**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 : (On Remand)

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 :

**INTERIM ORDER**

**STRIKING THE LATE-FILED PROTEST OF BILL BECK**

On July 27, 2023, Bill Beck filed a protest with “the assistance of Ted Uhlman.” On August 4, 2023, PECO filed a motion to strike the late-filed protest of Bill Beck. The motion included a notice to plead which notified Mr. Beck that he should respond to PECO’s motion within 20 days of service of the motion.

Mr. Beck has not filed a response to PECO’s motion to strike her protest. For the reasons explained in more detail below, I will grant PECO’s motion to strike.

**Procedural Background**

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).

On March 27, 2021, notice of the Petition and a prehearing conference was published in the *Pennsylvania Bulletin*. The published notice advised that the protest deadline was April 12, 2021. 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. Sixty-three individuals filed timely protests.

Thereafter, the litigation of PECO’s Petition included four public input hearings, two on May 25, 2021, and two on May 26, 2021, the submission of direct, rebuttal, and surrebuttal testimony, four days of evidentiary hearings that occurred on July 15, 16, 20 and 22, 2021, and briefing from the parties (the Initial Proceeding).

Administrative Law Judges DeVoe and Long issued an Initial Decision on December 7, 2021, finding that the situation of PECO’s proposed Fiber Building and Station Building was reasonably necessary for the convenience or welfare of the public pursuant to MPC Section 619. On March 10, 2022, the Commission, adopted the Initial Decision and approved PECO’s Petition.

Following the Initial Proceeding, Marple Township filed a petition for review of the Commission’s Opinion with the Commonwealth Court. On March 9, 2023, the Commonwealth Court issued an Opinion and Order vacating the Commission’s Opinion and remanding the matter to the Commission to issue an amended decision that “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 in the Township of Marple, Pennsylvania.”

By hearing notice dated June 21, 2023, the Office of Administrative Law Judge scheduled a prehearing conference by telephone on June 28, 2023. The prehearing conference convened as scheduled. Counsel for PECO, Christopher Lewis, Frank Tamulonis and Stephen Zumbrun, and Marple Township, Adam Matlawski and Kaitlyn Searls appeared. Self-represented intervenors Julia Baker and Ted Uhlman also appeared. Approximately 60 interested individuals called in to monitor the proceedings. Following the prehearing conference, I issued a prehearing conference order on July 5, 2023, which memorialized the matters discussed at the prehearing conference, including a litigation schedule.

The issue of new protests which were filed after the Commonwealth Court remand to the Commission was discussed at the prehearing conference. PECO represented that while it did not object to any amended protests filed by the original protestants after the Commonwealth Court remand, it did object to new protests filed after the remand. I instructed PECO to file a motion indicating which protests it moved to strike in order to permit the affected protestants to respond to PECO’s motion. PECO filed this motion to strike the protest of Bill Beck, which was filed after the Commonwealth Court remand.

**Discussion**

Mr. Beck filed his protest more than two years after the deadline for the filing of protests in this matter. The Commonwealth Court did not instruct the Commission to disregard the existing evidentiary record or to republicize PECO’s application, setting a new protest period. Therefore, April 12, 2021, remains the deadline for the filing of protests in this matter.

The Commission has the discretion to accept a protest that is filed after the protest deadline. The Commission, in *Application of Artesian Water Pennsylvania, Inc. for Approval to Begin to Offer, Render, Furnish or Supply Water Service to the Public in a portion of Franklin Township, Chester County*,[[1]](#footnote-1) set forth the four factors that it will consider determining whether to accept late-filed protests:

1. Does the petitioner have a reasonable excuse for missing the protest due date?

2. Was the proceeding contested at the time of the filing of the protest?

3. Will the receipt of the late-filed protest delay the orderly progress of the case?

4. Will the late-filed protest significantly broaden the issues or shift the burden of proof?

The Commission requires that a party requesting that the Commission accept its late-filed protest address all four of the factors recited above in order to allege good cause for the late filed protests.[[2]](#footnote-2)

It does not appear that Mr. Beck filed a response to PECO’s motion to strike his protest in order to provide any explanation for the late filing. In its motion to strike, PECO asserts that allowing late-filed protests in the Remand Proceeding, in addition to the 63 that have already been filed, risks complicating proceedings that are already complex. New protestants may attempt to expand the limited scope of the remand proceeding and will require all of the parties and the Commission to expend additional resources and risk delaying the orderly process of the case.

I agree with PECO. As explained above, and as I observed in the prehearing conference, the public opposition to PECO’s application is well-documented. There are a substantial number of protests that were filed on time. Judge DeVoe convened four public input hearings, which provided an opportunity for members of the community to voice their concerns regarding the Petition. Ninety-three individuals testified. This testimony was part of the record in the Initial Proceeding and the Commission considered the testimony in rendering its decision.[[3]](#footnote-3)

The issue on remand, an appropriately thorough environmental review of a building siting proposal, is technical and scientific. The potential prejudice to the parties to the proceedings by further delay or the necessity of responding to attempts to expand the issue on remand outweighs any prejudice to individuals who could have filed a timely protest, but did not.

THEREFORE,

IT IS ORDERED:

1. That the Motion to Strike the Protest of Bill Beck by PECO Energy Company is granted.

Date: September 5, 2023 /s/

Mary D. Long

Administrative Law Judge

**P-2021-3024328 – 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. (ON REMAND)**

ACTIVE PARTIES

CHRISTOPHER A. LEWIS ESQUIRE

FRANK L. TAMULONIS ESQUIRE

STEPHEN C. ZUMBRUN ESQUIRE  
MEGANN GIBSON ESQUIREBLANK ROME, LLPONE LOGAN SQUARE130 NORTH 18TH STREETPHILADELPHIA PA 19103**215-569-5793**[lewis@blankrome.com](mailto:lewis@blankrome.com)

[ftamulonis@blankrome.com](mailto:ftamulonis@blankrome.com)  
[szumbrun@blankrome.com](mailto:szumbrun@blankrome.com)

Accepts eService

*Representing PECO Energy Company*

JACK R. GARFINKLE ESQUIRE

ANTHONY GAY ESQUIRE  
PECO ENERGY COMPANY

2301 MARKET STREET

PO BOX 8699

PHILADELPHIA PA 19101-8699

215.841.6863  
[jack.garfinkle@exeloncorp](mailto:jack.garfinkle@exeloncorp)  
Accepts eService

KAITLYN T. SEARLS ESQUIRE

J. ADAM MATLAWSKI ESQUIRE  
MCNICHOL, BYRBE & MATLAWSKI, P.C.

1223 N PROVIDENCE ROAD

MEDIA PA 19063

[ksearls@mbmlawoffice.com](mailto:ksearls@mbmlawoffice.com)

[amatlawski@mbmlawoffice.com](mailto:amatlawski@mbmlawoffice.com)

Accepts eService

*Representing Marple Township*

ROBERT W. SCOTT ESQUIRECARL EWALD ESQUIRE

ROBERT W. SCOTT P.C.205 NORTH MONROE STREETMEDIA PA 19063**610.891.0108**

[rscott@robertwscottpc.com](mailto:rscott@robertwscottpc.com)

[carlewald@gmail.com](mailto:carlewald@gmail.com)

Accepts eService

*Representing County of Delaware*

THEODORE R. UHLMAN2152 SPROUL RDBROOMALL PA 19008**484.904.5377**[uhlmantr@yahoo.com](mailto:uhlmantr@yahoo.com)

Accepts eService

JULIA M. BAKER2150 SPROUL RDBROOMALL PA 19008**610.745.8491**

[jbakeroca@gmail.com](mailto:jbakeroca@gmail.com)

Accepts eService

**P-2021-3024328 – 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 (ON REMAND)**

INACTIVE PARTIES:

MICHAEL & JESSICA PAGLIARA18 STANFIELD AVEBROOMALL PA 19008

[javino0524@gmail.com](mailto:javino0524@gmail.com)  
[mikepags11@yahoo.com](mailto:mikepags11@yahoo.com)

Accepts eService

STEPHEN COLEMAN   
100 N SPROUL RDBROOMALL PA 19008**717.586.4291**

[scc5153@psu.edu](mailto:scc5153@psu.edu)

Accepts eService

CAROLINA FAVAZZA2006 KERWOOD DRBROOMALL PA 19008**610.519.6412**

[Carolina.favazza@villanova.edu](mailto:Carolina.favazza@villanova.edu)

Accepts eService

ASH KAILATH2516 PARKE LANEBROOMALL PA 19008**610.420.1208**[ashokkailath@yahoo.com](mailto:ashokkailath@yahoo.com)

Accepts eService

PETRA SVENSON4 HUNTERS RUNBROOMALL PA 19008

[petrasvenson@msn.com](mailto:petrasvenson@msn.com)

Accepts eService

JOHN CALLAGHAN17 TOWER RDBROOMALL PA 19008

[jdcalla1956@gmail.com](mailto:jdcalla1956@gmail.com)

Accepts eServiceMATTHEW BARRABEE2959 DOGWOOD LANEBROOMALL PA 19008**267.767.6582**

[mbarrabee@gmail.com](mailto:mbarrabee@gmail.com)

Accepts eServiceJOSEPH COLAGRECO2202 RUTGERS DRIVEBROOMALL PA 19008**610.389.2269**[Colagreco@comcast.net](mailto:Colagreco@comcast.net)

Accepts eService

ANNA MASCIANTONIO2739 BRIERWOOD RDBROOMALL PA 19008-1720**610.353.4172**

[anna2739@verizon.net](mailto:anna2739@verizon.net)

Accepts eService

EILEEN GOLDHORN

196 CRANBOURNE DRIVEBROOMALL PA 19008

[mrsgoldee@comcast.net](mailto:mrsgoldee@comcast.net)

Accepts eService

LINDA A. COLLINS523 WARREN BLVDBROOMALL PA 19008**610.220.4661**

[lindacollins225@gmail.com](mailto:lindacollins225@gmail.com)

Accepts eServiceMARIA RICH2691 OLD CEDAR GROVE RDBROOMALL PA 19008

[Mariarich@verizon.net](mailto:Mariarich@verizon.net)

Accepts eServiceANTHONY MARZIANO JR237 TALBOT DRIVEBROOMALL PA 19008

[managerptp@aol.com](mailto:managerptp@aol.com)

Accepts eService

MARION H. DARBY907 CEDAR GROVE ROADBROOMALL PA 19008

[mdarby232@gmail.com](mailto:mdarby232@gmail.com)

Accepts eService

MARISSA MCGEEHAN2102 BOXWOOD DRIVEBROOMALL PA 19008**484.431.7246**

[marissa.mcgeehan@gmail.com](mailto:marissa.mcgeehan@gmail.com)

Accepts eService

DAVID HEAGERTY2102 BOXWOOD DRIVEBROOMALL PA 19008**484.467.7368**

[daveheagerty@hotmail.com](mailto:daveheagerty@hotmail.com)

Accepts eService SALVATORE P. FAVAZZA JR2006 KERWOOD DRIVEBROOMALLL PA 19008**610.353-3314**

[cnsspf@yahoo.com](mailto:cnsspf@yahoo.com)

Accepts eService

RONALD G. FENDER2506 PARKE LANEBROOMALL PA 19008

[captainron73@yahoo.com](mailto:captainron73@yahoo.com)

Accepts eService

BRIDGETT WENDEL117 ACADEMY LANEBROOMALL PA 19008**610.353.1450**

[bridgettwendel@gmail.com](mailto:bridgettwendel@gmail.com)

Accepts eServiceLUISA ROBBINS411 LANGFORD ROADBROOMALL PA 19008**610.550.9017**[luisa0411@hotmail.com](mailto:luisa0411@hotmail.com)

Accepts eService

LUCINDA SCACE728 CEDAR GROVE RDBROOMALL PA 19008

[cynsca@comcast.net](mailto:cynsca@comcast.net)

Accepts eService

NILGUN OKUR 2163 MARY LANEBROOMALL PA 19008**610.356.2177**[nilgun.okur@gmail.com](mailto:nilgun.okur@gmail.com)

Accepts eService

TERESA DICAMPLI121 1ST AVEBROOMALL PA 19008

[tmdicampli@gmail.com](mailto:tmdicampli@gmail.com)

Accepts eServiceHENRY J. AND LINDA GILLIN2149 MARY LANEBROOMALL PA 19008

[hjg844@gmail.com](mailto:hjg844@gmail.com)

Accepts eService

FELICIA CARNAROLI252 WARREN BLVDBROOMALL PA 19008**484.574.4947**

[famoroso13@rocketmail.com](mailto:famoroso13@rocketmail.com)

Accepts eService

SABINA AMOROSO2150 KINGSWOOD ROADBROOMALL PA 19008

[famoroso13@rocketmail.com](mailto:famoroso13@rocketmail.com)

Accepts eServiceAMANDA ATKINSON709 CEDAR GROVE RDBROOMALL PA 19008**617.935.9712**[amanda.atkinson@gmail.com](mailto:amanda.atkinson@gmail.com)

Accepts eService

STEPHEN DIMARCO 2084 SPROUL ROADBROOMALL PA 19008610.547.7040

[sdimarco@pennoaksgolfclub.com](mailto:sdimarco@pennoaksgolfclub.com)

Accepts eService

MARY KARAMITOPOULOS802 SAINT FRANCIS DRIVEBROOMALL PA 19008**610.656.6069**

[kyriamaryk@gmail.com](mailto:kyriamaryk@gmail.com)

Accepts eService

KOSMAS YIANTSOS2228 WINDSOR CIRCLEBROOMALL PA 19008**215.588.0630**

[kyiantsos@hotmail.com](mailto:kyiantsos@hotmail.com)

Accepts eServiceCHRISTOS FELFELIS

2211 GLENSPRING LANEBROOMALL PA 19008**610.733.2921**[christosfelfelis@gmail.com](mailto:christosfelfelis@gmail.com)

Accepts eService

ALESSIA TRADER

252 WARREN BLVD

BROOMALL PA 19008

**215-459-2870**

[trader4md@gmail.com](mailto:trader4md@gmail.com)

Accepts eService

CASAUNDRA DIDOMENICO

114 SPROUL RD

BROOMALL PA 19008

**484-983-9573**

[schwartzc14@gmail.com](mailto:schwartzc14@gmail.com)

Accepts eService

JOHN & HOLLY CROSS322 CANDLEWOOD RDBROOMALL PA 19008**484.716.1353**[crossh12@gmail.com](mailto:crossh12@gmail.com)

Accepts eService

ANDREW & LYNNE REDDING  
104 ALLISON CIRBROOMALL PA 19008**610.716.6660**

[lynne.metzler@gmail.com](mailto:lynne.metzler@gmail.com)

Accepts eServiceSTEVEN & TRACEY WELSH2162 MARY LANEBROOMALL PA 19008**215.360.1818**

[twelsh22@hotmail.com](mailto:twelsh22@hotmail.com)

Accepts eServiceJEFFREY STRONG8 GROVE LANEBROOMALL PA 19008  
[jeffstrong5150@gmail.com](mailto:jeffstrong5150@gmail.com)  
Accepts eService

ROBERT JORDAN2623 SPRINGFIELD ROADBROOMALL PA 19008**610.357.3865**[rcjordanjr@gmail.com](mailto:rcjordanjr@gmail.com)

Accepts eService

MARILIA MANCINI-STRONG8 GROVE LANEBROOMALL PA 19008**610.731.9022**

[mariliamstrong@hotmail.com](mailto:mariliamstrong@hotmail.com)

Accepts eService

RICHARD GIOVANETTI1 ARBORDALE LANEBROOMALL PA 19008**610.547.5318**

[richard.giovanetti@g-sa.com](mailto:richard.giovanetti@g-sa.com)  
Accepts eServiceNORMA BLUM2164 SPROUL RDBROOMALL PA 19008

[Myspang7@comcast.net](mailto:Myspang7@comcast.net)

Accepts eService

KAREN E. SPECTOR403 BRIAR DRIVEBROOMALL PA 19008**610.764.6224**

[kspector@yahoo.com](mailto:kspector@yahoo.com)

Accepts eServiceANNA WILLIG640 CEDAR GROVE ROADBROOMALL PA 19008**610.213.1029**

[anna413@comcast.net](mailto:anna413@comcast.net)

Accepts eService

BOB DORAZIO2148 MARY LANEBROOMALL PA 19008**610.353.1910**

[bobdorazio44@gmail.com](mailto:bobdorazio44@gmail.com)

Accepts eService

AMY BLAKE 22 STANFIELD AVEBROOMALL PA 19008**610.353.4738**

[aeb817@gmail.com](mailto:aeb817@gmail.com)

Accepts eServiceALYSSA PLOTNICK2203 GRAYMOOR DRBROOMALL PA 19008  
[dollgirl.plotnick27@gmail.com](mailto:dollgirl.plotnick27@gmail.com)  
Accepts eServiceGREGORY FAT2201 ST PAUL DRIVEBROOMALL PA 19008**609.610.7819**[gregfat@gmail.com](mailto:gregfat@gmail.com)Accepts eService

WILLIAM A. WEGENER22 STANFIELD LANEBROOMALL PA 19008**862.222.5102**

[wwegener@gmail.com](mailto:wwegener@gmail.com)Accepts eServiceNICOLE HOWARTH2508 SELWYN DRIVEBROOMALL PA 19008**717.418.2296**[nicolehowarth2@gmail.com](mailto:nicolehowarth2@gmail.com)Accepts eService

KYRIAKI FELFELIS

2211 GLENSPRING LANE

BROOMALL PA 19008

610-909-7449

[kyradesigns@att.net](mailto:kyradesigns@att.net)

Accepts eService

NATALIE ZEMAITIS2651 OLD CEDAR GROVE RDBROOMALL PA 19008**215.668.1035**

[nattyz@hotmail.com](mailto:nattyz@hotmail.com)

Accepts eService

WILLIAM LENAHAN1 STANFIELD AVEBROOMALL PA 19008**717.585.2916**

[wdlenahan@gmail.com](mailto:wdlenahan@gmail.com)

Accepts eServiceKEVIN PICKERING915 CEDAR GROVE ROADBROOMALL PA 19008**610.639.4818**

[mr.kevinpickering@gmail.com](mailto:mr.kevinpickering@gmail.com)

Accepts eService

MARIA HENDERSONMARIA D HENDERSON CPA1 Madonna LaneBROOMALL PA 190086103599843mdhcpa@verizon.net

Accepts EService

JILL ADAMAN2160 Mary LaneBROOMALL PA 19008484-574-7448jea905@comcast.net

Accepts EService

SARAH KUCHAN\*114 MARTIS RUNMEDIA PA 19063**610.883.1089**

[sarahkuchan@gmail.com](mailto:sarahkuchan@gmail.com)

CHARLES THOMAS AVEDISIAN\*2150 SPROUL ROADBROOMALL PA 19008**607.592.7915**

[cta2@cornell.edu](mailto:cta2@cornell.edu)

1. Docket No. A-210111F0003, (Order entered June 24, 2004) (*Artesian Water*). [↑](#footnote-ref-1)
2. *Application of Leatherstocking Gas Company, LLC,* Docket A-2011-2275595 (Opinion and Order adopting March 2, 2012 Initial Decision, entered March 2, 2012). [↑](#footnote-ref-2)
3. See Initial Decision at pp. 6-9. [↑](#footnote-ref-3)