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August 25, 2021

**VIA ELECTRONIC FILING**

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2<sup>nd</sup> Floor  
Harrisburg, PA 17120

Re: 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

Docket No. P-2021-3024328

Dear Secretary Chiavetta:

Enclosed for filing in the above-referenced proceeding is PECO Energy Company's Answer to Julie Baker's Motion to File an Amended Brief Pursuant to Complete Access to Evidentiary Hearing Transcripts. Copies will be provided as indicated on the Certificate of Service.

Thank you for your continued attention to this matter.

Respectfully,  
*/s/ Christopher A. Lewis*  
Christopher A. Lewis

*Enclosures*

cc: Certificate of Service List (w/ encl.)

**BEFORE THE  
COMMONWEALTH OF PENNSYLVANIA  
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 : Docket No. P-2021-3024328  
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 INTERVENOR JULIE BAKER’S MOTION  
TO FILE AN AMENDED BRIEF**

Pursuant to Sections 5.61, 5.502(g) and 1.15(a)(2) of the Pennsylvania Public Utility Commission’s (the “Commission”) Regulations, 52 Pa. Code §§ 5.61, 5.502(g) and 1.15(a)(2), PECO Energy Company (“PECO”) hereby files the following Answer to Intervenor Julie Baker’s Motion to File an Amended Brief Pursuant to Complete Access to Evidentiary Hearing Transcripts (“Motion”).

Although styled as a motion to amend, Ms. Baker’s Motion is in fact a motion to extend the time fixed by the presiding officer for filing the main briefs in this proceeding. Because the Motion is untimely under Section 1.15(a)(2) of the Commission’s Regulations, 52 Pa. Code § 5.502(g) and 1.15(a)(2), and because Ms. Baker has not shown good cause for the extension, PECO respectfully requests that the Motion be denied.

**PECO’S ANSWER**

1. Section 502(g) of the Commission’s Regulations provides that late filed briefs will not be accepted except by special permission of the presiding officer as permitted under § 1.15 (referring to extensions of time and continuances). 52 Pa. Code § 5.502(g).

2. Section 1.15, in turn, requires that requests for the extension of time in which to file briefs to be filed at least 5 days before the time fixed for filing the briefs unless the presiding officer, for good cause shown, allows a shorter time. 52 Pa. Code § 1.15.

3. By Interim Order dated August 10, 2021, the presiding officer, Administrative Law Judge Emily DeVoe, granted a motion filed by Delaware County and Marple Township for an extension of the litigation schedule and fixed August 23, 2021 as the date that the parties' main briefs would be due.

4. The August 10, 2021 Interim Order represented the third time that the litigation schedule had been extended at the request of the intervening parties. Prior extensions had been granted by Interim Orders dated June 7, 2021 and July 21, 2021.

5. On August 19, 2021, Mr. Uhlman filed a Motion for an Extension of Time for Main and Reply Briefs. Although this Motion was filed within 5 days of the due date for the main briefs, it was only one day late, and PECO opposed the Motion, *inter alia*, on the grounds that (i) even the *pro se* parties have multiple avenues for viewing the transcripts, and (ii) having elected to participate as an active party in this proceeding after explicit explanation from Your Honor of the responsibilities that active parties bear, Mr. Uhlman should not be allowed now to delay these proceedings further based on his failure to pursue the available avenues.

6. Ms. Baker's Motion was filed on August 23, 2021, the day that the main briefs were due. All parties other than Ms. Baker—including Mr. Uhlman, who is also proceeding *pro se* and who similarly alleged lack of access to the transcripts—filed their briefs in a timely fashion.

7. No good cause exists to justify granting Ms. Baker's request. Ms. Baker suggests that the delay in her receipt of the hearing transcripts constitutes good cause. *See* Ms. Baker's Motion to Amend, at ¶¶ 2-3. However, Your Honor extended the time by which the parties were to submit their main briefs as an accommodation for the delay in the parties' receipt of the hearing transcripts; no further accommodation is warranted.

8. Moreover, in large part, the substance of the testimony received during the evidentiary hearings was contained within the parties' direct, rebuttal and surrebuttal testimony,

all of which Ms. Baker had within her possession before the hearings ever began. And, of course, Ms. Baker had access to the written testimony of the two witnesses she presented (Ms. Howze and Dr. Ketyer). There was no reason that Ms. Baker could not have started preparing her main brief weeks, if not longer, before the due date. She did not need to wait until she received the transcripts to do that.

9. Ms. Baker also suggests that good cause exists due to “circumstances beyond [her] control, in addition to a family medical emergency.” *See* Ms. Baker’s Motion, at ¶ 3. However, circumstances unique to Ms. Baker do not justify the revision of the briefing schedule. Indeed, Ms. Baker’s interests are sufficiently represented by the other Intervenors in this proceeding.

10. PECO further notes that Ms. Baker will have an opportunity to submit a reply brief in which she may respond to any of PECO’s arguments that she has not addressed in her main brief. However, Ms. Baker’s reply brief should be limited in scope to responding to issues raised in PECO’s main brief.

11. The active parties’ reply briefs are due by Monday, August 30, 2021. If Ms. Baker is permitted to file her main brief after said date, PECO will be prejudiced because it will not have an opportunity to respond to the arguments raised therein.

12. If Your Honor is inclined to grant Ms. Baker’s Motion, PECO respectfully requests that it be permitted to file a supplemental reply brief within seven (7) days of the filing of Ms. Baker’s main brief. Your Honor should then order that the record be closed to avoid an endless series of replies.

WHEREFORE, for all the foregoing reasons, PECO respectfully requests that Your Honor deny Ms. Baker's Motion.

Respectfully submitted,

**BLANK ROME LLP**

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*Counsel for PECO Energy Company*

Dated: August 25, 2021

**CERTIFICATE OF SERVICE**

I hereby certify that on this day I served a true copy of the foregoing Answer to Julie Baker's Motion to File an Amended Brief Pursuant to Complete Access to Evidentiary Hearing Transcripts 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 25, 2021