 **Q. Did PECO make any effort to resolve this dispute with Marple Township without**  
13 **the use of litigation?**

14 A. Yes. On December 9, 2020, PECO communicated to Marple Township that it was willing  
15 to collaborate to seek to avoid litigation. It is my understanding that this message was  
16 relayed to the Township’s Commissioners. On December 15, 2020, we were informed  
17 that they would rather litigate the matter in court.

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<sup>1</sup> For the Board’s reasoning, *see* Marple Township Zoning Hearing Board Conclusions of Law, ¶ 13 (“Though professionally and thoroughly presented by the Applicant’s attorney and its witnesses, the Board found Applicant’s Zoning Application self-serving, in that the Applicant expended little effort exploring other sites for the Proposed Use, and settled on the first available property it explored. As such, the Board believed this Application represents the proverbial ‘round peg in a square hole’ scenario.”)

<sup>2</sup> While PECO has filed an appeal with the Court of Common Pleas of Delaware County to preserve its rights, a finding by the Commission that the situation of the proposed building is reasonably necessary for the convenience or welfare of the public, and therefore not subject to the Marple Township Subdivision, Land Use and Zoning Codes, is an issue solely within the jurisdiction of the Commission. *See* 53 P.S. § 10619.

1 **VI. CONCLUSION**

2 **Q. Does this conclude your Direct Testimony?**

3 A. Yes, it does. However, I reserve the right to file such additional testimony as may be  
4 necessary or appropriate.

PARTLY  
CONFIDENTIAL  
EXHIBIT DIO-1

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**From:** Garrity, Michele:(PECO) <Michele.Garrity@exeloncorp.com>  
**Sent:** Tuesday, November 19, 2019 4:02 PM  
**To:** 'Larry Gentile'  
**Subject:** Natural Gas Reliability Project- Marple  
**Attachments:** Marple - DelCo.pdf

Hi Larry,  
Thanks for taking the time to meet with Ed and I today. Attached is the map electronically.

I will keep you informed and up to date as updates develop.

Let me know if you have any questions.

Thanks  
Michele

Michele Garrity  
External Affairs Manager, Delaware County  
PECO  
1510 Chester Pike  
Eddystone, Pa 19022  
Office: 610-490-3120  
Cell: 484-432-7937  
[Michele.Garrity@exeloncorp.com](mailto:Michele.Garrity@exeloncorp.com)



DIO-1  
CONFIDENTIAL  
PORTION

**EXHIBIT**  
**DIO-2**

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**From:** Garrity, Michele:(PECO) <Michele.Garrity@exeloncorp.com>  
**Sent:** Monday, December 9, 2019 1:41 PM  
**To:** 'Larry Gentile'  
**Subject:** Properties

Hi Larry,  
Hope you enjoyed your time off!!!

When we were chatting last week I know you and Joe mentioned a few sites we should possibly consider for the reliability station.

- The lot next to the Wawa
- Don Guanella Property

Do you have any other suggestions? You obviously are a good source in the community, and we want to have as many ideas as possible.

Thanks  
Michele

Michele Garrity  
External Affairs Manager, Delaware County  
PECO  
1510 Chester Pike  
Eddystone, Pa 19022  
Office: 610-490-3120  
Cell: 484-432-7937  
[Michele.Garrity@exeloncorp.com](mailto:Michele.Garrity@exeloncorp.com)



**PECO ENERGY COMPANY  
STATEMENT NO. 7-SR**

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PETITION OF PECO ENERGY COMPANY FOR A FINDING OF  
NECESSITY

PURSUANT TO 53 P.S. § 10619

Docket No. P-2021-3024328

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SURREBUTTAL TESTIMONY

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WITNESS: MICHELE GARRITY

SUBJECT: PECO'S OUTREACH TO THE COMMUNITY  
REGARDING THE LOCATION AND  
AESTHETICS OF THE NATURAL GAS  
RELIABILITY STATION

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1 during the May 24 and 25, 2021 Public Input Hearings concerning PECO's public outreach  
2 efforts with respect to the proposed Natural Gas Reliability Station.

3 **Q. Are you sponsoring any exhibits?**

4 A. Yes. I am sponsoring Exhibits MG-1 through MG-3.

5 **III. RESPONSE TO CRITICISMS OF PECO'S PUBLIC OUTREACH EFFORTS**

6 **Q. Does PECO perform outreach to the communities where it will site public utility  
7 infrastructure in advance of commencing its projects?**

8 A. Yes. We begin by reaching out to local officials in the area to get their input on the  
9 community and proposed locations. Once we have engaged in that process, we look to  
10 select a location based on that input and on the criteria discussed in detail in Jim Moylan's  
11 Direct and Rebuttal Testimony. Then we hold open houses to advise the community of the  
12 nature and timeline of the project and to gather their input.

13 **Q. So, is it accurate to say you solicit and welcome feedback from the community?**

14 A. Yes. PECO is genuinely interested in, and welcomes, feedback from the community with  
15 respect to each of its public utility infrastructure projects. Indeed, constructive feedback  
16 from the community helps PECO in accomplishing its ultimate goal and obligation, which  
17 is to deliver safe, reliable, and affordable service to its customers. In many occasions,  
18 members of the public express support for the project or do not oppose the project. On  
19 other occasions, the Company encounters community members who initially have  
20 reservations about PECO's public utility infrastructure projects. However, after the  
21 completion of just about every project, many if not most community members generally  
22 express satisfaction with the project. For example, the Company recently faced initial  
23 opposition with respect to a project in a residential section of West Philadelphia that

1 involved PECO's purchase of land to replace one of its electric substations.<sup>1</sup> When the  
2 community learned of PECO's plans, approximately 150 residents voiced their opposition  
3 to the project. PECO held several open house forums to educate the community concerning  
4 the details of the project. Subsequently, a small group of community representatives began  
5 to meet regularly with PECO representatives and shared specific concerns of the residents  
6 regarding, but not limited to, lighting, aesthetics, and traffic-related concerns. Their  
7 concerns were factored into the project and the substation was recently energized at the  
8 purchased site with the support of the community. Similarly, PECO faced initial  
9 community opposition to its Center Point Substation, which is a transmission substation  
10 located in a residential neighborhood immediately adjacent to approximately 10 homes.  
11 When residents complained about noise levels, PECO hired noise consultants and  
12 constructed a noise dampening wall, which extended the project completion date by one  
13 year. In each of these instances, customer feedback helped drive a better result for  
14 everyone.

15 **Q. How has social media affected PECO's public outreach efforts?**

16 A. PECO supports the use of social media as it helps us distribute information to our customers  
17 and the community at large. Indeed, we have been very proactive on social media and web  
18 platforms with respect to this project to make sure we communicate with as many members  
19 of Marple Township as possible and provide them with the most up to date information.  
20 However, social media has also presented unique challenges with respect to PECO's public  
21 outreach efforts because it permits the rapid dissemination of misinformation. Examples  
22 include the unfounded and erroneous claims that the Natural Gas Reliability Station is a

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<sup>1</sup> It is worth noting that a substation is conceptually similar to the Natural Gas Reliability Station in that it steps down high voltage electricity to lower voltages that can be used within homes and businesses.

1 “industrial facility”, that it will be a “gas expansion plant”, and that it will have  
2 smokestacks. Other examples are statements that the Natural Gas Reliability Station will  
3 be a manufacturing, fracking, or gas processing plant, or compressor station. These  
4 statements are simply incorrect, for the reasons provided in the testimony of PECO  
5 witnesses Timothy Flanagan and Ryan Lewis. PECO has been working hard to use its own  
6 social media platforms to correct this misinformation.

7 In addition, as described in more detail below, PECO held virtual open houses and  
8 meetings to educate the community and correct certain misinformation about the Natural  
9 Gas Reliability Station; however, a total of only 42 residents attended these meetings  
10 notwithstanding our extensive efforts to publicize them.

11 **Q. Mr. Uhlman and others have alleged that PECO’s efforts to involve the community  
12 in this project have been inadequate. What is your response to these allegations?**

13 A. I respectfully disagree with any suggestion that PECO’s public outreach efforts concerning  
14 this project have been inadequate. PECO has been intentional about keeping the  
15 community apprised and soliciting the community’s input regarding both the siting and  
16 design of the proposed Natural Gas Reliability Station throughout the entire process.

17 **Q. Please describe PECO’s efforts to obtain community input regarding the location of  
18 the Natural Gas Reliability Station.**

19 A. Throughout this project, PECO has kept Marple Township officials apprised of its efforts  
20 to secure a suitable location for the Natural Gas Reliability Station. Six months before  
21 PECO entered into an agreement to acquire the site at 2090 Sproul Road, on November 19,  
22 2019, Edward McBride, PECO’s Manager of Local Government Affairs, and I met with  
23 Larry Gentile, Township Manager of Marple Township, and informed him about PECO’s

1 plan to build a Natural Gas Reliability Station in Marple Township. We also informed him  
2 that PECO was seeking an appropriate location for the project. After that meeting, I  
3 emailed Mr. Gentile a map of PECO's Natural Gas Reliability Project, thanked him for  
4 taking the time to meet with PECO representatives concerning the project, and promised  
5 to keep him informed of any developments. (*See Exhibit DIO-1.*)

6 **Q. When did Marple Township first learn that PECO was interested in purchasing the**  
7 **property at 2090 Sproul Road?**

8 A. Shortly after the meeting described above, on December 3, 2019, I met with Mr. Gentile  
9 and Township Engineer, Joseph Mastronardo, and informed them that PECO was  
10 considering the property located at 2090 Sproul Road. I also solicited their suggestions for  
11 other suitable locations for PECO's Natural Gas Reliability Station.

12 **Q. During the December 3, 2019 meeting, did Mr. Gentile and Mr. Mastronardo propose**  
13 **any other sites as being suitable for the Natural Gas Reliability Station?**

14 A. Yes, they proposed sites at 825 Reed Road and 2024 Sproul Road.

15 **Q. Did PECO consider the sites proposed by Mr. Gentile and Mr. Mastronardo?**

16 A. Yes. PECO did consider the sites proposed by Township officials; however, each of those  
17 sites was either unavailable or unsuitable for the Natural Gas Reliability Station as  
18 explained in more detail in the testimony of Jim Moylan. (*See PECO Statement Nos. 5 and*  
19 *5-SR) and Ryan Lewis (see PECO Statement No. 3-SR). On December 9, 2019, I sent Mr.*  
20 *Gentile an email, again soliciting additional suggestions for suitable locations for the*  
21 *project, but I never received any additional suggestions. (See Exhibit DIO-2).*

1 **Q. During the December 3, 2019 meeting between PECO and Township representatives,**  
2 **did the Township indicate that it believed the site at 2090 Sproul Road was**  
3 **inappropriate for PECO’s Natural Gas Reliability Station?**

4 A. No, neither Mr. Gentile nor Mr. Mastronardo expressed any opposition to the 2090 Sproul  
5 Road site during the December 3, 2019 meeting. Instead, Mr. Gentile advised PECO that  
6 he thought the site would be difficult to acquire because its owner had been reluctant to  
7 sell the property in the past.

8 **Q. Did PECO discuss eminent domain with Marple Township?**

9 A. Yes. During the December 3, 2019 meeting, I told Mr. Gentile and Mr. Mastronardo that  
10 PECO disfavors using eminent domain and views it as a last resort. Instead, it is PECO’s  
11 preference to reach amicable agreements with landowners when acquiring property for  
12 public utility infrastructure projects.

13 **Q. Did PECO ever reach an agreement to acquire the proposed site?**

14 A. Yes. In June 2020, PECO executed an agreement of sale to acquire the property located at  
15 2090 Sproul Road for its Natural Gas Reliability Station. Soon thereafter, PECO informed  
16 Mr. Gentile of this development.

17 **Q. When PECO informed Marple Township officials that it had executed an agreement**  
18 **of sale to purchase the proposed site, did PECO receive any opposition indicating that**  
19 **the site was inappropriate for PECO’s Natural Gas Reliability Station?**

20 A. No. At that time, PECO did not receive any opposition from Marple Township  
21 representatives regarding the proposed siting of its Natural Gas Reliability Station. PECO  
22 received opposition to the proposed siting of the Natural Gas Reliability Station for the  
23 first time in July 2020, in a meeting that PECO requested with Michael Molinaro, Marple

1 Township Commissioner (6<sup>th</sup> Ward). In that meeting, PECO shared with Mr. Molinaro the  
2 information that PECO intended to present at its scheduled open houses regarding the  
3 Project. Mr. Molinaro expressed general opposition to PECO constructing its Natural Gas  
4 Reliability Station in Marple Township. He provided no reasons for his opposition. Instead,  
5 he simply stated, “Not in my ward. Find another location.” Moreover, Mr. Molinaro  
6 expressed his opposition after PECO had already executed an agreement to purchase 2090  
7 Sproul Road and after work on the Project had commenced.

8 **Q. Did PECO continue to consider alternative sites after it executed an agreement of sale**  
9 **to purchase the property located at 2090 Sproul Road?**

10 A. Yes. In either February or March of 2021, not convinced that PECO had considered  
11 alternative sites for the Project, elected officials requested that PECO consider a list of five  
12 alternative locations; two of which PECO had already considered (825 Reed Road and  
13 1797 Sproul Road). PECO assessed the remaining three locations (401 Parkway Drive, 861  
14 Sussex Blvd., and 10-20 Lawrence Road) and determined that they were either unavailable  
15 or not suitable for the Natural Gas Reliability Station. The reasoning for PECO’s decision  
16 is discussed in more detail in the testimony of Jim Moylan. (See PECO Statement Nos. 5  
17 and 5-SR).

18 **Q. There have been allegations suggesting that PECO did not keep Marple Township**  
19 **residents apprised of this project. Did PECO engage in any public outreach efforts**  
20 **with respect to Marple Township Residents?**

21 A. Yes. PECO’s public outreach efforts included, but was not limited to, the following:

- 1           • Creating a dedicated landing page on PECO’s website, which contains information  
2           concerning the Project;<sup>2</sup>
- 3           • Distributing letters and informational materials (*see* Exhibits MG-1 and MG-2,  
4           respectively) to 1,336 Marple Township residents informing them about the Project  
5           and letting them know that work was beginning in the area;
- 6           • Distributing PECO’s bi-monthly newsletters to 1,336 Marple Township residents  
7           providing updates regarding the Project;
- 8           • Distributing letters to 1,336 Marple Township residents informing them of four virtual  
9           open houses; and
- 10          • Holding four virtual open houses (including one on Saturday morning in response to  
11          state legislators’ suggestion that this time was more convenient for community  
12          members) to receive input from community members about the Project and answer any  
13          questions. As I mentioned previously, over the course of the four open houses, a total  
14          of 42 residents attended.

15 **Q. Did Marple Township officials assist in keeping Marple Township residents apprised**  
16 **of the Project?**

17 A. Yes, Mr. Gentile assisted PECO in keeping the residents informed by posting PECO’s  
18 communications onto the Marple Township website. Mr. Gentile also issued a reverse 911  
19 call to let residents know about upcoming road closures to install the line that would bring  
20 the gas from PECO’s West Conshohocken LNG facility.

21 **Q. During the Public Input Hearings in this proceeding, several lay witnesses have**  
22 **alleged that PECO only mailed information to a total of 80 residents. Is that correct?**

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<sup>2</sup> See <https://www.peco.com/SmartEnergy/InnovationTechnology/Pages/safeandreliablenaturalgas.aspx>

1 A. No. Those witnesses are mistaken. Marple Township—not PECO—disseminated its notice  
2 of the related Zoning Board Hearing to a total of roughly 80 residents. PECO’s mailing list,  
3 however, includes 1,336 Marple Township residents.

4 **Q. In the Rebuttal Testimony offered by Mr. Gentile, he states that the siting of PECO’s**  
5 **Natural Gas Reliability Station is inappropriate in a residential area considering**  
6 **concerns regarding the aesthetics of the project, noise levels, fire safety, and emissions.**  
7 **Has PECO made any efforts to address these concerns?**

8 A. Yes. As a preliminary matter, it is worth noting that one of the alternative sites proposed  
9 by Marple Township officials, 2024 Sproul Road, is located in a residential area. Indeed,  
10 this site is located approximately 1,000 feet from the property selected by PECO and is  
11 located adjacent to a Wawa, a TD Bank, a WSFS Bank, and multiple residences. Thus, it  
12 is not clear why this site was appropriate for the Natural Gas Reliability Station, but a site  
13 a relatively short distance away is not. However, Mr. Moylan explained in his testimony  
14 the criteria we applied in selecting 2090 Sproul Road. Nonetheless, when PECO has been  
15 presented with workable recommendations, the Company has taken reasonable steps to  
16 address them. For example, in January 2021, a member of County Council raised concerns  
17 about the aesthetics of the proposed building and encouraged PECO to consider using a  
18 building design that would provide aesthetic value to the location. As a result of this  
19 suggestion related to curbside architecture, PECO requested a meeting with Mr. Molinaro  
20 and Joe Rufo, Marple Township Commissioner (Ward 1), to discuss alternative designs for  
21 the Project; however, Mr. Molinaro and Mr. Rufo indicated that they were not interested  
22 in meeting. Mr. Molinaro even commented that altering the Project’s design was “like  
23 putting lipstick on a pig.” Nonetheless, PECO considered three new designs, one of which

1 would increase the total cost of construction by roughly \$1 million dollars. (See Exhibit  
2 MG-3). PECO’s alternative renderings also contain a setback permitting the use of the  
3 sidewalk, creating a welcoming design and ample pedestrian accommodation that is  
4 consistent with any effort by the community to make the proposed site part of the “gateway”  
5 to Marple Township.

6 To address concerns regarding noise levels, PECO conducted an ambient sound survey and  
7 made numerous design changes to reduce ambient sound from the facility. These changes  
8 are described in more detail by Tim Flanagan in PECO Statement No. 4.

9 Mr. Flanagan also details PECO’s efforts to address concerns regarding fire safety and  
10 emissions. However, it is worth noting that the proposed location previously served as the  
11 site of a gas station, which caused ground contamination on the subject property. PECO  
12 has agreed to address said contamination as part of its construction of its Natural Gas  
13 Reliability Station.

14 Thus, the Company has taken reasonable steps to address the concerns of the Marple  
15 Township community; however, it appears that a group of community members who  
16 oppose the Project simply wish that “PECO would just move this facility someplace else.”<sup>3</sup>

17 **Q. Should community members be left to decide whether the public utility building and**  
18 **fence associated with the Natural Gas Reliability Station should be located at 2090**  
19 **Sproul Road?**

20 A. I am not an attorney, so I cannot speak to the applicable legal standard. However,  
21 while it is PECO’s practice to work collaboratively with community members when  
22 considering its projects, as a public utility company, the preferences of community

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<sup>3</sup> See Ted Uhlman’s Written Testimony by PECO Energy Company, Page 5, lines 12-13.

1 members must always be weighed against PECO's obligation to deliver safe, reliable, and  
2 affordable service to its customers. This obligation sometimes requires PECO to take  
3 positions that are contrary to the community's preference. This difference of positions—  
4 and I want to emphasize that PECO's position is based on its service obligations as a public  
5 utility—should not be taken as an unwillingness on PECO's part to work with community  
6 members. And in this case, as is PECO's practice, we have worked with community  
7 stakeholders throughout this entire process.

#### 8 **IV. CONCLUSION**

9 **Q. Does this conclude your Surrebuttal Testimony?**

10 **A.** Yes, it does.

**EXHIBIT**  
**MG-1**

June 15, 2020

<Name>  
<Company>  
<Address One>  
<Address Two>  
<City, State, Zip>

Dear <Name>

At PECO, we are committed to providing safe, reliable, affordable, and clean energy to our customers and the communities we serve. As part of that commitment, we have begun working on a natural gas reliability project in Montgomery and Delaware counties, with work in Marple Township scheduled to begin at the end of June.

General Asphalt Paving, a qualified PECO contractor, will be performing the work on behalf of PECO. For this work, some roadways and sidewalks may require excavation, which our crews will perform as safely as possible and with limited inconvenience to residents. Any necessary detours will be clearly marked following state and local regulations. We will work closely with local officials to minimize the impact on traffic and pedestrians whenever possible. Access for services such as trash removal and emergency vehicles will be maintained during construction.

PECO is considered an essential business during this COVID-19 pandemic, and the work our crews are performing is critical to ensure the continued safe and reliable service that you need everyday, especially during these times. Crews will be practicing social distancing and may be wearing additional protective equipment in accordance with CDC and Pennsylvania guidelines.

We intended to host an open house with all of our neighbors who live, do business, or own property near the project route prior to any work beginning. But for the safety of our employees, customers, and communities, we have postponed the event. The open house will be rescheduled at a later date and we will provide details as they become available.

We are dedicated to keeping you informed about our work. If you have questions about this project, please contact Ally Pyrih, PECO project customer liaison, at 484-685-7499 or [Alexandra.Pyrih@exeloncorp.com](mailto:Alexandra.Pyrih@exeloncorp.com).

Sincerely,



Steven A. Singh  
Vice President, Technical Services, PECO

Enclosure

**EXHIBIT**  
**MG-2**

## Fact Sheet

### **PECO Natural Gas Reliability Station Marple Township FAQs**

#### **What is a reliability station?**

A reliability station is a piece of PECO infrastructure designed to provide safe and reliable service to our customers. This reliability station in Marple Township will enable PECO to distribute more natural gas into Delaware County through 11.5 miles of new natural gas main. It will be the receiving point that will reinforce the supply of natural gas to Delaware County and will ensure PECO can continue to deliver safe and reliable natural gas to meet the growing needs of the customers and communities we serve.

#### **Is it safe to place a reliability station in this area?**

The safety of our employees, customers, and communities is always PECO's top priority. As with all PECO facilities and projects, we have multiple safety measures in place, including 24/7 monitoring which will allow us to remotely shut the station down at any time.

#### **What considerations did PECO take when designing this project?**

PECO completed a detailed project plan to determine potential impacts and identify opportunities to minimize those impacts in advance of the project, including identifying required permits and approvals. We have taken every effort to minimize impact to the environment, traffic, and communities, including reducing the number of stream crossings, avoiding wetlands, and avoiding local roads as much as possible. We have met with regulators to discuss the project permitting and regulatory requirements, including PADEP, Montgomery County Conservation District, and Delaware County Conservation District.

#### **Why was this site selected?**

PECO first started to search for viable site options in 2019. This site was selected due to:

- **PROXIMITY:** The station must be in close proximity to Sproul and Lawrence Roads.
- **AVAILABILITY:** The owner was willing to sell.
- **SIZE:** The property must be between .5-1 acre.
- **ZONING:** The property must be zoned for utility use.

#### **Did PECO look at any other sites?**

PECO considered at least ten sites that were within a two-mile radius of the natural gas main on Sproul and Lawrence roads. They were eliminated due to their size, zoning codes, availability, and proximity to Sproul and Lawrence Roads.

#### **Why can't you place this station at the Don Guanella property?**

PECO considered the Don Guanella site for the reliability station but it was determined that the site was not zoned for utility use. It was also in litigation with the property owner (Archdiocese of Philadelphia).

- The township confirmed during the zoning hearing board meeting in October 2020 that a developer has submitted land development plans to the township for a 142-unit residential subdivision. The site is zoned properly for residential use.
- PECO asked the developer about subdividing or buying and the answer was no.

**Will this affect my property value?**

PECO has no knowledge with which to make this determination, but since it has always been zoned for a public utility facility, any conveyance while zoned should have been factored by the market.

**Has PECO already purchased the site from the owner?**

PECO is an equitable owner in the property. We own everything but the title to the property.

**What kind of landscaping plan are you anticipating?**

PECO is working closely with local officials, customers and community members to make this location as aesthetically pleasing as possible. We will be adding greenspace to a previously vacant lot and using neutral colors for the protective wall to minimize any clash with the neighborhood appearance.

The landscaping plan adheres to the Township’s tree requirements and includes:

- Four red maple trees along Cedar Grove Road
- A white spruce by the back driveway coming off of the alley
- Twenty-nine shrubs including shamrock inkberry and border forsythia

**You say this project is critical, what would happen if it isn’t completed?**

There was a 3.5% growth in natural gas in Delaware County over the last year. Based on current operating and customer projections, without this project, the natural gas system in Delaware County will be capacity constrained. This could result in PECO’s existing customers not receiving the reliable natural gas service that they expect and deserve and will also prohibit new customers from connecting and experiencing the benefits of natural gas.

**Will any noise be emitted from the station?**

Under normal operating conditions, some of the process equipment will produce noise, and noise levels will vary based on the dynamic operating conditions of the station.

- That said, PECO has taken noise into consideration concerns very seriously while designing the reliability station.
- A third party noise study was conducted for the reliability station taking into account the proposed equipment, included field measurements for baseline conditions, and provided several noise abatement features or design recommendations which have been implemented in the design in order to be below the Marple Township noise ordinance levels.

- Abatement features include upgraded components with enhanced noise characteristics, in-line silencers, building construction with acoustical insulation, and a perimeter wall with noise absorptive panels.

### **Have any measures been taken to limit the noise?**

We have taken additional proactive measures above and beyond requirements by the Township, PECO, and Exelon to limit noise from the reliability station.

- The manufactured heaters are specialized to contain noise abatement material.
- The enclosure building will be constructed with acoustic-dampening insulation and doors.
- A forced air ventilation system would be employed to minimize open area that would allow noise to escape the enclosure.
- Acoustic blanketing or above grade piping downstream of the station inlet and secondary enclosure for piping downstream of the regulator valves.
- The HVAC equipment will have noise restrictions or include absorptive barrier around the unit.
- Noise trim will be utilized on the regulator valves, including in-line silencers.
- The facility will contain a perimeter wall composed of high-density polyethylene insulated panels. The perimeter wall will be 8 feet in height, the station enclosure building will be 15 feet in height, and the heater stacks will be 18 feet in height.

### **Will there be lights on the property?**

Yes, there will be lighting that is directed towards the station equipment for maintenance purposes.

### **How many lights will there be?**

There is one yard light along the south side of the facility, approximately 10' high, and oriented downward to illuminate the line heater. There are also six exterior lights above each doorway to the main station building and one exterior light above the doorway to the fiber building all of which at approximately 8 to 10 feet high. There will also be lighting within each of the buildings.

### **What happens if there is a natural gas leak at the property?**

Safety and always our top priority, and though PECO does not anticipate a natural gas leak we are prepared. This facility is monitored 24/7 to ensure safe operation, which allows us to shut the station down remotely in the event of an emergency. Additionally, natural gas detectors will be on-site to monitor for any signs of a natural gas leak or issue. If detected, the station can be shut down remotely to ensure the safety of our customers and communities.

Customers should remember the following important information about natural gas:

- Natural gas has no natural odor, so an odorant is added to help detect when a leak occurs.
- Promptly reporting a natural gas odor plays a critical role in ensuring safety.
- **If you ever smell natural gas, call PECO at 1-800-841-4141, 24 hours-a-day, seven days a week. Crews will be on-site within one hour to investigate.**

### **What would happen if a car/truck hit the wall? Would there be an explosion?**

An explosion would not likely happen. If there is natural gas detected, operators would be immediately alerted and they could remotely shut down the station. Also a reinforced wall will be built surrounding the property. In addition to reducing noise, this wall will also protect the building and the equipment inside.

- Following customer concerns, PECO is evaluating installing additional precautions, such as a bollard outside the wall to further reduce the risk of damage from a motor vehicle accident.

### **Will first responders be able to access the reliability station if there is an emergency?**

The facility is monitored 24/7 to ensure safe operation and PECO has a great working relationship with local EMS. Both PECO and local emergency responders will continue to foster that relationship and respond to all emergencies in the quickest and safest manner.

### **Will this project allow me to have natural gas?**

For this project PECO is installing natural gas main, not connecting customers. However, the installation of the 11.5 mile natural gas main and the reliability station will allow more capacity to come in. Please contact Ally Pyrih at [Alexandra.Pyrih@exeloncorp.com](mailto:Alexandra.Pyrih@exeloncorp.com) to discuss natural gas options in your home.

**EXHIBIT**  
**MG-3**

# Proposed Marple Township Reliability Station



1

Station Design Option



# Proposed Marple Township Reliability Station



2

Station Design Option



# Proposed Marple Township Reliability Station

3

Station Design Option



**From:** Larry Gentile  
**Sent:** Monday, December 9, 2019 1:47 PM  
**To:** Garrity, Michele:(PECO) <[Michele.Garrity@exeloncorp.com](mailto:Michele.Garrity@exeloncorp.com)>  
**Subject:** RE: Properties

Hi Michele,  
Not of the top of my head but I will speak with our zoning and codes director, he long history with the twp. and knows more locations than me.

Lawrence J. Gentile  
Township Manager  
Township of Marple  
227 S. Sproul Rd.  
Broomall, PA 19008  
(610) 356-4040, ext. 503



**From:** Garrity, Michele:(PECO) <[Michele.Garrity@exeloncorp.com](mailto:Michele.Garrity@exeloncorp.com)>  
**Sent:** Monday, December 9, 2019 1:41 PM  
**To:** Larry Gentile <[lgentile@marpletwp.com](mailto:lgentile@marpletwp.com)>  
**Subject:** Properties

Hi Larry,  
Hope you enjoyed your time off!!!

When we were chatting last week I know you and Joe mentioned a few sites we should possibly consider for the reliability station.

- The lot next to the Wawa
- Don Guanella Property

Do you have any other suggestions? You obviously are a good source in the community, and we want to have as many ideas as possible.

Thanks  
Michele

[Michele Garrity](#)  
External Affairs Manager, Delaware County  
PECO  
1510 Chester Pike

Eddystone, Pa 19022  
Office: 610-490-3120  
Cell: 484-432-7937  
[Michele.Garrity@exeloncorp.com](mailto:Michele.Garrity@exeloncorp.com)



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20-21, ll. 24-7).

6. The Property is located in Marple Township’s “N” Neighborhood Center Zoning District, which permits retail commerce, business or professional offices, and municipal and governmental facilities uses as a matter of right. *See, Marple Township Zoning Map, attached to Reproduced Record.*

7. Marple Township’s “N” Neighborhood Center Zoning District allows for gasoline services stations as a special exception use. *Article XV, §300-37 of the Marple Township Zoning Ordinances.*

8. Applicant, through its Zoning Application, proposes to construct a gasoline reliability station at the Property (“the Proposed Use”) under special exception. Applicant also seeks a variance to erect a fence measuring eight feet in height around the Proposed Use in lieu of a permitted six-foot-high fence.

9. Specially, Applicant seeks the following relief:

- (a). authorization by the Marple Township Zoning Hearing Board for a Special Exception to Chapter 300, Article V, §300-37 and 39 to permit the Proposed Use in accordance with Marple Township Zoning Code; and
- (b). a variance to Chapter 300, Article XIII, §300-111, Fences and walls, which limits fences to a maximum height of 6 feet.

10. Applicant made the following representations in its Zoning Application:

- (a). The Proposed Use would include a principal, unmanned building measuring 28 feet by 74 feet that would house technical equipment, along

with an auxiliary building measuring 10 feet by 16 feet that would house telecommunications equipment;

- (b). The Proposed Use would accept natural gas directly from a new gas main leading from Applicant's West Conshohocken plant and then re-distribute the natural gas to an existing and expanding network of gas mains servicing Delaware County;
- (c). Applicant's Proposed Use would not produce or store natural gas;
- (d). while most pipes would be underground, a few pipes would extend above ground, as would equipment designed to heat the gas when necessary;
- (e). the entire working area would be secured by a fence measuring no less than eight feet tall, constructed of solid sheeting surrounding several inches of insulating material; and
- (f). a grass and landscaped area would be located outside of the fence, and would occupy 40% of the Property.

11. On October 21, 2020, the Marple Township Zoning Board ("the Board") held a virtual, public hearing on Applicant's Zoning Application (the "Public Hearing").

12. Applicant presented evidence to the Board by way of exhibits and the testimony of seven different witnesses.

13. Aaron Szczesny is the Project Manager and is employed by EN Engineering.

14. Giovanna Iacono, P.E., is a Civil Engineer on the project and employed by Stantec Consulting.

15. Tim Flanagan is an employee of Applicant.

16. Mehul Gandhi is a Project Manager employed by Applicant.

17. Henry Scheck is a Contract Project Manager from Lafata.

18. Michele Garrity is Applicant's External Affairs Manager of Delaware County.

19. Applicant, through its attorney, Neil Sklaroff, Esquire, provided the following specifics related to its Zoning Application, frequently referencing a PowerPoint that was admitted into evidence:

- (a). The Proposed Use would be located at 2090 Sproul Rd, Marple Township, PA;
- (b). Applicant had two requests of the Board: a special exception grant to allow operation and installation of the Proposed Use, and a variance to allow it to install an eight-foot-high security fence;
- (c). The Proposed Use would receive its gas from eleven-and-a-half miles of new twelve-inch gas mains from the Applicant's West Conshohocken facility (*N.O.T. Marple Township Zoning Hearing Board Hearing, 10/21/2020, p. 19, ll. 22-24*);
- (d). Two miles of that new gas main will located be in Marple Township (*N.O.T. Marple Township Zoning Hearing Board Hearing, 10/21/2020, p. 20, ll. 2-3*);
- (e). The Proposed Use takes the gas from the main, ensures constant pressure, and adjusts the temperature in order to send the natural gas to an existing network of gas lines throughout Delaware County (*N.O.T.*

*Marple Township Zoning Hearing Board Hearing, 10/21/2020, p. 20, ll. 6-12);*

- (f). The Property was last used as an automobile fuel station and is approximately 24,000 square feet and one-hundred percent impervious, with macadam and concrete (*N.O.T. Marple Township Zoning Hearing Board Hearing, 10/21/2020, p. 21, ll. 2-9);*
- (g). The landscape development of the Property would reduce the impervious surface by thirty-four percent (*N.O.T. Marple Township Zoning Hearing Board Hearing, 10/21/2020, p. 22, ll. 18-20);*
- (h). In addition, trees and shrubbery would be planted on the Property (*N.O.T. Marple Township Zoning Hearing Board Hearing, 10/21/2020, p. 23, ll. 3-6);*
- (i). The primary principal building of the Proposed Use, measuring twenty-six feet wide, by sixty-two feet long, by fourteen feet high, would house gas measurement and pressure regulation equipment (*N.O.T. Marple Township Zoning Hearing Board Hearing, 10/21/2020, p. 24, ll. 18-22);*
- (j). A second room in the primary building would house data acquisition and controls that relate to the power controls and battery back-up (*N.O.T. Marple Township Zoning Hearing Board Hearing, 10/21/2020, p. 24-25, ll. 23-4);*
- (k). A second, smaller building measuring fifteen feet long, by 10 feet wide, by ten feet high, would be constructed to house telecommunications

- equipment (*N.O.T. Marple Township Zoning Hearing Board Hearing, 10/21/2020, p. 25, ll. 14-17*);
- (l). Above-ground pipes would be located behind the main building and would transport the gas around the building to line heaters located outside the building (*N.O.T. Marple Township Zoning Hearing Board Hearing, 10/21/2020, p. 26-27, ll. 22-2*);
- (m). Depending on the air temperature, gas entering the facility may need to be heated, so that it can be regulated and processed to a lower pressure, before exiting via the distribution pipes (*N.O.T. Marple Township Zoning Hearing Board Hearing, 10/21/2020, p. 27-28, ll. 20-1*);
- (n). Applicant also proposed the installation of an eight-foot-high fence to keep out intruders and minimize noise (*N.O.T. Marple Township Zoning Hearing Board Hearing, 10/21/2020, p. 29, ll. 19-20*);
- (o). A technician would visit the site “probably” on a monthly basis for the purpose of “taking a look and checking everything out” (*N.O.T. Marple Township Zoning Hearing Board Hearing, 10/21/2020, p. 76, ll. 15-19*);
- (p). In the event of venting into the environment (e.g., a gas leak), or if someone reported smelling gas, Applicant had protocols to handle the situation and respond on scene within 60 minutes (*N.O.T. Marple Township Zoning Hearing Board Hearing, 10/21/2020, p. 49, ll. 11-15*);
- (q). If an emergency occurred, however, local first responders would not be able to access the property—rather, only Appellant’s technicians would be

able to bypass the fencing to assess the situation (*N.O.T. Marple Township Zoning Hearing Board Hearing, 10/21/2020, p. 48, ll. 7-10*);

- (r). Applicant's evidence suggested that it could not always anticipate such emergencies, since this type of facility is "brand new". (*See N.O.T. Marple Township Zoning Hearing Board Hearing, 10/21/2020, p. 50, ll. 7-10*).

20. At the conclusion of the presentation, Applicant welcomed questions by the Board. (*N.O.T. Marple Township Zoning Hearing Board Hearing, 10/21/2020, p. 36, ll. 23-24*).

21. Tim Flanigan testified that no other facilities similar to the Proposed Use exist and this would be the first such facility that Applicant has created. (*N.O.T. Marple Township Zoning Hearing Board Hearing, 10/21/2020, p. 44, ll. 16-19*).

22. Applicant submitted evidence that this would be the first time it moved a reliability station anywhere. (*N.O.T. Marple Township Zoning Hearing Board Hearing, 10/21/2020, p. 44, ll. 22-23*).

23. Tim Flanigan testified that prior to the design of the Proposed Use, the Applicant used Gate Stations as transfer points between pipelines. (*N.O.T. Marple Township Zoning Hearing Board Hearing, 10/21/2020, p. 44-45, ll. 24-4*).

24. Applicant stated that the proposed fence was designed to absorb sound, but admitted that some sound would be made as controls are opened and closed, gas goes through the system, and the natural gas heaters are turned on and off. (*N.O.T. Marple Township Zoning Hearing Board Hearing, 10/21/2020, p. 38, ll. 19-21*).

25. In discussing the issue of the expected noise levels associated with the development, Applicant agreed with the Board that retail properties exist on two

sides of the Property, and residential properties exist on the other two sides. (*N.O.T. Marple Township Zoning Hearing Board Hearing, 10/21/2020, p. 39, ll. 20-22*).

26. Applicant stated it was confident that the Proposed Use would not produce sounds in excess of the local noise ordinance levels, but could not guarantee it. (*N.O.T. Marple Township Zoning Hearing Board Hearing, 10/21/2020, p. 54-55, ll. 23-5*).

27. Aaron Szczesny testified that if a generator turns on, the Proposed Use might exceed the limits of the Township's noise ordinance. (*N.O.T. Marple Township Zoning Hearing Board Hearing, 10/21/2020, p. 55-56, ll. 12-10*).

28. Applicant stated that, in the event of an emergency, first responders would not have access to the Proposed Use, but that the station would be monitored "24/7", and that a responder employed by the Applicant would be on-site in "60 minutes or less". (*N.O.T. Marple Township Zoning Hearing Board Hearing, 10/21/2020, p. 49, ll. 11-15*).

29. Regarding the possibility of a vehicle hitting the building at a high rate of speed, Tim Flannigan testified that Applicant would expect an odorized gas leak rather than an explosion and they would be able to remotely shut it down. (*N.O.T. Marple Township Zoning Hearing Board Hearing, 10/21/2020, p. 71, ll. 11-16*).

30. In addition to a collision, Applicant provided testimony about gas leaks. Specifically, because "you can never say never", Applicant has protocols in place in the event of a venting (e.g., a gas leak) to handle the situation and filter the odors. (*N.O.T. Marple Township Zoning Hearing Board Hearing, 10/21/2020, p. 31-32, ll. 21-1*).

31. Aaron Szczesny testified the Property would be equipped with external lights at the main station building ten to twelve feet high with downcast luminescence. (*N.O.T. Marple Township Zoning Hearing Board Hearing, 10/21/2020, p. 57, ll. 9-11*).

32. Aaron Szczesny testified that the only other lights would be single lights right above the door on the telecommunications building. (*N.O.T. Marple Township Zoning Hearing Board Hearing, 10/21/2020, p. 57, ll. 12-15*).

33. After the Board finished asking questions of Applicant, members of the public were given the opportunity to ask questions and offer comments.

34. Eleven members of the public asked questions and offered comments against the Zoning Application.

35. On November 18, 2020, the Board voted to deny the Zoning Application and issued an order confirming that decision.

36. On December 18, 2020, Applicant filed the present appeal.

#### **CONCLUSIONS OF LAW**

1. The Board has jurisdiction in this matter.
2. Applicant has standing.
3. The Board, as a fact-finder, is the sole judge of the credibility and weight of the evidence presented. *Taliaferro v. Darby Township Zoning Hearing Board*, 873 A.2d 807 (Pa. Cmwlth. 2005).
4. Accordingly, the Board is free to reject even uncontradicted evidence that it finds lacking in credibility. *Nettleton v. Valley View Civil Association*, 828 A.2d 1033

(Pa.2003). This includes testimony of an expert witness. *Taliaferro v. Darby Township Zoning Hearing Board*, 873 A.2d 807 (Pa. Cmwlth. 2005).

5. A zoning hearing board's own interpretation of its own zoning ordinance is entitled to great weight and deference from a reviewing court. *Smith v. Zoning Hearing Board of Huntingdon Borough*, 734 A.2d 55 (1999).

**I. APPLICANT FAILED TO PRESENT SUBSTANTIAL EVIDENCE TO SATISFY THE REQUIREMENTS FOR A SPECIAL EXCEPTION.**

6. A special exception is a use to which an applicant is entitled if it is able to demonstrate its compliance with all the specific requirements contained in a zoning ordinance. *Northeast Pennsylvania SMSA Limited Partnership v. Throop Borough Zoning Hearing Board*, 165 A.3d 1056 (Pa. Cmwlth. 2017).

7. An applicant must present substantial credible evidence that it complies with—and meets—the specific requirements and standards of the zoning code for a proposed use as a special exception. *Danwell Corp. v. Zoning Hearing Board of Plymouth Township*, 540 A.2d 588 (Pa. Cmwlth. 1988).

8. A zoning hearing board's function on an application for special exception is to determine that such specific facts, circumstances, and conditions exist that satisfy the standards of the zoning ordinance and merit the granting of a special exception. *Greth Development Group, Inc. v. Zoning Hearing Board of Lower Heidelberg Township*, 918 A.2d 1818 (Pa. Cmwlth. 2007).

9. Chapter 300, Article V of the Marple Township Zoning Code provides:

- (a). §300-39: Uses are permitted in “N” Neighborhood Center districts in accordance with §300-37. Specified uses are allowed as special exceptions in accordance with § 300-36(b) only when authorized by the Board.
- (b). § 300-37: The Board is authorized to grant special exceptions for uses for applications that meet the following criteria:
- (1) The use shall not generate high levels of vehicular traffic, nor noise, noxious odors, air pollution or glare.
  - (2) The manner, location and hours of operations and of deliveries to the premises shall be compatible with the daily cycle of active and quiet periods associated with any adjacent residential uses.
  - (3) The use shall complement other uses in the district, creating a mixed- use character that contributes towards an increased rate of pedestrian access to local services, minimized auto-trip generation and additional security for district businesses.
  - (4) Mixed-use structures containing residences shall have non-residential uses only on a level or floor below residential uses.
  - (5) Additional special exception criteria specified in §§ 300-39–300-43 of should also be met, when appropriate.

10. Applicant’s application falls within the provisions of the Code which requires the Applicant to seek a special exception for the Proposed Use.

11. Applicant has not satisfied all objective requirements §300-37 of the Marple Township Zoning Code to allow the Board to grant the special exception relief requested.

12. Authorization of the Proposed Use in this matter is contrary to the public interest.

13. Though professionally and thoroughly presented by the Applicant's attorney and its witnesses, the Board found Applicant's Zoning Application self-serving, in that the Applicant expended little effort exploring other sites for the Proposed Use, and seemingly settled on the first available property it explored.<sup>1</sup> As such, the Board believed this Application represents the proverbial "round peg in a square hole" scenario.

**A. Applicant failed to present substantial, credible evidence that the proposed use will not generate high levels of noise, noxious odors or air pollution.**

14. Applicant has failed to show that the Proposed Use will not generate high levels of noise.

15. Currently, there is no noise coming from the property.

16. Applicant provided evidence that the proposed structure was the first of its kind; as such, the Applicant has no determinative proof or evidence of the noise levels that can be expected by such a development anywhere, let alone in a zoning district such as this.

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<sup>1</sup> Although not necessarily germane to the issue of zoning relief, the Board was left without explanation as to the reasoning the Applicant abandoned gate stations in lieu of such a reliability station.

17. The Board does not agree with, nor does it accept, Applicant's testimony that the Proposed Use would not produce sounds in excess of local noise levels.

18. Applicant did not produce any supporting evidence of the alleged noise study that was conducted for the site.

19. Applicant freely admitted that the proposed fence was designed to be eight feet tall (which also requires zoning relief) in order to absorb sound from the opening and closing of controls, as gas goes through the system, and from the gas heaters.

20. Applicant further admitted that the generator going on and off may exceed the limits of the noise ordinance.

21. The Board does not agree with—nor does it accept—that the Proposed Use will not generate a high level of “odorized” gas.

22. In fact, Applicant discussed an issue whereby if someone smelled gas, its representative would then respond (in no longer than 60 minutes).<sup>2</sup>

23. Applicant offered no testimony or evidence on how frequently such an event could, or might, be expected to occur.

24. Applicant offered no testimony or evidence on how pungent or severe the smell of any odorized gas emanating from the Proposed Use could, or might, be expected.

25. Applicant offered no testimony regarding the presence or absence of any visible smoke that may be generated from the multiple heaters and generators on

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<sup>2</sup> Though perhaps tangentially related to the zoning application at issue, the Board did express concern that local first responders would be unable to bypass the fence in the event of an emergency.

site at the Proposed Use, particularly in light of the fact that Applicant's stated intent would be to operate the facility 24 hours per day, every day.

26. Compared with the uses permitted in the "N" Neighborhood Center Zoning District (i.e., real estate offices, travel agencies, etc.), the level of noise, noxious odors, and air pollution from the Proposed Use may be considered unacceptably high.

**B. Applicant failed to present substantial, credible evidence that the manner, location, and hours of operation of the Proposed Use is compatible with the daily cycle of active and quiet periods associated with adjacent residential uses.**

27. The Proposed Use would be running (and allegedly monitored) 24 hours a day, seven days a week.

28. This 24 hour per day operation is incompatible with the retail neighbors abutting the premises.

29. Applicant's intention to erect and install noise-deadening measures suggests a substantial increase in sound levels at the Property attributable to the Proposed Use.

30. Applicant offered no credible testimony or evidence to establishing (or suggesting) that sound levels at the Property would not substantially increase because of the Proposed Use.

31. Given the testimony and evidence presented by Applicant regarding venting (e.g., gas leaks), the Board believes there will be an increase in noxious gases emanating from the Proposed Use that both the residential and retail neighbors will be forced to smell.

32. Applicant's intended twenty-four hour per day operation of the Proposed Use is incompatible with the residential properties that abut the Property.

**C. Applicant failed to present substantial, credible evidence to that the Proposed Use will complement the other uses in the district, will create a mixed-use character that contributes toward an increased rate of pedestrian access to local services, or that it will provide additional security for the other businesses.**

33. Applicant presented no credible evidence that the Proposed Use will contribute in any meaningful way to an increased rate of pedestrian access to local services.

34. Applicant presented no credible evidence that the Proposed Use will provide additional security for other businesses; in fact, the Proposed Use is not manned and would not be regularly (or easily) accessible to first responders.

## **II. APPLICANT FAILED TO PRESENT SUBSTANTIAL EVIDENCE TO SATISFY THE REQUIREMENTS FOR A VARIANCE.**

35. Chapter 300, Article 13 of the Marple Township Code governs applications for variances for fences, and provides, in pertinent part: "[t]he maximum height for a fence or wall shall be six feet, measured from finished grade." *Marple Twp. Code, Chapter 300, Art. 13, § 300-111(B)*.

36. The Pennsylvania Municipalities Planning Code ("MPC") provides that requests for variances may be heard by a local zoning board where the provisions of the governing zoning ordinance "inflict unnecessary hardships upon the applicant." *53 P.S. § 10910.2*.

37. An owner of land is entitled to a variance, however, only where the property is subjected to an unnecessary hardship, unique or peculiar to itself, and where the

grant thereof will not be contrary to the public interest. *H.A. Steen Industries v. Zoning Hearing Board of Bensalem Township*, 396 A.2d 66 (Pa. Cmwlth. 1978).

38. The party seeking a variance bears the burden of proving that an unnecessary hardship will result if the variance is not granted and also that the variance will not be contrary to the public interest. *Valley View Civic Association v. Zoning Board of Adjustment*, 462 A.2d 637 (Pa. 1983).

39. Applicant failed to produce sufficient evidence to demonstrate that the eight-foot-high fence is necessary to remediate an unnecessary hardship.

40. The “unnecessary hardship” complained of by Applicant is, in fact, a self-created one, as Applicant’s proposed fence is designed not just for better security, but also—according to Applicant’s own evidence—to help deaden the sounds from the Proposed Use.

41. Authorization of a variance from the permitted six-foot fence to an eight-foot fence is contrary to the public interest.

42. Marple Township has never permitted an eight-foot-high fence to be lawfully erected.

**MARPLE TOWNSHIP ZONING HEARING BOARD**



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JOSEPH PATTI, Chairperson