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August 4, 2023

VIA EFILE

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, Second 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
PUC DOCKET NO. P-2021-3024328

Dear Ms. Chiavetta:

Pursuant to the Honorable Administrative Law Judge Mary D. Long's July 5, 2023 Prehearing Order in the above-referenced matter, PECO Energy Company hereby files the enclosed Objections and Motion to Strike the Late-Filed Protest of Bill Beck.

By copy of this letter and enclosure, Protestant Bill Beck is provided the Notice to Plead and notified that a response is required pursuant to 52 Pa. Code § 5.103(c).

If additional information is needed about this matter, please contact me via email or at my direct-dial number above. Thank you.

Very truly yours,

/s/ Christopher A. Lewis

Christopher A. Lewis, Esq.

Enclosure

cc: The Honorable Mary D. Long (via email)
Protestant Bill Beck (via First-Class Mail)
Full Service List (via email)

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

NOTICE TO PLEAD

TO: Bill Beck

The attached Motion to Strike of PECO Energy Company (“PECO”) has been filed with the Pennsylvania Public Utility Commission in the above-captioned proceeding. If you wish to respond to the Motion, you must, pursuant to the provisions of 52 Pa. Code § 5.103, take action by filing a response with the Secretary of the Pennsylvania Public Utility Commission and serving a copy of that response upon all parties of record and the Administrative Law Judge within twenty (20) days from the date of service. You are warned that if you fail to do so, the case may proceed without you and an order may be entered against you by the Commission without further notice.

File with:

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street – Filing Room
2nd Floor North
Harrisburg, PA 17105

With a copy to:

Christopher A. Lewis, Esq.
Frank L. Tamulonis, Esq.
Stephen C. Zumbrun, Esq.
Blank Rome LLP
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Christopher.lewis@blankrome.com
Accepts eService

/s/ Christopher A. Lewis

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Stephen C. Zumbrun
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Phone: (215) 569-5793
Counsel for PECO Energy Company

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of PECO Energy Company for a :
Finding of Necessity Pursuant to 53 P.S. § :
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and Welfare of the Public :

**PECO ENERGY COMPANY’S OBJECTIONS AND MOTION TO STRIKE LATE-FILED
PROTEST OF BILL BECK**

PECO Energy Company (“PECO”) hereby requests, pursuant to 52 Pa. Code § 1.38 and the July 5, 2023 Prehearing Order in this proceeding, that the Honorable Administrative Law Judge Mary D. Long strike from the record the Protest of Bill Beck (the “Beck Protest”) and in support thereof avers as follows:

PRELIMINARY STATEMENT

The filing of the Beck Protest on July 28, 2023, more than two years after the protest filing deadline, violates the timing requirements set forth in 52 Pa. Code § 5.14(d) and 5.53. There is no good cause to accept the late-filed protest because no reasonable excuse exists for having missed the protest due date, the proceeding was contested at the time of the protest, receipt of the late-filed protest could delay the orderly progress of the case, and the protest could significantly broaden the issues. Accordingly, PECO requests that the Protest be stricken from the record.

PECO incorporates herein by reference the factual background, legal standard, and legal arguments contained in PECO’s previously filed *Motion to Strike the Giampino Protest* filed with the Pennsylvania Public Utility Commission on July 17, 2023.

ARGUMENT

I. The Beck Protest is Untimely, There is No Good Cause to Permit Late Intervention, and The Protest Should Be Stricken.¹

1. The Beck Protest is untimely, as it was filed with the Commission on July 28, 2023—over *two years* after the April 12, 2021 Protest Deadline. Application of the *Pennsylvania American*² factors, previously referenced in PECO’s *Motion to Strike the Giampino Protest*, the legal arguments of which are incorporated by reference, shows there is no good cause to permit this late-filed protest.

2. Mr. Beck has no reasonable excuse for missing the Protest Deadline. Sixty-three (63) individual Protestants have been recognized in this proceeding, demonstrating that adequate notice and opportunity to participate was provided. The Beck Protest represents that Mr. Beck “moved to 2123 Boxwood” with his family in 1964, but offers no explanation for the over two-year delay in filing a protest. *See* Beck Protest p.1. Accordingly, because there is no reasonable excuse for the substantial delay in filing the protest, this factor should weigh against Mr. Beck.

3. The second factor also weighs against accepting the late-filed protest, since the proceeding was contested at the time the Beck Protest was filed.

¹ The Beck Protest was “prepared with assistance” and filed by *pro se* intervenor Mr. Uhlman. *See* Beck Protest p. 2. Mr. Uhlman’s preparation and filing of pleadings for Marple Township residents raises serious issues regarding the unlicensed practice of law. *See* June 5, 2023 Prehearing Conference Order (“[u]nless you are an attorney, you may not represent someone else”); 52 Pa.Code §§ 1.21 & 1.22, (protestants may either represent themselves or be represented by an attorney licensed to practice law in the Commonwealth of Pennsylvania or admitted *Pro Hac Vice*); 42 Pa. Stat. Ann. § 2524 (“any person . . . who within this Commonwealth shall practice law, or who shall hold himself out to the public as being entitled to practice law . . . commits a misdemeanor of the third degree upon a first violation.”)

² *Joint Application of Pennsylvania-American Water Company and Thames Water Aqua Holdings GmbH*, Docket Nos. A-212285f0096, A-230073F0004, 2022 Pa. PUC Lexis 15 (May 9, 2022).

4. The third factor similarly weighs against acceptance of the Beck Protest, since the addition of Mr. Beck as a Protestant could delay the orderly progress of the case.

5. Importantly, the Remand Proceeding “is not an opportunity to relitigate the entire Initial Proceeding. Pennsylvania case law is clear that a remand proceeding is limited to the issues contained in the remand order.” *See* Interim Order at p. 5; *see also Del. Riverkeeper Network v. Middlesex Twp. Zoning Hearing Bd.*, 215 A.3d 96, 2019 WL 2605850, at *1 n.4 (Pa. Commw. Ct. June 26, 2019) (remand proceedings do not provide litigants “a second bite at the apple” on issues outside the limited purpose and scope of the remand proceeding) (citation omitted). Having failed to file a timely protest two years ago, Mr. Beck now seeks an improper “second bite at the apple” on remand.

6. The Remand Proceeding is narrowly focused on the Commonwealth Court’s mandate for the Commission to amend its prior decision after a constitutionally sound environmental impact review. “The issue on remand, an appropriately thorough environmental review of a building siting proposal, is technical and scientific and not conducive to lay testimony.” Prehearing Order at p. 2. The Beck Protest does not raise any new issues that have not already been expressed by the individuals who filed timely protests or during the public input hearings.

7. Acceptance of Mr. Beck’s protest would likely lead to the filing of a substantial number of additional untimely protests, requiring the Commission and the parties to expend additional resources, and could significantly delay the orderly progress of the case. Therefore, the third factor should militate against accepting the Beck Protest.

8. Finally, the fourth factor also weighs against a finding of good cause to accept the late protest, and any other late-filed protests. The Prehearing Order was clear as to the specific scope of this Remand Proceedings. *See* Prehearing Order at pp. 2-3. Acceptance of the Beck

Protest, and any other late-filed protests, has the potential for late-filed protestants to raise any number of issues in their filings that are beyond the specific scope of this Remand Proceeding and these filings do not aid the Commission's evaluation of the recognized technical and scientific issues in this proceeding.

WHEREFORE, for all the reasons set forth above, PECO submits that there exists no good cause to accept the untimely Beck Protest and respectfully requests that Your Honor grant its Motion to Strike.

Date: August 4, 2023

Respectfully submitted,
BLANK ROME LLP

/s/ Christopher A. Lewis
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Counsel for PECO Energy Company

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing Objections and Motion to Strike Late-Filed Protest of Bill Beck in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party) via mail or electronic mail on the following:

Bill Beck
2123 Boxwood Drive
Broomall, PA 19008

FULL SERVICE LIST:

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/s/ Stephen C. Zumbrun

Counsel to PECO Energy Company

Dated: August 4, 2023