

**COMMONWEALTH OF PENNSYLVANIA
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 : Docket No. P-2021-3024328
Buildings Associated with a Gas Reliability :
Station in Marple Township, Delaware :
County Is Reasonably Necessary for the :
Convenience and Welfare of the Public :

**PECO ENERGY COMPANY’S ANSWER TO TED UHLMAN’S MOTION FOR
EXTENSION OF TIME FOR MAIN AND REPLY BRIEFS**

Petitioner PECO Energy Company (“PECO”), by its attorneys, hereby Answers Ted Uhlman’s Motion for Extension of Time for Main and Reply Briefs (“Motion”).

1. On August 19, 2021, Mr. Uhlman filed the instant Motion seeking a further extension of time for briefing in this matter, requesting that Main Briefs be submitted by September 6, 2021 and Reply Briefs be submitted by September 13, 2021. If granted, this would be the fourth extension of the briefing schedule. PECO opposes this Motion for multiple reasons.

2. First, as Your Honor has made clear in the Interim Order Providing Information to *Pro Se* Protestants, and again at the Prehearing Conference and throughout the course of this proceeding, all active parties, including *pro se* Intervenors, are required to follow the Commission’s rules and procedures governing this proceeding.

3. Notwithstanding these requirements, PECO has made multiple concessions to Intervenors throughout this proceeding which have resulted in considerable delay from the original agreed-upon litigation schedule.

4. Among other things, PECO has consented to multiple extensions of the original agreed-upon litigation schedule, including extensions that provided Intervenors with more than three additional weeks to file written Rebuttal Testimony, which resulted in delays of the Evidentiary Hearings and briefing schedule by more than two weeks.

5. Specifically, Your Honor issued an Interim Order dated June 7, 2021, extending Intervenors' agreed-upon written Rebuttal Testimony deadline from June 14 to July 6, 2021; rescheduling the Evidentiary Hearings from June 28 and 29 to July 15 and 16, 2021; and extending the deadlines for Main Briefs and Reply Briefs from July 13 and July 27, 2021, respectively, to August 2 and August 16, 2021.

6. During the Evidentiary Hearings in this matter, Mr. Uhlman and other Intervenors conducted extensive and time consuming cross-examinations of PECO's witnesses. Given the wide latitude granted to the *pro se* Intervenors, much of this questioning implicated issues that are clearly not germane to an MPC Section 619 proceeding, and, as a result, the Evidentiary Hearings spilled over into two additional days, finally concluding on July 22, 2021.

7. Given the protracted nature of the Evidentiary Hearings, the parties agreed to further extend the briefing schedule, with Main Briefs due August 11, 2021 and Reply Briefs due August 20, 2021. This schedule was adopted by Your Honor in an Interim Order dated July 21, 2021.

8. Finally, given the delay in receiving transcripts in this matter, Marple Township, with PECO's consent, sought to extend the briefing deadlines by one week, requesting that Main Briefs be due August 18 and Reply Briefs be due August 25, 2021. In consenting to the extension, however, PECO conveyed to Your Honor PECO's concern over the many delays in this proceeding, stating that it consented to the extension with the hope that it will not result in any

further delay of the proceeding. Such myriad of delays may jeopardize PECO's ability to provide reliable service to its customers.

9. On August 10, 2021, Your Honor issued an Interim Order further extending the briefing schedule to the current deadlines of August 23, 2021 for Main Briefs and August 30, 2021 for Reply Briefs.

10. Notwithstanding these multiple extensions and the wide latitude granted to *pro se* Intervenor throughout the course of this proceeding, Mr. Uhlman is now seeking a further extension of deadlines to September 6, 2021 for Main Briefs and September 13, 2021 for Reply Briefs.

11. If granted, this would result in the fourth extension of the briefing schedule and a departure from the original agreed-upon deadlines by nearly two months.

12. In PECO's Petition, filed on February 26, 2021, PECO respectfully requested Commission approval by mid-August 2021 in order to ensure a construction start date in Fall 2021. Nevertheless, PECO made every effort to accommodate Intervenor's various concerns and extension requests, but PECO cannot consent to further delay in these proceedings.

13. Moreover, at the Evidentiary Hearings, the record demonstrates that Mr. Uhlman attempted to make only three substantive points: (1) there is no need for the Natural Gas Reliability Station because there has been no increase in natural gas usage generally; and (2) from an engineering standpoint, the Natural Gas Reliability Station could be located elsewhere; and (3) there is no need for the pre-heaters, which are a component of the Station.

14. Such issues are clearly not germane to the scope of a MPC Section 619 proceeding because, as repeatedly recognized by Your Honor, the only issue germane to this proceeding is whether the siting of PECO's Natural Gas Reliability Station's buildings is reasonably necessary

for the convenience or welfare of the public (in addition to the issue of whether the Security Fence is a public utility “facility”). *See, e.g.*, July 29, 2021 Interim Order; June 30, 2021 Interim Order; and May 18, 2021 Interim Order; *see also Del-AWARE Unlimited, Inc. v. Pa. Pub. Util. Comm'n*, 513 A.2d 593, 595-96 (Pa. Commw. 1986).

15. In view of the irrelevance of the issues Mr. Uhlman is attempting to advance in this proceeding, Mr. Uhlman should not be entitled to delay this proceeding further, causing further delay of this important project which will serve multiple public benefits, including enhancing the reliability of natural gas supply to Marple Township and Delaware County and addressing local demand and low natural gas pressures experienced in that area.

16. Finally, any obligation to obtain the transcripts falls to the individual parties. As Your Honor noted in an email to the parties on August 10, 2021, a party may view the transcripts through a number of different avenues. While it is clear that one proposed avenue – viewing the transcripts at a PUC office – is not yet available for three of the four transcripts, Your Honor also noted that a party may: (a) purchase the transcripts themselves, and/or (2) request that another party provide a copy of the transcripts pursuant to agreement between the parties. Here, all transcripts were provided to parties that purchased the transcripts (including the undersigned counsel, Marple Township’s counsel, and, upon information and belief, Delaware County’s counsel) on the afternoon of August 9, 2021.

17. It appears Mr. Uhlman did not request to view the transcripts from any other Intervenor, and did not purchase the transcripts himself.

18. Mr. Uhlman bears responsibility for obtaining the transcripts in a timely manner, and should not be entitled to further delay these proceedings based on his failure to do so.

19. Given that PECO has respectfully requested expedited consideration in order to obtain Commission approval by mid-August to ensure a construction start date of September 2021, PECO would be prejudiced if this proceeding is further delayed.

For all of the foregoing reasons, PECO respectfully requests that Your Honor deny Mr. Uhlman's Motion.

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Dated: August 19, 2021

CERTIFICATE OF SERVICE

I hereby certify that on this day I served a true copy of the foregoing Answer to Ted Uhlman's Motion for Extension of Time for Main and Reply Briefs was served upon the parties listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party) via electronic mail.

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Dated: August 19, 2021