

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of PECO Energy Company for a Finding	:	P-2021-3024328
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	:	

INITIAL DECISION

Before
Emily I. DeVoe

Mary D. Long
Administrative Law Judges

INTRODUCTION

This decision approves of the 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. This decision finds that PECO has met its burden of proving that the buildings should be exempt from Marple Township zoning because the proposed situation of the buildings is reasonably necessary for the public convenience or welfare of the public.

HISTORY OF THE PROCEEDINGS

On February 26, 2021, PECO Energy Company (PECO) filed a Petition 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 (Petition). In the Petition, PECO requests that the Pennsylvania Public Utility Commission (Commission), pursuant to 52 Pa.Code § 5.41 and Section 619 of the Municipalities Planning Code (MPC), 53 P.S. § 10619, make a finding that: (1) the situation of two buildings (Buildings) for a proposed gas reliability station (Gas Reliability Station) is reasonably necessary for the convenience and welfare of the public and, therefore, exempt from any zoning, subdivision, and land development restriction of the Marple Township Subdivision and Land Development Ordinance and the Marple Township Zoning Code pursuant to MPC § 619, and (2) a proposed security fence appurtenant to the Gas Reliability Station is a “facility” under 66 Pa.C.S. § 102 and is therefore exempt from local zoning requirements.

Pursuant to 52 Pa. Code § 5.14(d)(9), applications to secure exemption under 53 P.S. § 10619 must be published in the *Pennsylvania Bulletin* and are subject to a 15-day protest period.

On March 10, 2021, the Commission issued a Telephonic Prehearing Conference Notice scheduling a prehearing conference for 10:00 a.m. on April 21, 2021.

On March 27, 2021, notice of the Petition and the prehearing conference was published in the *Pennsylvania Bulletin*. 51 Pa.B. 1760. The published notice further advised that the protest deadline was April 12, 2021.¹ PECO also published notice of the Petition and the protest deadline in the *Daily Times and Sunday Times* as well as the *Daily and Sunday Times Digital* on March 26, 2021.²

On March 11, 2021, Marple Township, Delaware County (Marple Township or the Township) filed a Petition to Intervene in the proceeding.

¹ Fifteen days from March 27, 2021, is April 11, 2021, a Sunday. Therefore, the protest deadline was set for the next business day, Monday, April 12, 2021.

² PECO filed proof of publication on April 8, 2021.

On March 18, 2021, PECO filed an Answer to Marple Township's Petition to Intervene, advising it does not oppose it.

On April 1, 2021, the undersigned's legal assistant received an email containing comments regarding the above-captioned matter. By Interim Order dated April 2, 2021, the comments were attached to the record.

On April 5, 2021, a Prehearing Conference Order was issued.

On April 12, 2021, Marple Township filed an Answer, New Matter, and Formal Protest to the Petition.

On April 12, 2021, the County of Delaware, Pennsylvania (Delaware County or the County) filed a Petition to Intervene.

Sixty-three (63) timely protests were filed by *pro se* protestants on or about April 12, 2021. Two individuals, Theodore Uhlman (Mr. Uhlman) and Julie Baker, filed Petitions to Intervene in addition to a Protest. Two individuals filed untimely protests, Sylva Baker and Joseph Baker.

On April 13, 2021, Mr. Uhlman filed a Motion requesting the protest period be extended.

On April 14, 2021, an Interim Order was entered providing information to *pro se* protestants.

On April 20, 2021, PECO filed an Answer to Delaware County's Petition to Intervene, advising it does not oppose it.

On April 20, 2021, PECO filed a response to Mr. Uhlman's Motion requesting the protest period be extended, advising that it opposes the Motion.

A prehearing conference was held on April 21, 2021 as scheduled. PECO, the Township, and the County were represented by counsel. Twenty-five *pro se* protestants were present, as were Mr. and Mrs. Sylvia Baker. The parties addressed a variety of issues, including but not limited to, the litigation schedule, public input hearings, and Mr. Uhlman's motion to extend the protest period.

Administrative Law Judge Emily DeVoe (ALJ DeVoe) granted the Petitions to Intervene filed by the Township and the County. After consideration of Mr. Uhlman's written motion to extend the protest period, PECO's filing in response, and oral argument at the prehearing conference, ALJ DeVoe denied the motion to extend the protest deadline. ALJ DeVoe advised she would treat the untimely protests of Sylva Baker and Joseph Baker as Motions for Leave to File Late-filed Protests. After oral argument from Mr. and Mrs. Sylvia Baker and counsel for PECO, the County, and the Township, ALJ DeVoe denied the Motion for Leave to File Late-Filed Protests. ALJ DeVoe advised Mr. and Mrs. Sylvia Baker they would receive notice of the Public Input Hearings and would be able to testify at the public input hearings if they chose to do so.

Four public input hearings were convened over the course of May 25 and May 26, 2021. Ninety-three (93) individuals testified. Evidentiary hearings were convened on July 15, 16, 20, and 22, 2021. At the evidentiary hearing on July 20, 2021, the parties discussed modifications to the briefing schedule due to the multiple days required for evidentiary hearings. The parties agreed to modify the schedule such that main briefs would be due August 11, 2021 and reply briefs would be due August 20, 2021.

On July 21, 2021, an Interim Order was issued directing the parties to file briefs as agreed on July 20, 2021. The Order also provided instructions and requirements for briefs.

The transcripts for the four days of hearing were ordered for a five-day turn-around. As such, the parties were expecting to receive the full transcript on or about July 25, 2021. The full transcript was not received by the parties until Monday, August 9, 2021.

As a result, on August 9, 2021, counsel for the County and the Township requested that the briefing schedule be extended by two weeks. Counsel for PECO advised that PECO would consent to a one-week extension and reiterated its position that further delays would jeopardize its plans to begin construction at the proposed site.

ALJ DeVoe extended the briefing schedule such that main briefs would be due by 10:00 a.m. on August 23, 2021 and reply briefs would be due by 10:00 a.m. on August 30, 2021. This direction was memorialized in an Interim Order entered on August 10, 2021.

Protestant Uhlman filed a motion for an extension of time to file briefs on August 19, 2021. Mr. Uhlman's motion requested that main briefs be filed by September 6, 2021 and reply briefs by September 13, 2021, predicated on the availability of the transcripts on August 23, 2021 in the Philadelphia office of the Commission.

PECO opposed the motion noting that several extensions had already been granted and that the Protestants could obtain copies of the transcripts by purchase or by "borrowing" another parties' copy of the transcript. PECO noted that it requested expedited consideration of the petition when it was filed in February 2021, with an anticipated construction to begin by September 2021.

On August 20, 2021, Protestant Julie Baker filed a reply to PECO's objection and joined Protestant Uhlman's request for an extension of time.

Main briefs were filed by PECO, Delaware County and Marple Township, on August 23, 2021. Protestants Baker and Uhlman also filed main briefs on August 23, 2021, without the benefit of reviewing the transcripts of the evidentiary hearings. Also on August 23, 2021, Protestant Baker filed a motion to submit an amended brief once the transcripts were available for review. PECO opposed the motion.

Reply briefs were filed by PECO, Delaware County and Marple Township on August 31, 2021. Protestant Julie Baker also filed a reply brief on August 31, 2021, and in that brief, she withdrew her motion to file an amended main brief.³

Hard copies of the transcripts of the evidentiary hearings were not received in the Pittsburgh offices of the Commission until August 26, 2021, and were shipped to the Philadelphia offices of the Commission shortly thereafter. By Interim Order dated September 10, 2021, the Protestants were afforded an opportunity to review the transcripts and file amended briefs on or before September 24, 2021. The remaining parties were granted leave to file amended reply briefs on or before October 1, 2021.

Both Mr. Uhlman and Ms. Julie Baker filed an amended brief on September 27, 2021. PECO filed a supplemental reply brief on October 1, 2021. By Interim Order dated October 4, 2021, the record was closed.

PUBLIC INPUT HEARINGS

Due to the intense public interest in this matter, and upon the agreement of the parties, four public input hearings were held over the course of two days, May 25, 2021, and May 26, 2021. Two public input hearings were held each day, one at 1:00 p.m. and one at 6:00 p.m. Twenty-six (26) individuals testified at the first hearing, twenty-two (22) individuals testified at the second hearing, twenty (20) individuals testified at the third, and twenty-five (25) at the fourth. A total of 93 individuals testified at the public input hearings. Three of the individuals who preregistered to testify also pre-served proposed exhibits to the parties and ALJ DeVoe – Julie Baker, Gregory Fat, and Marilia Mancini-Strong.⁴ ALJ DeVoe presided over all of the public input hearings.

³ Judge Long was assigned as an additional presiding ALJ on September 9, 2021.

⁴ Protestant Julie Baker initially registered to testify at the public input hearings and pre-served proposed exhibits to be introduced at the public input hearing. Ms. Baker ultimately decided not to testify at the public input hearing, reserving her testimony and exhibits for the evidentiary hearing.

Due to the number of individuals registered to testify, ALJ DeVoe imposed a five (5) minute limit on testimony from individuals who were not offering exhibits and a fifteen (15) minute time limit for individuals who were offering exhibits. ALJ DeVoe also ordered that friendly cross-examination would not be permitted.

The majority of individuals testified against PECO's petition. These individuals raised numerous concerns, including but not limited to: safety of the proposed facility⁵; necessity of the proposed facility; decreased values of properties in the surrounding area⁶; and the hazards, noises, health effects, odors, and pollution that could be caused by the proposed facility⁷.

Many witnesses expressed concern that the proposed facility would be so closely situated to residences, businesses, and schools⁸, and would be located at an intersection known to be dangerous.⁹ Some witnesses expressed concern about the possibility of a gas leak or explosion, and the plan for evacuation should such an event occur.¹⁰ Additionally, many witnesses testified that PECO had described the proposed facility as the "first such animal of its kind" and expressed concern about the safety of such a facility being located in their community.¹¹

Some of the witnesses who testified against the proposed facility testified they were not against the facility *per se*; they simply opposed the *location* of the proposed facility. They testified they would not oppose the facility if it were located at a different site.¹²

⁵ See e.g., Tr. 126:3-9.

⁶ See e.g., Tr. 170:21-24, 201:5-16.

⁷ See e.g., Tr. 126:10-16; 166:17-167:6.

⁸ See e.g., Tr. 126:3-9.

⁹ See e.g., Tr. 128:25-129:8.

¹⁰ See e.g., Tr. 129:9-16.

¹¹ See e.g., Tr. 131:13-21.

¹² See e.g., Tr. 183:7-13, 198:11-17.

Some individuals also testified that they perceived a lack of transparency and communication from PECO¹³ and questioned the need for the facility at all.¹⁴

Other witnesses supported the proposed project, including Bernard Dagenais, President and CEO of the Mainline Chamber of Commerce, who testified that having a reliable source of energy in the area would benefit businesses and economic development.¹⁵ He also testified that, in his experience, PECO has a strong focus on safety, environmental stewardship, and corporate social responsibility.¹⁶

William Adams, a journeyman electrician and President of the International Brotherhood of Electrical Workers (IBEW), Local 654, testified in support of the petition and in his capacity as President of IBEW 654. He testified that natural gas lines are a safer means of transportation of energy product than railways or highways and that the proposed facility would provide jobs for members of IBEW 654, who are trained to work on such projects.¹⁷ Kevin Boyle, Business Manager for Local 401 Ironworkers in Philadelphia and surrounding counties, similarly testified that PECO is dedicated to safety and that the proposed project will create good jobs and is necessary for the future growth and expansion of the community.¹⁸

Stephen Reilly, a current PECO employee, and Malcolm Riley, a retired PECO employee, both testified in their individual capacities as residents of the community and stressed PECO's commitment to safety and the importance of the project.¹⁹

¹³ See e.g., Tr. 135:23-137-12, 200:17-201:4.

¹⁴ See e.g., Tr. 133-135-15.

¹⁵ Tr. 279:16-281-7.

¹⁶ Tr. 282:2-11.

¹⁷ Tr. 429:25-431:11

¹⁸ Tr. 599:3-602:18.

¹⁹ Tr. 548:8-551:11, 579:16-581:18.

All of the testimony provided at the public input hearings was carefully considered by the undersigned in the preparation of this Initial decision.

FINDINGS OF FACT

1. PECO Energy Company (PECO) is a certificated public utility regulated by the Public Utility Commission.
2. PECO provides natural gas service to approximately 534,000 retail customers and transportation service to 1,800 large commercial and industrial customers. (PECO St. No. 1, at 2).
3. PECO's gas service territory comprises an area of 1,900 square-miles adjacent to Philadelphia that includes all, or portions of Bucks, Delaware, Montgomery and Lancaster Counties. (PECO St. No. 1, at 3).
4. PECO and its natural gas customers rely on the interstate natural gas pipeline system to deliver natural gas into PECO's distribution system because PECO's service territory is not a natural gas producing region. (PECO St. No. 2, at 4).
5. The proposed facility is PECO's first "Gas Reliability Station"; however, this is similar to a gate station, except that a gate station involves a transfer of ownership or custody of the gas from the transmission line to PECO where here it is PECO's gas in the high pressure main prior to the station and the gas will be odorized in the Conshohocken plant, not at the station. (Tr.1355:4-18).
6. The Natural Gas Reliability Station's design includes two buildings, a "Station Building" and a "Fiber Building." (PECO St. No. 4, at 6:3-7:7).
7. The Station Building will be enclosed and provide weather protection for the pipes, valves, regulators, and electronic equipment necessary for the operation of the Natural

Gas Reliability Station and provide climate control for the proper functioning of this equipment. (PECO St. No. 4, at 6:3-12).

8. The Station Building will be locked to protect the equipment from unauthorized access. (PECO St. No. 4, at 6:14-16). Additionally, the Station Building will include several sound-dampening features to minimize the effect of the Station on the community. (PECO St. No. 4, at 10:3-11:4).

9. The Fiber Building will protect sensitive telecommunication equipment necessary to connect the Station to PECO's control room and provide an enhanced aesthetic appeal. (PECO St. No. 4, at 6:18-7:7).

10. The Natural Gas Reliability Station will also include a perimeter security fence (Security Fence) composed of sound-absorbing material. The Security Fence is a vital component of the Natural Gas Reliability Station that will be constructed and maintained by PECO. (PECO St. No. 4, at 7:10-8:3).

11. The proposed buildings and Security Fence at the Natural Gas Reliability Station will assist in restricting access to unauthorized personnel, which will help reduce the potential for vandalism and tampering with the equipment or other damage. (PECO St. No. 4, at 6:14-16, 24-25).

12. The Natural Gas Reliability Station is comparable, yet less extensive in size and scale, to PECO's 28 other gate stations, a majority of which are located in residential areas, and some of which are located within the same proximity to residences as the Natural Gas Reliability Station. (PECO St. No. 4, at 8:8-21; Exhibit TF-6).

13. Neither the operation nor the equipment used to operate the station will be different from other gate stations. (PECO St. 4-SR at 3).

14. PECO's gas system is not located in a natural gas-producing region and therefore depends on the interstate natural gas pipeline system to deliver natural gas into PECO's distribution system. (PECO St. 2 at 4).

15. PECO is experiencing natural gas supply constraints that, over the next 10 years, will result in an increased deficit between its current supply capacity resources and its calculated design day demand requirements. (PECO St. No. 2, at 7:14-22; Exhibits CPT-1, at 25-31, CPT-2, at 18-25, & CPT-3, at 19-29).

16. A "design day" is a 24-hour period of demand which is used as a basis for planning gas capacity requirements. "Design day requirements" refers to the amount of gas needed to meet customer needs during design day conditions. (PECO St. No. 2, at 3-7).

17. "Design day conditions" are defined as an average temperature of zero-degree Fahrenheit for the 24-hour "gas day" period. A "gas day" runs from 10 AM until 10 AM the following day. This design day analysis provides assurances that firm service customers—especially residential customers—are not likely to experience interruptions when service is most essential. (PECO St. No. 2, at 3).

18. In the past decade, design day requirements have increased. (PECO St. No.2, at 5:2).

19. The projected design day requirement increased to 877,531 Mcf for the winter of 2030-2031, which is 18,442 Mcf higher than the 2020-2021 requirement of 859,089 Mcf. PECO is projecting a deficit of 111,685 Mcf between the design day firm demand requirements and current resources for the 2021-2022 winter period. The deficit is expected to increase to 130,127 Mcf for the winter of 2030-2031. (PECO St. No. 2, at 5:10 & 6:17-21).

20. To address this deficit, PECO is implementing a long-term infrastructure project, known as the "Natural Gas Reliability Project," to increase its capacity supply to diminish its design day constraints. (PECO St. No. 2, at 3-7).

21. The Natural Gas Reliability Project has been under consideration and deliberated publicly before the Commission in PECO's Purchased Gas Cost proceedings since at least 2015. (PECO St. No. 2, at 4:2-4).

22. PECO's plan to address this deficit consist of two components. First, PECO intends to ensure that sufficient capacity exists to satisfy design day deliverability requirements. The Company's capacity is diversified into three categories: (1) pipeline firm transportation capacity; (2) pipeline storage capacity; and (3) peaking capacity, which consists of PECO's Liquefied Natural Gas facility (LNG), propane-air facility, and contracted peaking services with reliable third-party suppliers. (PECO St. No. 2, at 5:12-16).

23. In PECO's second component of its plan to address the above deficit, PECO intends to ensure that a firm source of supply exists through contractual arrangements with its suppliers to utilize the capacity resources described above and managing its storage inventory to prepare for winter seasons. (PECO St. No. 2, at 6).

24. In addition to increasing design day requirements, the Natural Gas Reliability Station is also needed to address customer and usage growth in Delaware County. (PECO St. No. 3, at 4:3-12).

25. PECO performed a linear trend analysis for both customer count and usage growth based on the 10-year (2011-2020) historical customer counts for Delaware County and Marple Township. (PECO St. 3, at 4)

26. According to PECO's analysis, the customer count for Delaware County is expected to grow by 3-4% over the next 10 years and normalized usage will grow 2% annually. (PECO St. 3, at 4)

27. In addition to customer and usage growth in Delaware County at large, PECO's analysis confirmed that Marple Township in particular is expected to experience customer and usage growth. (PECO St. No. 3, Direct Testimony of Ryan Lewis, at 3:15-7:7).

28. The Marple Township area is projected to experience a 3% increase in customer count over a 10-year period, which corresponds to a 1% annual increase in normalized usage over the 10-year period. (PECO St. No. 3, at 5:4-8; Tr. 1195:5-8).

29. To address this projected increase in demand, PECO will transport additional natural gas supply from the West Conshohocken LNG Plant along a new 11.5-mile steel 12-inch over-high-pressure gas main to Marple Township and inject the gas into PECO's existing 16-inch trunkline and downstream distribution network. (PECO St. No. 4, at 3-4; PECO St. No. 3-SR at 3-4; Tr. 1267).

30. Before injecting the additional supply of natural gas, the pressure must be reduced to be compatible with PECO's distribution system, which operates at a pressure of 99 pounds per square inch (p.s.i.). (PECO St. No. 4 at 3-4; PECO St. No. 3-SR at 3-4).

31. This operating pressure reduction will be accomplished by PECO's proposed Natural Gas Reliability Station. (PECO St. No. 4, at 3-4).

32. PECO will own the natural gas in the LNG tank, therefore the Company's customers will have a reliable source of supply for the coldest conditions in the winter when the natural gas is need is highest. (PECO St. No. 2, at 7:10-12).

33. The Natural Gas Reliability Station will provide an additional source of supply to meet design day requirements. (Tr. 1275:19-20; 1276:1-7).

34. PECO has sufficient supply in order to meet current design day requirements. (Tr. 1277).

35. The reason for the desired additional supply to be added by the project in question is to reduce PECO's reliability on market purchases and reduce the price volatility and to increase reliability. (Tr.1276:8-20).

36. PECO currently has adequate supply to meet mandated requirements in a safe, least cost manner and as currently structured will have enough supply to meet demand for the coming year. (Tr. 1279 -80).

37. PECO conducted an analysis using hydraulic modeling to determine current and projected natural gas need and the optimal location to direct the additional capacity from the Natural Gas Reliability Project to where the increased supply would be able to be accepted into the system. (PECO St. No. 3, at 4:3-7).

38. PECO's analysis showed that Delaware County has the greatest future projected need for peak day demand due to the County's usage growth. (PECO St. No. 3, at 5-6).

39. PECO's hydraulic modelling analysis also showed that the intersection of Lawrence and Sproul Roads in Marple Township is a "null point" along PECO's existing 16-inch distribution trunkline because this area is experiencing the lowest gas pressures in the system. (PECO St. No. 3, at 5-6).

40. In addition to the growing need for natural gas in Marple Township, PECO chose to site its Natural Gas Reliability Station in Marple Township because of its location within PECO's existing natural gas distribution system in Delaware County. (PECO St. No. 3, at 5:11-18).

41. The Marple Township/Broomall area distribution system is located the farthest away hydraulically from supply sources, such as a gate station. In addition, it is served only by an existing 16- inch trunkline. (PECO St. No. 3, at 5:11-18).

42. This 16-inch trunkline is supplied by two gate stations, one in Brookhaven, Delaware County, and another in West Conshohocken, Montgomery County. (PECO St. No. 3, at 5:11-18).

43. This 16-inch trunkline feeds several subsystems before reaching the Marple Township/Broomall area. (PECO St. No. 3, at 5:11-18).

44. The Natural Gas Reliability Station must be located at a site within 0.5 miles of the proposed main terminus at Sproul and Lawrence Roads because the Station must be able to connect to both the new 12-inch main connecting the West Conshohocken LNG Plant to Marple Township that will run along Sproul Road and the existing 16-inch trunk line that also runs along Sproul Road, while maintaining necessary pressures needed to run the natural gas through the system. (PECO St. No. 3, at 7-8).

45. The Natural Gas Reliability Station as designed must receive natural gas at an inlet pressure of at least 150 p.s.i. in order to function properly. Locating the Natural Gas Reliability Station outside of a half-mile radius from Sproul Road and Lawrence Road would lead to an inlet natural gas pressure below 150 p.s.i., which is below the designed minimum inlet pressure required for the Station to function properly and provide the necessary amount of natural gas flow into the PECO gas distribution system. (PECO St. No. 3, at 7).

46. If PECO's Natural Gas Reliability Station were sited beyond the 0.5-mile radius, additional infrastructure would be needed including larger diameter steel gas mains, and a redesign of the Natural Gas Reliability Station, which would increase disruptions to local traffic patterns during the period of construction and would require significant additional investment that would financially burden PECO's customers. (PECO St. No. 3, at 7; PECO St. No. 5, at 4:9-10).

47. The cost of installing the additional infrastructure would be substantial to PECO's customers without any additional operational advantages. (PECO St. No. 5, at 4:12-13).

48. Proximity to the terminus is one of the primary considerations in finding a location for the Gas Reliability Station, as is availability, zoning and lot size, with availability being of particular importance. (Tr.9, 11-12).

49. During its site selection process, PECO considered a total of fifteen (15) sites including 2090 Sproul Road. PECO also considered 580 Reed Road, 541 Hilldale Road, 2024 Sproul Road, 850 Paxon Hollow Road, 700 Abbott Drive, 946 & 964 West Sproul Road, 4980 State Road, 27-43 South Sproul Road, 825 Reed Road, 1797 Sproul Road, 401 Parkway Drive, 861 Sussex Blvd. 10-20 Lawrence Road, and 2590 Harding Drive. (PECO St. No. 5, at 4:19-5:26).

50. Despite the Don Guanella property being within the V2 mile of the Sproul and Lawrence connection and meeting that site selection criteria, the Don Guanella site would not be acceptable to PECO as its location would cause unreasonable engineering constraints. (SR-3, p.6; Tr. 122:3-25)

51. The optimal location for the Gas Reliability Station is within a half a mile from the terminus of the line that is coming in from Conshohocken to Sproul and Lawrence Road in Marple Township. (Tr. 1213).

52. Based upon the pressure of the lines and engineering issues, the only location this project as designed would work is at 2090 Sproul Road. (Tr. 1222).

53. The property at 2090 Sproul Road is the gateway to the business shopping district, is in close proximity to residential homes and a Gas Reliability Station is not compatible with residential and retail uses. (Marple Township St. No. 1, p. 6).

54. The selected location, 2090 Sproul Road is located in an “N Neighborhood Center” zoning district that includes commercial uses and specifically allows public utility use by special exception and as such, Marple Township specifically contemplated public utility use on this property along Sproul Road in enacting the zoning classification. This location is adjacent to a main thoroughfare (Sproul Road) which *already* generates traffic and noise and which roadway feeds the commercial establishments situated in the N Neighborhood Center district. (PECO St. No. 5, at 9:2-4; Tr. 1154).

55. Prior to filing its Petition in this matter, PECO submitted a zoning application with the Marple Township Zoning Hearing Board seeking a special exception to operate a Gas Reliability Station at the Property. (Ex. LG-2)

56. After a hearing on the matter, the Zoning Hearing Board denied PECO's application issuing Findings of Fact and Conclusions of Law. (Ex. LG-2).

DISCUSSION

Section 332(a) of the Public Utility Code (Code), provides that the party seeking a rule or order from the Commission has the burden of proof in that proceeding.²⁰ It is axiomatic that “[a] litigant’s burden of proof before administrative tribunals as well as before most civil proceedings is satisfied by establishing a preponderance of evidence which is substantial and legally credible.”²¹ The preponderance of evidence standard requires proof by a greater weight of the evidence.²² This standard is satisfied by presenting evidence more convincing, by even the smallest amount, than that presented by another party.²³

Additionally, any finding of fact necessary to support an adjudication of the Commission must be based upon substantial evidence.²⁴ Substantial evidence is such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.²⁵ Although substantial evidence must be “more than a scintilla and must do more than create a suspicion of

²⁰ 66 Pa.C.S. § 332(a).

²¹ *Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm’n*, 578 A.2d 600, 602 (Pa. Cmwlth. 1990).

²² *Commonwealth v. Williams*, 732 A.2d 1167 (Pa. 1999).

²³ *Brown v. Commonwealth*, 940 A.2d 610 (Pa. Cmwlth. 2008).

²⁴ *Met-Ed Indus. Users Grp. v. Pa. Pub. Util. Comm’n*, 960 A.2d 189 (Pa. Cmwlth. 2008)(citing 2 Pa.C.S. § 704).

²⁵ *Borough of E. McKeesport v. Special/Temp. Civil Serv. Comm’n*, 942 A.2d 274 (Pa. Cmwlth. 2008).

the existence of the fact to be established,”²⁶ the “presence of conflicting evidence in the record does not mean that substantial evidence is lacking.”²⁷

If the applicant sets forth a *prima facie* case, then the burden shifts to the opponent. Establishing a *prima facie* case requires either evidence sufficient to make a finding of fact permissible or evidence to create a presumption against an opponent which, if not met, results in an obligatory decision for the proponent. Once a *prima facie* case on a point has been established, if contrary evidence is not presented, there is no requirement that the applicant produce additional evidence in order to sustain its burden of proof.²⁸

The lack of authority for a local municipality to regulate the design, location, or construction of public utility facilities is consistent with the long line of cases holding that public utilities are exempt from local ordinances.²⁹ The exception to this principle is the regulation of

²⁶ *Kyu Son Yi v. State Bd. of Veterinarian Med.*, 960 A.2d 864, 874 (Pa. Cmwlth. 2008) (citation omitted).

²⁷ *Allied Mech. & Elec., Inc. v. Pa. Prevailing Wage Appeals Bd.*, 923 A.2d 1220, 1228 (Pa. Cmwlth. 2007) (citation omitted).

²⁸ *District of Columbia's Appeal*, 21 A.2d 883 (Pa. 1941). *See, e.g., Application of Pa. Power & Light Co.*, Docket Nos. A-110500F0196, 1994 Pa. PUC LEXIS 65 (Oct. 21, 1994) (holding that the company met its burden to prove that there was an immediate need for the reinforcement of the power supply where the need for the project was uncontested and no party presented any evidence challenging the need for the project).

²⁹ *See Duquesne Light Co. v. Monroeville Borough*, 298 A.2d 252 (Pa. 1972) (“This Court has consistently held, however, that the Public Utility Commission has exclusive regulatory jurisdiction over the implementation of public utility facilities”) (citations omitted). *See, e.g., County of Chester v. Phila. Elec. Co.*, 218 A.2d 331 (Pa. 1966) (holding that regulation by a multitude of jurisdictions would result in “twisted and knotted” public utilities with consequent harm to the general welfare); *Newtown Twp. v. Phila. Elec. Co.*, 594 A.2d 834, 837 (Pa. Cmwlth. 1991) (noting that “it is clear that no ‘implied’ power exists in the MPC which would allow the Township to regulate [the Philadelphia Electric Company] through its subdivision and land development ordinance”); *Heintzel v. Zoning Hearing Bd. of Millcreek Twp.*, 533 A.2d 832 (Pa. Cmwlth. 1987) (holding that township had no power to regulate, under its zoning ordinance, city’s erection of water tower because that power was under the exclusive jurisdiction of the PUC); *South Coventry Twp. v. Phila. Elec. Co.*, 504 A.2d, 368 (Pa. Cmwlth. 1986) (noting that to possibly subject [the Philadelphia Electric Company] to a miscellaneous collection of regulations upon its system would clearly burden and indeed disable it from successfully functioning as a utility); *Commonwealth v. Delaware & Hudson Ry. Co.*, 339 A.2d.155 (Pa. Cmwlth. 1975) (holding that the MPC did not authorize local governments to regulate public utilities in any manner which infringes upon the power of the Commission to so regulate).

buildings, which is found in the Municipalities Planning Code.³⁰ Section 619 of the Municipalities Planning Code (MPC) ³¹ provides:

[Article VI. Zoning] shall not apply to any existing or proposed building, or extension thereof, used or to be used by a public utility corporation, if, upon petition of the corporation, the Pennsylvania Public Utility Commission shall, after public hearing, decide that the present or proposed situation of the building in question is reasonably necessary for the convenience or welfare of the public.

Stated another way, a municipality may exercise its zoning powers over a public utility building unless the Commission determines that the “site is reasonably necessary for the public convenience or welfare.”³²

The Commission adopted a policy statement to further the Commonwealth's goal of making agency actions consistent with sound land use planning by considering the impact of its decision upon local comprehensive plans and zoning ordinances.³³ Section 69.1101 of the Commission's Regulations provides:

[T]he Commission will consider the impact of its decisions upon local comprehensive plans and zoning ordinances. This will include reviewing applications for:

- (1) Certificates of public convenience.
- (2) Siting electric transmission lines.
- (3) Siting a public utility "building" under section 619 of the Municipalities Planning Code (53 P.S. §10619).

³⁰ See, e.g., *Delaware Riverkeeper Network v. Sunoco Pipeline L.P.*, 179 A.3d 670, 679 (Pa. Cmwlth. 2018) (citations omitted), *appeal den.*, 192 A.3d 1106 (Pa. 2018); *Duquesne Light Co. v. Upper St. Clair Twp.*, 105 A.2d 287 (Pa. 1954); *Petition of Pennsylvania-American Water Co.*, Docket P-2015-2513587 (Opinion and Order entered April 21, 2016).

³¹ Section 619 of the Municipalities Planning Code (MPC) Act of July 31, 1968. P.L. 805 *as amended*, 53 P.S. § 10619.

³² *Del-AWARE Unlimited, Inc. v. Pa. Pub. Util. Comm'n*, 513 A.2d 593, 596 (Pa. Cmwlth. 1986), *appeal den.*, 527 A.2d 547 (Pa. 1987).

³³ See 31 Pa.B. 951 (Feb. 17, 2001).

(4) Other Commission decisions.

52 Pa. Code § 69.1101.

Commission review under Section 619 is very narrow and focuses on whether the proposed *buildings* should be exempt from municipal zoning regulation.³⁴ The purpose of the Commission’s review is to “determine whether an exception to the local zoning provisions applicable to that site is justified.”³⁵ The Commission need not re-evaluate the entire project nor must the utility prove that the site it has selected is absolutely necessary or that it is the best possible site.³⁶

PECO’s proposed Gas Reliability Station includes two buildings, a 2,073-square foot Station Building and a 160-square foot Fiber Building. Both buildings will house and protect the Station’s equipment, and the Station Building will provide the added benefit of reducing sounds generated from the Station’s equipment. The Station also will include a perimeter Security Fence composed of sound-absorbing material. Following a site selection evaluation to locate the Station, PECO determined that 2090 Sproul Road was the only property that satisfied PECO’s standard site selection criteria, including engineering considerations.

The location selected for the Station is zoned as “Neighborhood Center District” (ND).³⁷ According to the Marple Township ordinance, the intent of the district is as follows:

The intent of the N Neighborhood Center District is to provide appropriate locations and development standards for low-intensity commercial uses where more intensive commercial use would have adverse effects on adjacent and neighboring residential areas. The regulations that apply within the district provide for retail and office uses of limited scale that primarily

³⁴ *Petition of Sunoco Pipeline, L.P.*, Docket P-2014-2411941 (Opinion and Order entered October 29, 2014), p. 18.

³⁵ *Del-AWARE Unlimited, Inc.*, 513 A.2d at 638 n. 4.

³⁶ *O’Connor v. Pa. Pub. Util. Comm’n*, 582 A.2d 427, (Pa. Cmwlth. 1990).

³⁷ Marple Township Zoning Ordinance, Section 300-39. Exhibit C to Petition.

serve nearby residents, affording opportunities for pedestrian access to local services. Buildings in this district should be compatible in size and scale with those in adjacent residential areas.

Id. The Marple Township Zoning Ordinance, ND district, permits “public utility use” by special exception.³⁸

PECO filed a zoning application with Marple Township seeking: (1) a special exception for the Natural Gas Reliability Station at the site; and (2) a variance for the Security Fence measuring 8 feet in height around the Natural Gas Reliability Station. PECO’s application was denied on November 18, 2020. According to the Zoning Hearing Board, the proposed Station was not consistent with the intent of the Neighborhood Center District.³⁹

The location of the Station at 2090 Sproul Road was vocally opposed not only by the Intervenor, but by numerous individuals who testified at the four public input hearings. The concerns raised by the hearing participants generally included: (1) the need for the broader Natural Gas Reliability Project generally; (2) safety concerns of the Station, including the risk of fire, explosion, evacuation, vandalism, or terrorism related to the Station; (3) perceived lack of transparency by PECO in development of the project or cooperating with the community; (4) alleged potential quality of life issues caused by the Station, such as noise, glare, or traffic; (5) alleged potential negative economic consequences of the Station on local businesses and residential property values; and (6) alleged potential health impact on the community and general allegations about climate change.⁴⁰

It is very important to emphasize the very limited scope of the Commission’s inquiry under Section 619 of the MPC. As a certificated gas utility within the meaning of the Public Utility Code, PECO has the authority to build a gate station along the pipeline to manage

³⁸ Marple Township Zoning Ordinance, Section 300-37, 300 Attachment 5.

³⁹ PECO Ex. LG-2.

⁴⁰ Tr. 96-793.

the distribution and supply of natural gas in its pipes as long as the utility is running its facilities in compliance with state and federal regulations.⁴¹

While we find that the concerns raised by the municipalities and the individual intervenors are valid, and we are not unsympathetic to those concerns, issues related to noise, gas emissions, aesthetics, traffic and other health and safety concerns are beyond the Commission's review.⁴² As explained in more detail below, PECO has sustained its burden of demonstrating that the Station is reasonably necessary to meet the gas supply needs of its customers and that the buildings are required to protect the equipment from the weather, and to keep the equipment secure to ensure that reliable service is maintained and the facilities are maintained in a safe manner. Therefore, its request for the buildings associated with the site to be exempt from local zoning will be granted.

The gas arriving in the Station originates from a new PECO liquified natural gas station in West Conshohocken, and travels through a new gas main and will run at a lower pressure than typical of an interstate transmission line.⁴³ The purpose of the proposed Station is to reduce gas pressure from a new 12-inch main that connects the West Conshohocken LNG facility and inject it to the existing 16-inch main serving Marple Township at the point of lowest pressure at the intersection of Lawrence Road and Sproul Road.⁴⁴ Although PECO does not operate another facility specifically titled as a "Natural Gas Reliability Station," functionally the Station will operate as a gate station. Neither the operation nor the equipment used to operate the station will be different from other gate stations.⁴⁵ The Station is comparable, yet less extensive

⁴¹ See 66 Pa.C.S. § 2205(b)(2).

⁴² See *Petition of UGI Penn Nat. Gas Inc.*, P-2013-2347105 (Initial Decision August 16, 2013), *adopted by*, (Opinion and Order entered December 19, 2013) (*UGI*).

⁴³ PECO St. 4 at 8-9.

⁴⁴ PECO St. 3-SR at 3-4.

⁴⁵ PECO St. 4-SR at 3.

in size and scale, to PECO's 28 other gate stations.⁴⁶ The primary difference between the proposed Station and PECO's other gate stations, is that the proposed Station is not a "custody transfer point." That is, PECO will own the gas that comes into the Station.⁴⁷ Further, the gas arriving at the Station will have been odorized before entry, unlike a typical gate station.

PECO witness Carlos Thillet explained why the Station is an important component of PECO's reliability enhancement plan. Mr. Thillet, Manager of Gas Supply and Transportation, explained the development of analytics which projected customer demand will increase in the future and challenge PECO's ability to provide reliable gas supply to Marple Township. Although Mr. Thillet admitted that PECO currently has sufficient supply to meet current design day requirements in Marple Township, he noted that reliability of gas supply had been an ongoing issue and subject to planning by PECO for nearly a decade.

Mr. Thillet observed that, unlike other gas distribution companies, PECO relies on interstate natural gas pipeline to deliver gas to its system because its system is not located in a natural gas-producing region. The proposed Station is part of a larger project which will permit PECO to increase its ability to purchase gas in the summer, when prices are low, store the gas purchased in summer and use the gas in the winter when gas is more expensive.⁴⁸ Thus the Station has the added benefit of reducing PECO's reliance on third party suppliers and reduces reliance on spot markets which will mitigate the increasing risk of price volatility. The Station and connected reliability project will not by themselves resolve the projected deficits in the long term, but the project plays a role in solving future demand issues with a solution that is within PECO's control and also solves the local demand issue in Marple Township.⁴⁹

⁴⁶ PECO notes that many of its gate stations are located in residential areas, and some of which are located within the same proximity to residences as the Gas Reliability Station.

⁴⁷ Tr. 1355.

⁴⁸ PECO St. 2 at 7.

⁴⁹ Tr. 1282.

PECO Witness Ryan Lewis, Manager of Gas Engineering and Performance Asset Management, explained the importance of the location at 2090 Sproul Road for the site of the Station. He explained PECO's analysis which concluded that Marple Township is located furthest away from supply sources and therefore tends to have the lowest pressure on the distribution system. He also noted that over the next ten years PECO anticipates an increase in customer count. Accordingly, PECO identified this area of future reliability problems. An engineering review of PECO's distribution system indicated that the intersection of Lawrence and Sproul Roads is the ideal point to inject additional gas supply from an engineering perspective because it is an area of lowest pressure on the system.

Mr. Lewis then explained that maintaining the appropriate pressure for gas travelling through the distribution system requires the siting of the Station within a half mile radius from the 16-inch main at the intersection of Lawrence and Sproul Roads. Gas pressure must enter the Station at a specific pressure in order for the regulators responsible for reducing the pressure for the 16-inch mains to operate properly. Locating the Station farther away from the Lawrence/Sproul intersection would require significant additional infrastructure and redesign of the Station and would increase the cost of the project.⁵⁰ According to Mr. Lewis, there is not another location that is suitable for the Station from an engineering standpoint that would not require significant and expensive redesign of the project.

PECO Witness Timothy Flanagan, Manager for Gas System Control and Plant Operations, explained why the buildings proposed for the Station are necessary. The main Station Building will house a sizeable portion of the piping and equipment for the facility, including HVAC equipment. It will be constructed of steel and include a sound insulating layer. A building to house the equipment is necessary to protect the equipment from the weather, for climate control and security purposes.⁵¹ A second building, referenced as the Fiber Building, will house telecommunications equipment for leak detection and other safety features. Like the Station Building, it is necessary to house the telecommunications equipment in a building to

⁵⁰ PECO St. 3 at 8; PECO St. 3-SR at 11-12; Tr. 1225.

⁵¹ PECO St. 4 at 5-6, 10.

protect it from the weather. Both buildings will also dampen noise and be more attractive than leaving the equipment exposed. Mr. Flanagan also explained the safety features employed by PECO and mitigation measures that are in place to minimize the risk of leaks or explosion.⁵²

Delaware County and Intervenors Uhlman and Baker all challenge the need for the facility because the forecasted gas supply need is ten years into the future. In Delaware County's view, there is no need to begin this project now and PECO should take more time to identify other locations that may become available in the future.

However, neither Delaware County, nor Mr. Uhlman or Ms. Baker, offered any expert testimony which would support a conclusion that gas planning and reliability forecasting by PECO's experts was unreasonable or speculative. Mr. Uhlman, in his brief, questions the accuracy of the growth projections relied on by PECO, but he is not an expert witness. His lay opinion is not sufficient to rebut the expert opinions supporting the growth projections and forecasted gas supply need, as these are technical matters which require specialized knowledge.⁵³

The Commission does not sit as a substitute board of directors for public utilities, and generally views the timing of the construction of approved projects as a management decision by the utility.⁵⁴ This project is not the only PECO gas infrastructure project, or the only area of future forecasting in which PECO must engage to provide reasonable service to its customers within its entire service territory. Further, as PECO witnesses explained, this project not only addresses a forecasted reliability problem, but is also part of a plan to keep gas prices down by increasing PECO's ability to acquire gas at low prices and to reduce reliance on spot markets and mitigate price volatility.

⁵² PECO St. 4-SR at 10-14; Tr. 1478-79.

⁵³ *Application of Transource Pa., LLC.*, Docket A-2017-2640195 (Opinion and Order entered May 24, 2021), pp. 29-30.

⁵⁴ *E.g. Joint Application of Verizon Commc'ns Inc. for Approval of Agreement & Plan of Merger*, A-310580F0009 (Final Order entered January 11, 2006 ("The Commission was created to ensure that public utilities further and maintain adequate, efficient, safe and reasonable service. The management decisions required to achieve reasonable rates and service are generally left to the utility.")).

Mr. Uhlman questions the explanations of PECO witnesses regarding the pressure of the gas at various points between the West Conshohocken facility, the Reliability Station and the injection point at Lawrence and Sproul Roads.⁵⁵ In his amended reply brief,⁵⁶ he claims that the explanation by Mr. Flanagan and Mr. Ryan in particular is “inconsistent” and confusing. In his view, there are at least two other properties within one-half mile of the Lawrence/Sproul intersection that would be more appropriate for the Reliability Station.

Mr. Ryan and Mr. Flanagan explain in great detail the gas pressures necessary at different points in the gas distribution system, the engineering reason for the changes in gas pressures at various points in the system and why the gas had to arrive at the Reliability Station at a certain pressure in order for the gas regulatory equipment to adjust the pressure so that it can be injected into the low pressure point of the system in order to maintain adequate gas supply. Mr. Lewis explained that due to the design and engineering of the regulators in the Gas Reliability Station, the Station must receive gas at an inlet pressure of at least 150 p.s.i. to operate properly and locating the Station outside of the half-mile radius would cause the pressure to drop below 150 p.s.i due to the additional distance and piping necessary to reach those locations.⁵⁷ As an example, PECO provided its calculations demonstrating that the additional distance required to locate the Station at either the Don Guanella property at 825 Reed Road or the industrial park at 700 Abbott Drive will cause the inlet pressures to drop well below the 150 p.s.i. threshold.⁵⁸ Mr. Uhlman correctly notes that natural gas leaving West Conshohocken will have a pressure of 475 p.s.i., and that the existing pipeline system experiences low pressure of 65 p.s.i. (or less) at the intersection of Sproul and Lawrence Roads, but these general observations do not rebut the credible testimony presented by PECO regarding the engineering constraints that form the basis of the half-mile siting requirement, do not support his argument challenging the half-mile criteria, and serve only to muddle the record.

⁵⁵ Uhlman Brief in Opposition, filed August 23, 2021, p. 5.

⁵⁶ Uhlman Amended Reply Brief filed November 24, 2021, pp. 9-11.

⁵⁷ *See* PECO St. 3-SR, p. 3.

⁵⁸ *See* PECO St. 3-SR., pp. 10-12, and RL-6.

Delaware County also argues that PECO failed to adequately consider the impact on the “public welfare” because area residents are opposed to the siting of the project. Ms. Baker argues that PECO failed to prove that the project would have “no adverse impacts” on the community, and therefore PECO’s petition should be rejected. Ms. Baker contends that the selection of 2090 Sproul Road should be set aside because this decision by PECO is “arbitrary and capricious.” She points to the “distorted” site selection process, concerns regarding the heaters to be used at the facility, emissions, noise and other safety concerns.

PECO need not prove that there are no adverse impacts related to the proposed project. The focus of the Commission’s review is limited to the necessity for the buildings themselves. As explained above, the site selected for the construction of buildings need not be absolutely necessary.⁵⁹ The Commission’s consideration of public welfare within the meaning of Section 619 of the MPC and the myriad of other statutory provisions that require consideration of public welfare, is a broader inquiry than just the alleged impacts of the project raised by the local community opposing a project.⁶⁰ Further, granting PECO an exemption from zoning requirements related to the buildings does not exempt PECO from compliance with the regulations of the Commission or regulation by any other agency responsible for health and safety, such as the Departments of Transportation or Environmental Protection.

Marple Township focuses its opposition to PECO’s petition on the chosen location for the Station at 2090 Sproul Road. Marple Township does not dispute the need for the facility. Instead, Marple Township argues that PECO failed to comply with its own site selection criteria when choosing the site and failed to communicate fully with Township officials and with the public.

These issues are not the subject of Commission review under Section 619 of the MPC. The site selection criteria utilized (or not utilized) by the natural gas utility in acquiring real estate are not subject to Commission review. Even if we were to agree with Marple Township that PECO did not consider other sites in good faith, did not follow its own site

⁵⁹ *UGI*, p. 21

⁶⁰ *See, e.g., Popowsky v. Pa. Pub. Util. Comm’n*, 937 A.2d, 1040 (Pa. 2007) (holding that substantial public benefits do not require that every customer receive a benefit from the proposed action).

selection criteria and failed to communicate effectively with local officials, these factors are not germane to the approval for the zoning exemption for the buildings sought by PECO.

While the Commission certainly encourages utilities to work collaboratively with local governments, there is no gas utility regulation which mandates it. The ND District in Marple Township at least contemplates “public utility use.” PECO has made an effort to consider the aesthetics of the Station and attempted to propose materials and landscaping designs that will reduce the perceived inconsistent nature of the site with the surrounding buildings.

In sum, no party opposing PECO’s petition argued that there were no benefits to be derived from the buildings that would be constructed to protect the equipment from the elements. No party argued that the structures proposed for the site should not be considered buildings. PECO provided sufficient evidence to prove that the buildings were necessary to protect the equipment and to provide added noise dampening of the noise generated by the equipment. No party argued that the fence proposed for the facility should not be considered a “building” within the meaning of Section 619 of the MPC. The proposed Gas Reliability Station and related buildings will enhance reliability and availability of supply services to PECO’s customers. Accordingly, PECO has met the burden of proving that the buildings should be exempt from Marple Township zoning because the situation of the buildings is reasonably necessary for the public convenience or welfare.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the parties and the subject-matter of the dispute. 53 P.S. § 10619.

2. As the party seeking approval from the Commission, PECO bears the burden of proof. 66 Pa.C.S. § 332(a).

3. Public utility facilities are exempt from local regulation. *Duquesne Light Co. v. Monroeville Borough*, 298 A.2d 252 (Pa. 1972).

4. Under Section 619 of the Pennsylvania Municipalities Planning Code, a municipality may exercise its zoning powers over a public utility building unless the Commission determines that the site is reasonably necessary for the public convenience or welfare. Act of July 31, 1968, P.L. 805, *as amended*, 53 P.S. § 10619.

5. The Commission is not empowered under Section 619 of the MPC to evaluate the various aspects of the environmental impact of a project and, instead, is obliged to defer to the determinations of those agencies with jurisdiction over such impacts. *O'Connor v. Pa. Pub. Util. Comm'n*, 582 A.2d 427 (Pa. Cmwlth. 1990).

6. The location selected by PECO at 2090 Sproul Road for the Reliability Station is reasonably necessary. 53 P.S. § 10619.

7. The buildings are reasonably necessary to protect the equipment of the Natural Gas Reliability Station from weather and vandalism. 53 P.S. § 10619.

ORDER

THEREFORE,

IT IS ORDERED:

1. That the 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, at Docket No. P-2021-3024328, is hereby granted in that the proposed two “structures” constitute “buildings” and their proposed situation in question is reasonably necessary for the convenience or welfare of the public within the meaning of Section 619 of the Municipalities Planning Code (MPC) Act of July 31, 1968. P.L. 805 *as amended*, 53 P.S. § 10619.

2. That this proceeding at Docket P-2021-3024328 be marked closed.

Date: December 7, 2021

/s/
Emily I. DeVoe
Administrative Law Judge

/s/
Mary D. Long
Administrative Law Judge