

**BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of PECO Energy Company for a Finding :  
Necessity Pursuant to 53 P.S. §10619 that the :  
Situation of Two Buildings Associated with a Gas :       Docket No.: P-2021-3024328  
Pressure Regulation Station in Marple Township, :  
Delaware County Is Reasonably Necessary for the :  
Convenience and Welfare of the Public :

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**PREHEARING CONFERENCE MEMORANDUM OF JULIA M. BAKER**

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**TO THE ADMINISTRATIVE LAW JUDGE, EMILY I. DeVOE**

Pursuant to 52 Pa. Code §5.222(d) and the June 5, 2023 Prehearing Conference Order, Julia M. Baker (Julie), Intervenor in this action, hereby files this Prehearing Conference Memorandum. For the purposes of the Prehearing Conference, Julie will be the primary speaker.

**I. HISTORY OF THE PROCEEDING**

On February 26, 2021, PECO filed a Petition before the PUC. In its Petition, PECO requests that the 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 at 2090 Sproul Road, Marple Township, Delaware County, Pennsylvania, 19008 (the “Property”) for a proposed Gas Reliability Station is reasonably necessary for the convenience and welfare of the public and, therefore, exempt from 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 (the “Petition”).

On March 11, 2021, Marple Township filed a Petition to Intervene and on April 12, 2021, the County of Delaware, Pennsylvania filed a petition to Intervene. On or about April 12, 2021, sixty-three *pro se* protestants filed Protests to the Petition. Two residents, Mr. Ted Uhlman and Julia (“Julie”) Baker, filed Petitions to Intervene in addition to Protests. Public Input Hearings were held on May 25 and 26, 2021, including approximately sixteen (16) hours of public comment, at which time ninety-three individuals testified, the overwhelming majority of which were residents of Marple Township residents who voiced their opposition to and concerns with the siting of the Gas Reliability Station at the proposed location given the property’s proximity to residences, a family restaurant, businesses and an elementary school. Written testimony, rebuttal and surrebuttal were exchanged by the parties and evidentiary hearings were held before Administrative Law Judge Emily DeVoe (“ALJ DeVoe”) via telephonic proceedings on July 15, July 16, July 20, and July 22, 2021.

An Initial Decision was entered by ALJs DeVoe and Long on December 7, 2021 approving PECO’s Petition. After exceptions and reply exceptions, the Commission entered its Opinion and Order on March 10, 2022 adopting the Initial Decision of the ALJs with minor exceptions.

Marple appealed to the Commonwealth Court. After briefs submitted and oral argument, the Commonwealth Court rendered its decision on March 9, 2023 issuing an Unreported Decision vacating the PUC’s Order and remanding with instructions that it issue an Amended Decision regarding PECO’s Petition which must incorporate the results of a constitutionally sound environmental impact review as to siting the so-called “Fiber Building” and “Station Building” upon the property located at 2090 Sproul Road.

Marple filed an Application to report the CW Court's unreported decision which was granted on April 25, 2023

PECO filed an Application for reargument which was denied on April 25, 2023.

**II. PRESENTLY IDENTIFIED ISSUES.** The following list represents Marple Township's preliminary determination of potential issues in these remand proceedings. Marple Township specifically reserves the right to address other appropriate issues that may emerge during any limited discovery period. The preliminary issues are as follows:

- a.** Pursuant to Article 1 section 27 of the Pennsylvania Constitution, Environmental Rights Amendment ("ERA"), the Commission must complete a thorough environmental impact review of PECO's building site proposal at 2090 Sproul Road, including but not limited to impact to area persons and property from the siting and operation of the proposed natural gas regulating station at 2090 Sproul Road (the "Project") including review of the potential and impact of explosion impact radius, noise, heater emissions and issues related to health and safety such as air quality, odor, accidents, leaks, discharge, fire, etc.
- b.** The Commonwealth Court decision above requires that a Section 619 proceeding is "constitutionally inadequate unless the Commission completes an appropriately thorough environmental review of a building siting proposal and, in addition, factors the results into its ultimate determination regarding the reasonable necessity of the proposed siting." It is submitted that environmental impact of the

siting of the Project at the Property in question is such that such siting is not reasonably necessary for purposes of Section 619.

- c. Julia Baker submits that a constitutionally sound environmental impact review of the proposed siting on the Property of the PECO project must necessarily include an independent environmental impact assessment, which should also include a review of all incidents (accidents, discharge, fire, explosions) in recent years at gate stations (and any compressor stations), the impact of such incidents to the environment (including injury or damage to area persons and property), the frequency of such incidents and likelihood of like incidents at the proposed site and the impact to the surrounding environment (including injury or damage to area persons and property) if such incidents were to occur at the subject site.

**III. PROPOSED WITNESSES.** Julia Baker currently intends to call the following witnesses, without being limited thereto:

- a. Environmental expert testimony. Julia Baker is currently engaged in identifying and determining the availability of experts who will provide environmental impact assessment and will identify same upon receipt of the discovery to be requested as discussed below.
- b. Expert Witnesses to be identified upon receipt of further discovery from PECO and evaluation of same.

- c. Julia Baker reserves the right to call witnesses as necessary to address issues that may arise during the course of discovery and during these proceedings and will provide the ALJ and other parties to this matter reasonable notice thereof.

**IV. PROPOSED LITIGATION SCHEDULE.** Marple Township has agreed to the revised schedule proposed by PECO. Township understand that PECO will submit the proposed schedule with its pre-hearing memo for the Commission's consideration.

- a. Julia Baker requests that the Commission immediate discovery for further information relative to the actual to be built reliability station for the necessary environmental impact review. This Intervenor joins the Township in submitting that there is some confusion as to the actual operational data and wishes to confirm same so that all assessments are made from the same operational specifications and data. Township requests that PECO provide the following as confirmation of same: (i) Plot plan(s) (not the simplistic 3-D artist's rendering) of the station, showing all structures, equipment and piping, including outdoor areas, indoor areas, and all underground pipe routings; (ii) Process and Instrumentation Diagrams (P&IDs) for the station; (iii) Gas conditions at the station: Temperature, Pressure, Flowrate, and Composition at: (a) Inlet; (b) Outlet (c) Within the building (heater system, etc.); (iv) Clarification for location, procedures and monitoring for odorization of the gas flowing through this station, and (v) Standard Operative Procedures (SOP's) and Procedures and Checks for Adverse Operating Conditions (AOC's).

- b.** Julia Baker supports Mr. Uhlman’s suggestion that the parties agree upon and engage independent industry experts to do a full Environmental Impact Assessment. The assessment should include analysis of all environmental impact including sound and air quality as well as all matters of health and safety resulting from the siting and intended operation of the Project.

Respectfully Submitted,  
Julia M. Baker

/s/

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Julia M. Baker

2150 Sproul Rd  
Broomall, PA 19008

Dated: June 27, 2023

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

Re: Docket No. P-2021-3024328

Date: June 20, 2023

Dear Secretary Chiavetta:

Enclosed please find attached Certificate of Service for

Julia Baker's Prehearing Conference memorandum.

Copies of this document have been served in accordance with the attached Certificate of Service.

Thank you for your attention to this matter.

Respectfully Submitted,

Julia M. Baker

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Broomall, PA 19008

June 27, 2023

(In agreement with Mr. Uhlman's ISSUES AND SUB-ISSUES)

ENVIRONMENTAL REVIEW – There has never been an Environmental Review performed in association with a “619 Procedure”, as such a review had been prohibited prior to the ruling by the recent Commonwealth Court on this issue. In this precedent making case, all aspects of the review have implications, not only for this case, but for future cases of a similar nature.

What does a constitutionally sound environmental impact review look like, when applied to a “619 Procedure”?

In the previous round of this case, the vast majority of the expert witnesses for Exelon/PECO were, in fact, employees of Exelon/PECO. Similarly, the vast majority of the expert witnesses for the other side were employees of Marple Township or Delaware County. Each witness had obvious reasons to expand or contract their testimony as much as possible

Thus far, there has been little agreement between the parties on the facts of this case. Marple Township and the pro se intervenors insist that the homes, businesses, and nearby traffic within the Potential Impact Radius constitute a very serious problem. They insist that the noise studies promulgated by PECO are inadequate. They insist that pollution from the exhaust gasses and methane releases are unacceptable. They insist that other locations are both technologically feasible and much safer. They insist that PECO's claims of an alternative site search was a sham. They insist that PECO's claims of “community interaction” are ludicrous. They even question PECO's claim that Residential Natural Gas Usage in Marple Township and Delaware County will increase by 20% within ten years, which is the basis of PECO's argument that the facility is



“reasonably necessary”. PECO challenges all of Marple’s assertions.

Additionally, for a long time, in the previous iteration of this case, PECO repeatedly told us about the “Half Mile Radius from the Corner of Sproul and Lawrence Roads”; this assertion even appears in Findings of Fact #44, #45, #46, and #51 in the Initial Decision. However, when the Don Guanella site was seriously pushed forward as a viable alternative location, suddenly those facts needed to be amended. In the Initial Decision, without any further explanation of the “engineering restraints”, Finding of Fact #50 refutes the half-mile radius in that it states: “

Despite the Don Guanella property being within the [one half] 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)

Clearly, the two sides have repeatedly been dealing with two different sets of facts; occasionally, there are conflicting facts even within the Initial Decision’s Findings of Fact.

And now, as the case returns from the Commonwealth Court to the Public Utility Commission, with orders to issue an Amended Decision which must incorporate the results of a constitutionally sound environmental impact review, it is important, not just for this case, but, for future , similar cases, that the same level of disagreement does not obfuscate the scientific facts of the environmental review. To continue on a road where the two sides employ their own environmental witnesses to promote their own interests is not in the best interests of the case, nor of the precedent that it sets. A constitutionally sound environmental impact review has never before been associated with a “619 Procedure”, so this court may well determine the course of

such reviews in the future. Therefore, it is imperative that all parties mutually agree upon a single group of environmental experts to execute the environmental review. Such a group could come from industry, academia, government, whatever.

The review should be based upon impartial facts of science, not the lawyerly arguments of the two sides, each having clear agendas in the case. After The Review has been completed, both sides will then have the opportunity to cross-examine the review and the reviewers, and continue on with their legal opinions and interpretations of ONE SET OF FACTS.

SCOPE – While it could be argued that the current proceeding should constitute nothing more than a constitutionally sound environmental impact review slapped on top of the existing record, the fact is that the Order of the Commonwealth Court, in ordering that the Amended Decision must incorporate the results of a constitutionally sound environmental impact review, has implied that the engineering and environmental pros and cons of the proposed location be balanced by the pros and cons of other locations. PECO’s initial acceptance of a half-mile radius from the corner of Sproul and Lawrence Roads, followed by their later complaint of “technological restraints” associated with the Don Guanella site needs to be looked at more closely. Even PECO’s claim to the half mile radius requirement has not been explained adequately, which could possibly make other sites 2 farther afield attractive alternatives.

WITNESSES – Witnesses have not yet been identified, but I reserve the right to call witnesses in the future.

And in complete agreement with Protestant Ron Fender's concerns:

His questions are:

1. What is the process for selecting the environmental consultant to perform the Environmental Impact Assessment? Will more than one proposal be solicited and evaluated?
2. Will the public have the opportunity to provide input into the scope of work and content of the assessment?
3. Will the public be able to review the proposals and have input on the selection of the firm?

Mr. Fender is a retired environmental engineer and knows from 40+ years of experience in the engineering consulting industry that the scope and comprehensiveness of an environmental assessment can vary greatly. Given the proximity of this proposed facility to residences, public places and an elementary school, it warrants a detailed, comprehensive assessment. There are Sensitive Receptors (young children, older adults, medically compromised individuals, etc...) in close proximity to this proposed facility. Those receptors require extensive and focused evaluation of the risks inherent in a facility such as that proposed. A cursory Phase 1 type assessment, often used for securing financing, would be woefully inadequate for this situation.

Subsumed within environmental issues are, especially for a Neighborhood Center transition site positioned precisely at the juncture of strictly residential and *light duty* pedestrian-friendly commerce, are matters of the aesthetic and (paramount!) the psycho-social ramifications of this project. These have been addressed very little and extremely poorly so far, in my humble opinion, and absolutely warrant further investigation, as the intense and widespread interest in this case attest with great clarity, and the stable, vibrantly-evolving character of the community deserve. We care very deeply about the possible effects on all localities faced with such tactics on the part of utilities who might otherwise seize opportunities to distribute fossil fuels through Over High Pressure lines at overly-close proximities to environmentally-sensitive populations in

what could be considered by any reasonable person to be arbitrary and capricious practice. We applaud the Commonwealth Court for this proceeding and will cooperate with the PUC throughout.

PROCEDURAL SCHEDULE – I agree to convene with Parties for a reasonable, mutually acceptable plan.

Respectfully Submitted on June 27, 2023

Julia M. Baker

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All Parties must agree to a single or panel of qualified Environmental Consultants who will perform the Constitutionally Sound Environmental Impact Review

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OF  
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