

PENNSYLVANIA PUBLIC UTILITY COMMISSION
Harrisburg, Pennsylvania 17120

PECO Energy Company

Public Meeting held September 26, 2024
3024328-OSA
Docket No. P-2021-3024328

STATEMENT OF VICE CHAIR KIMBERLY BARROW

Before the Commission is the remand of *Township of Marple v. Pennsylvania Public Utility Commission*, 294 A.3d 965 (Pa. Cmwlth. 2023). This Petition by PECO involves the situation of two buildings as part of a natural gas reliability station in Marple Township, Delaware County.

In our previous review of the matter, the Commission stated that it “is not empowered under Section 619 of the [Municipal Planning Code, 53 P.S. § 10619] to evaluate the various aspects of the environmental impact of a project, [and that] it defers to the determinations of those agencies with jurisdiction over such environmental impacts, including the Pennsylvania Department of Environmental Protection”.¹

The Commonwealth Court disagreed with the Commission’s conclusion that it was not so empowered, and remanded. The Commonwealth Court stated that it agreed the Commission should have considered the Township’s “concerns regarding potential explosions, noise, and emissions from the Station's buildings”.² The Court further held 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.”³

I believe that the record in the remand proceeding clearly satisfies the mandate of the Commonwealth Court as well as the Environmental Rights Amendment generally.⁴ The Administrative Law Judge (ALJ) took testimony on all environmental matters identified in the appeal, and more. The ALJ weighed the testimonies’ credibility, evaluated the testimony in the context of regulations by our sister environmental agencies, and determined that the siting remained reasonably necessary for the convenience or welfare of the public.

In the future, it will be important that parties present this evidence from the outset and that the Commission carries out a thorough analysis of that evidence in rendering its decisions. All utilities should also engage with affected communities regarding the reasons that projects are needed so that delay in the provision of reliable and necessary utility services is minimized, to the extent possible. This proactive approach will allow the environmental concerns of the

¹ Petition of PECO Energy Co. 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 Twp., Delaware Cnty. Is Reasonably Necessary for the Convenience & Welfare of the Pub., No. P-2021-3024328, 2022 WL 766885, at *29 (Order entered March 10, 2022)


² *Township of Marple*, 294 A.3d at 973.

³ *Id.* at 974.

⁴ Pennsylvania Constitution, Article 1, Section 27.

community to be fully heard and incorporated into planning and will fulfill the right, enshrined in the Pennsylvania Constitution, of Pennsylvania citizens to a healthy environment.

September 26, 2024


Kimberly Barrow, Vice Chair