

# Morgan Lewis

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October 17, 2025

## **VIA ELECTRONIC FILING**

Matthew L. Homsher, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120

**Re: Petition Of PECO Energy Company For A Finding Of Necessity Pursuant To 53 P.S. § 10619 That The Situation Of A Control Building Associated With The Forge Springs Substation In Upper Merion Township, Montgomery County Is Reasonably Necessary For The Convenience And Welfare Of The Public**  
**Docket No. P-2025-3057330**

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Dear Secretary Homsher:

Enclosed please find the **Prehearing Conference Memorandum of PECO Energy Company (the “Prehearing Memorandum”)** for filing in the above-referenced docket.

Copies of the Prehearing Memorandum have been served in accordance with the enclosed Certificate of Service.

If you have any questions regarding this filing, please contact me directly at 215.963.5834.

Thank you.

Very truly yours,



Kenneth Kulak

c: Per Certificate of Service

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**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

<b>PETITION OF PECO ENERGY</b>	:	
<b>COMPANY FOR A FINDING OF</b>	:	
<b>NECESSITY PURSUANT TO 53 P.S. §</b>	:	
<b>10619 THAT THE SITUATION OF A</b>	:	
<b>CONTROL BUILDING ASSOCIATED</b>	:	
<b>WITH THE FORGE SPRINGS</b>	:	<b>DOCKET NO. P-2025-3057330</b>
<b>SUBSTATION IN UPPER MERION</b>	:	
<b>TOWNSHIP, MONTGOMERY COUNTY</b>	:	
<b>IS REASONABLY NECESSARY FOR</b>	:	
<b>THE CONVENIENCE AND WELFARE</b>	:	
<b>OF THE PUBLIC</b>	:	

**PREHEARING CONFERENCE MEMORANDUM  
OF  
PECO ENERGY COMPANY**

This memorandum is submitted in response to the Prehearing Conference Order issued by Deputy Chief Administrative Law Judge Christopher P. Pell and Administrative Law Judge Barbara Shadie Nause dated September 22, 2025.

**I. INTRODUCTION**

On September 9, 2025, the PECO Energy Company (“PECO” or “the Company”) filed its Petition (“Petition”) with the Pennsylvania Public Utility Commission (the “Commission”) in the above-captioned proceeding seeking a finding of necessity pursuant to 53 P.S. § 10619 that the situation of a control building with lavatory associated with the new Forge Springs Substation in Upper Merion Township, Montgomery County is reasonably necessary for the convenience and welfare of the public.

On September 17, 2025, the Commission acknowledged receipt of the Petition and provided a copy of the Notice to be Published in the September 27, 2025 issue of the Pennsylvania Bulletin. This Notice stated that “[f]ormal protests and petitions to intervene must be filed in accordance with Title 52 of the Pennsylvania Code, on or before October 13, 2025.” No protest or petition to intervene has been filed in this proceeding.

On September 19, 2025, the Commission issued an Initial Telephonic Prehearing Conference Notice scheduling a prehearing conference in this proceeding for Tuesday, October 21, 2025, at 10:00 am with Deputy Chief Administrative Law Judge Christopher P. Pell and Administrative Law Judge Barbara Shadie Nause (the “ALJs”) presiding. On September 22, 2025, the ALJs issued their Prehearing Conference Order, directing active participants to file a prehearing memorandum by 12:00 pm on October 17, 2025.

## **II. ISSUES**

As set forth in the Petition, PECO has filed a Letter of Notification (the “LON”) for approval of the siting and construction of the 220-80 Line and 220-101 Line located in Norristown, West Norriton Township, and Upper Merion Township in Montgomery County Pennsylvania (the “Project”). Petition, ¶ 6. The Commission has docketed the LON at Docket No. A-2025-3057320.

The proposed Project is necessary to support the reliability of PECO’s transmission system by facilitating PECO’s relocation of the existing Barbadoes Substation from an area prone to flooding to a new location south of the Schuylkill River, as well as replace facilities of the existing substation that are at end of life. The transmission facilities to be constructed are necessary to connect the existing 230 kV 220-80 Line to the new Forge Springs Substation and to provide power from the new Forge Springs Substation to the existing Barbadoes Substation through a new 230 kV 220-101 Line. The Project has a scheduled construction start date of the second quarter of 2026 for the substation and the first quarter of 2027 for the transmission facilities, to meet an in-service date of the fourth quarter of 2029. LON, ¶¶ 6-7.

As shown on Exhibit A of the Petition, the proposed Forge Springs Substation includes a control equipment enclosure with lavatory with dimensions of 75 feet by 50 feet. The control equipment enclosure with lavatory will contain substation electric controls, relays, metering, and communications equipment necessary for the control and operation of the Forge Springs

Substation and a lavatory for use when PECO personnel are on-site to service the substation equipment. The control equipment housed within the enclosure is not designed to be exposed to the elements and therefore must be housed within an enclosure to ensure it can perform its designed function for the duration of its useful life. The control equipment enclosure with lavatory will be an unmanned facility, serviced periodically by technicians, and accordingly will not increase the vehicular traffic otherwise already associated with the Forge Springs Substation. Instead, on an around-the-clock schedule of 24 hours, seven days a week, PECO will remotely monitor the new control equipment enclosure with lavatory, along with the entire substation. Petition, ¶ 7.

Under Section 619 of the Pennsylvania Municipalities Planning Code, 53 P.S. § 10619, and well-established Pennsylvania law, municipalities do not have the power to zone with respect to utility structures other than “buildings” that are not necessary for the public convenience or welfare. *Duquesne Light Co. v. Upper St. Clair Township, et al.*, 377 Pa. 323, 105 A.2d 287 (1954); *Newtown Township v. Phila. Elec. Co.*, 140 Pa. Commw. 635, 642, 594 A.2d 834, 837 (Pa. Commw. Ct. 1991) (discussing *Duquesne Light, supra*, and its progeny finding that the MPC § 619 exemption applied to zoning ordinances, subdivision, and land development regulations). If the Commission agrees that the control equipment enclosure with lavatory constituting a “building” is reasonably necessary, the “building” is exempt from local zoning ordinances under the MPC. *Township of Marple v. PECO Energy Co.*, 294 A.3d 965, 972 (2023).

The only reasonable location to site the control equipment enclosure that will be used to control the Forge Springs Substation is within the substation itself. In this proceeding, PECO seeks a determination by the Commission that the proposed Forge Springs Substation control

equipment enclosure with lavatory is reasonably necessary for the convenience or welfare of the public in order for PECO to construct, own, and operate the Project.

As described in the Petition, PECO and Upper Merion Township, in which the control equipment enclosure with lavatory will be located, have entered into an agreement in lieu of zoning in which PECO agreed to seek Commission approval of the control equipment enclosure. The agreement incorporates PECO's agreement to submit certain information to Upper Merion Township and to comply with certain applicable Upper Merion Township ordinances, and Upper Merion Township has agreed that no approval, special exception, or variance is required for the new Forge Springs Substation, including the control equipment enclosure with lavatory. Petition, ¶ 8. PECO has also identified no adverse impacts to the environment due to the control equipment enclosure with lavatory or any environmental requirements for the enclosure that require a determination by a Commonwealth agency. Petition, ¶¶ 9-10.

### **III. WITNESSES AND EVIDENCE**

PECO has not identified any witnesses at this time. Should hearings be required in this proceeding, PECO will provide the ALJs and any parties with the names and addresses of witnesses and the proposed area of testimony of each witness after identification.

### **IV. PROCEDURAL ISSUES**

Pursuant to 52 Pa. Code § 5.41(b), PECO served the Petition upon the Office of Consumer Advocate, the Bureau of Investigation and Enforcement, and the Office of the Small Business Advocate. Additionally, PECO served counsel for all municipalities in which the proposed Forge Springs Substation building is intended to be constructed, and the Commission published notice of this proceeding in the *Pennsylvania Bulletin* on September 27, 2025. No party has intervened and no protest to the Petition has been filed.

As no party has intervened and no protest has been filed, PECO respectfully requests that this Petition be referred to the Commission's Bureau of Technical Utility Services for disposition as unopposed.

#### **V. SERVICE LIST**

PECO requests that the official service list entry for the Company be as follows:

Anthony E. Gay (Pa. No. 74624)  
PECO Energy Company  
2301 Market Street  
Philadelphia, PA 19103  
Phone: 267.533.1999  
[anthony.gay@exeloncorp.com](mailto:anthony.gay@exeloncorp.com)

PECO also requests that a copy of all correspondence, discovery, testimony and other materials sent to the Company be provided to:

Kenneth M. Kulak (Pa. No. 75509)  
Morgan, Lewis & Bockius LLP  
2222 Market Street  
Philadelphia, PA 19103-3007  
Phone: 215.963.5384  
Fax: 215.963.5001  
[ken.kulak@morganlewis.com](mailto:ken.kulak@morganlewis.com)

Additionally, PECO requests that a copy of all correspondence, discovery, testimony and other materials sent to the Company be provided to Andrea Preate via electronic mail at [andrea.preate-regni@morganlewis.com](mailto:andrea.preate-regni@morganlewis.com).

The lead attorney for the Company for purposes of the Prehearing Conference will be Kenneth M. Kulak.

## VI. CONCLUSION

WHEREFORE, PECO Energy Company submits this Prehearing Conference Memorandum and respectfully requests that Deputy Chief Administrative Law Christopher P. Pell and Administrative Law Judge Barbara Shadie Nause refer this matter to the Commission's Bureau of Technical Utility Services for disposition as unopposed.

Respectfully submitted,



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Anthony E. Gay (Pa. No. 74624)  
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Dated: October 17, 2025

*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. §** :  
**10619 that the Situation of a Control** :  
**Building Associated with the Forge** : **DOCKET NO. P-2025-3057330**  
**Springs Substation in Upper Merion** :  
**Township, Montgomery County is** :  
**Reasonably Necessary for the** :  
**Convenience and Welfare of the Public** :

**CERTIFICATE OF SERVICE**

I hereby certify and affirm that I have this day served a copy of the **Prehearing Conference Memorandum** on behalf of PECO Energy Company on the following persons in the manner specified in accordance with the requirements of 52 Pa. Code § 1.54:

**VIA ELECTRONIC MAIL**

Deputy Chief Administrative Law Judge Christopher P. Pell  
Pennsylvania Public Utility Commission  
Office of Administrative Law Judge  
801 Market Street Philadelphia, PA 19107  
[cpell@pa.gov](mailto:cpell@pa.gov)

Administrative Law Judge Barbara Shadie Nause  
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**VIA EXPRESS MAIL**

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Marvin Meneeley, Chairperson  
Upper Merion Township  
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Montgomery County Conservation District  
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Dated: October 17, 2025

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