

**PENNSYLVANIA  
PUBLIC UTILITY COMMISSION  
Harrisburg, PA 17120**

Public Meeting held April 16, 2026

Commissioners Present:

Stephen M. DeFrank, Chairman  
Kimberly Barrow, Vice Chair  
Kathryn L. Zerfuss  
John F. Coleman, Jr.  
Ralph V. Yanora

Dontissa Wilmer

C-2024-3050153

v.

PECO Energy Company

**OPINION AND ORDER**

**BY THE COMMISSION:**

Before the Pennsylvania Public Utility Commission (Commission) for consideration and disposition is the Petition for Emergency Application for Stay and for Sanctions Due to Spoliation of Evidence (Petition) filed by Dontissa Wilmer (Ms. Wilmer or Petitioner) on March 3, 2026.<sup>1</sup> Through her Petition, Ms. Wilmer requests that the Commission: (1) issue an emergency stay of all non-emergency work,

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<sup>1</sup> Ms. Wilmer filed an Amended Certificate of Service to the Petition on March 5, 2026, based upon communication with counsel for PECO Energy Company (PECO). Therefore, we calculate the period for a response to the Petition to be ten (10) days from March 5, 2026, pursuant to Section 5.572 of our Regulations, 52 Pa. Code § 5.572(e).

other than in the event of a documented safety emergency, within the Tomlinson Road corridor and surrounding area; (2) order PECO to cease and desist from disposal of materials, conduits, or hardware removed from the site; and (3) schedule a hearing for sanctions due to the alteration of record evidence. Petition at 6-7.

No response to the Petition has been filed by PECO.

On consideration of the Petition and the positions of the Parties, we shall dismiss the Petition, consistent with the discussion in this Opinion and Order.

### **I. History of the Proceeding**

The history of this proceeding is outlined in the Commission's September 25, 2025, Opinion and Order (*September 2025 Order*) at the above docket on pages two through five. We incorporate by reference the history of the proceeding, as outlined in the *September 2025 Order*. Therefore, the following is a recitation of the procedural history relevant to Ms. Wilmer's Petition.

Ms. Wilmer filed a Petition for Reconsideration on June 20, 2025, seeking reconsideration of the Commission's June 5, 2025, Opinion and Order (*June 2025 Order*) denying her Exceptions (*2025 Petition for Reconsideration*). The Company did not file an Answer to the Petition.

By Opinion and Order entered July 7, 2025, we granted reconsideration of the *June 2025 Order* pending further review of, and consideration on, the merits of the *2025 Petition for Reconsideration*, pursuant to Pa. R.A.P. 1701(b)(3). On September 25, 2025, we issued the *September 2025 Order*, wherein we denied Ms. Wilmer's *2025 Petition for Reconsideration*.

Ms. Wilmer filed a Petition for Review with the Pennsylvania Commonwealth Court (Commonwealth Court) on October 20, 2025. Ms. Wilmer’s appeal was docketed at Docket No. 1375 CD 2025 and is currently pending before the Commonwealth Court for disposition. On January 22, 2026, Ms. Wilmer filed an Emergency Application for Stay and for Sanctions Due to Spoliation of Evidence at Commonwealth Court (*January 2026 Application*). The Commonwealth Court entered a Memorandum and Order denying the *January 2026 Application* on February 20, 2026, and noted Ms. Wilmer had not shown she had first sought injunctive relief from the Commission.

As noted, *supra*, Ms. Wilmer filed the instant Petition on March 3, 2026. No response to the Petition has been filed.

## **II. Discussion**

### **A. Legal Standards**

#### **1. Burden of Proof**

As the party seeking affirmative relief from the Commission, the complainant in a formal complaint proceeding has the burden of proof. 66 Pa.C.S. § 332(a). The evidence necessary to meet that burden must be substantial. 2 Pa.C.S. § 704. “Substantial evidence” is such relevant evidence that a reasonable mind might accept as adequate to support a conclusion. *Consolidated Edison Company of New York v. National Labor Relations Board*, 305 U.S. 197, 229, 59 S.Ct. 206, 217. More is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established. *Norfolk & Western Ry. Co. v. Pa. PUC*, 413 A.2d 1037 (Pa. 1980).

Ms. Wilmer, as the proponent of a rule or order from the Commission, has the burden to establish the requisite elements in support of the requested stay. *See Application of Artesian Water Pennsylvania, Inc. Pursuant to Chapter 21 of the Public Utility Code, for Approval of Affiliated Interest Agreement*, Docket Nos. G-2019-3013770, *et al.* (Order entered May 21, 2020); 2020 WL 2764479 (Pa.P.U.C.)

## **2. Petitions for Relief**

With respect to petitions for rehearing, reconsideration, rescission, and amendment of Commission orders, the Code establishes a party's right to seek relief within fifteen days following the service of a Commission order, pursuant to Subsection 703(f). 66 Pa.C.S. § 703(f) (relating to rehearing).<sup>2</sup> Upon the filing of a petition for relief pursuant to Section 703(f), the Commission may affirm, rescind, or modify its original order. 66 Pa.C.S. § 703(f). The Code further provides that the Commission may, at any time, after notice and opportunity to be heard by all affected parties, rescind or amend any order made by the Commission, pursuant to Section 703(g). 66 Pa.C.S. § 703(g) (relating to rescission and amendment of orders). A request for relief pursuant to § 703(f) or § 703(g) must be brought as a petition for relief, consistent with Section 5.572 of the Commission's Regulations. 52 Pa. Code § 5.572 (relating to petitions for relief).

Petitions for relief predicated upon Sections 703(f) and 703(g) of the Code, whether brought under Section 5.572(c) of the Commission's Regulations as a petition for reconsideration, rehearing, reargument, clarification, supersedeas, or others within fifteen days of the service of a Commission order, or under Section 5.572(d) of the

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<sup>2</sup> Petitions under this section which do not allege new evidence are typically treated as petitions for reconsideration. Petitions for rehearing pursuant to Section 703(f) of the Code typically include an allegation of new evidence. 66 Pa.C.S. § 703(f); *see West Penn Power Co. v. Pa. PUC*, 659 A. 2d 1055 (Pa. Cmwlth. 1995).

Commission’s Regulations as a petition for rescission or amendment filed at any time following service of a Commission order, are reviewed by the Commission as matters seeking relief falling within the agency’s discretion.

It is well-settled that the propriety of issuing a stay or supersedeas will be governed by the standards pronounced in the holding of *Pa. PUC v. Process Gas Consumers Group*, 467 A.2d 805 (1983) (*Process Gas*). Pursuant to the standards of *Process Gas*, for issuance of a stay and/or supersedeas, a petitioner must establish the following:

1. Make a strong showing of likelihood to prevail on the merits;
2. Show that denial of relief will cause irreparable injury;
3. Show that the issuance of a stay will not substantially harm other interested parties in the proceedings; and
4. Show that the issuance of a stay will not adversely affect the public interest.

*Process Gas*, 467 A.2d at 808-09. The Pennsylvania Supreme Court further stated: “[I]t is essential that the unsuccessful party, who seeks a stay of a final order pending appellate review, make a strong showing under the[se] criteria in order to justify the issuance of a stay.” *Id.*

**B. Ms. Wilmer’s Emergency Application for Stay and for Sanctions Due to Spoliation of Evidence**

In her Petition and in support of her requests, Ms. Wilmer argues that, *inter alia*: (1) the electrical infrastructure at 210 and 212 Tomlinson Road is compromised and unsafe; (2) there exists an entanglement of lines and multiple power lines servicing a single residential property – 210 Tomlinson Road; (3) there is

unauthorized electrical diversion to a specific stated address set forth in the Petition; (4) certain portions of the record lack certified record page stamps; (5) there has been recent commencement of subsurface work on the Tomlinson Road corridor; (6) there is a continuous effort to alter the forensic state of the infrastructure before a court-ordered inspection can occur; (7) there was a recent mechanical electrical failure of infrastructure on the Petitioner’s rooftop; (8) PECO has an affirmative duty to preserve evidence and to request a litigation hold; (9) any modification to the utility lines in this specific area creates an immediate risk of altering or removing the physical record currently in dispute; and (10) modification of the infrastructure while an appeal of this matter remains pending at Commonwealth Court is intentional spoliation.<sup>3</sup> Petition at 1-7.

The Petition neither refers to the timeliness of its filing, nor does it provide any explanation for or reasonable basis why the filing was made beyond the fifteen (15) days contemplated by 52 Pa. Code § 5.572. *See, generally*, Petition.

### **C. Disposition**

Before addressing the Petition, we note that any issue that we do not specifically address shall be deemed to have been duly considered and denied without further discussion. The Commission is not required to consider expressly or at length each contention or argument raised by the parties. *Consolidated Rail Corp. v. Pa. PUC*,

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<sup>3</sup> In this regard, the Petitioner technically seeks relief in the nature of injunctive relief to preclude the Company from continuing with construction or modification of infrastructure in the subject area, rather than a stay to preserve status quo. A stay is defined as “[a]n order to suspend all or part of a judicial proceeding or a judgment resulting from that proceeding.” *Stay*, Black’s Law Dictionary (12th ed. 2024). An injunction is defined as “[a] court order commanding or preventing an action.” *Injunction*, Black’s Law Dictionary (12th ed. 2024). The key difference is that a stay suspends judicial action (like a trial), whereas an injunction commands a person or entity to act or refrain from acting.

625 A.2d 741 (Pa. Cmwlth. 1993); *see also, generally, University of Pennsylvania v. Pa. PUC*, 485 A.2d 1217 (Pa. Cmwlth. 1984).

After careful consideration of the Petition, the record, and the filings in this matter, we shall deny Ms. Wilmer's Petition.

First, we note that while Ms. Wilmer's Petition is styled as an Emergency Application, there are neither facts alleged indicating an emergency exists, nor was Ms. Wilmer's Petition submitted during the course of a proceeding pending before the Commission. *See* 52 Pa. Code § 3.1, 52 Pa. Code § 3.6.<sup>4</sup> In the Petition, Ms. Wilmer makes a general assertion that the specified facilities are "unsafe" and further requests that the existing condition of the facilities, which she has alleged to be unsafe, be preserved. Specifically, Ms. Wilmer repeats claims from the underlying Complaint in this matter, that there is an "entanglement of lines" servicing a residential property on Tomlinson Road, that unauthorized electrical diversion is occurring, with recent work in the area constituting a "continuous effort to alter the forensic state of the infrastructure." Petition at 2-4. However, Ms. Wilmer's Petition raises general assertions of an unsafe condition of facilities with insufficient facts to determine whether the situation creates a "clear and present danger to life or property..." precluding us from determining an emergency exists in this matter.

Having determined the Petition does not present an emergency, we shall instead consider the Petition as a Petition for Relief under Section 5.572(a) of the Commission's Regulations, 52 Pa. Code §5.572(a).

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<sup>4</sup> The Code defines an "emergency" for the purposes of emergency relief, as follows: "A situation which presents a clear and present danger to life or property or which is uncontested and requires action prior to the next scheduled public meeting."

Procedurally, our Regulations require petitions for supersedeas or stay “be in writing and specify, in numbered paragraphs, the findings or orders involved, and the points relied upon by petitioner, with appropriate record references and specific requests for the findings or orders desired...” and filed within fifteen (15) days of the Order at issue becoming final. 52 Pa. Code §5.572(a), (c).

The Commission must also only act to issue supersedeas or stay where appropriate. Pursuant to Pa.R.A.P 1701, the Commission may act upon a matter appealed to the Commonwealth Court in limited circumstances. In relevant part, the Commission may:

- (1) Take such action as may be necessary to preserve the *status quo*, correct formal errors in papers relating to the matter, cause the record to be transcribed, approved, filed, and transmitted, grant leave to appeal *in forma pauperis*, grant *supersedeas*, and take other action permitted or required by these rules or otherwise ancillary to the appeal or petition for review proceeding.

Pa.R.A.P. 1701(b)(1).

The Commission, cognizant of our exercise of discretion pursuant to 52 Pa. Code §1.2 to consider Ms. Wilmer’s Petition as a request for a stay, shall take action only as necessary to preserve the *status quo* in this matter and consider whether supersedeas/stay is appropriate.

At the outset, we note that Ms. Wilmer filed her Petition 161 days after the entry of our *September 2025 Order* dismissing this matter. Further, the Petition comes 136 days from the filing of Ms. Wilmer’s appeal in Commonwealth Court. Typically, a request for stay should be submitted within 15 days of the disputed order becoming final.

*See* 52 Pa. Code 5.572(c). Therefore, Ms. Wilmer's Petition is untimely. As previously noted, the Petition provides no justification for this untimeliness.

However, given Ms. Wilmer's status as a *pro se* party before this Commission, the lack of a response or objection by PECO, and cognizant of the language of the Commonwealth Court's Order denying Ms. Wilmer's *January 2026 Application*, we utilize the discretion afforded the Commission in 52 Pa. Code §1.2 to consider the Petition on its merits.

Turning to the Petition, treated as a Petition for Stay or Supersedeas pursuant to Section 5.572, under the standards set forth in *Process Gas* we are unpersuaded that a stay is warranted based upon the contents of the Petition. *Process Gas* at 808-09. As noted, *supra*, the Commission applies the four-part test outlined in *Process Gas* to determine whether to issue a stay or supersedeas. As the party seeking a stay, Ms. Wilmer must make a strong showing of the relevant criteria to justify the issuance of a stay. *Process Gas* at 809.

Under the first criterion of the *Process Gas* standard, Ms. Wilmer must make a strong showing that she is likely to prevail on the merits in this matter. On consideration of the Petition, we conclude that the first criteria of the *Process Gas* standards weighs against the issuance of a stay. In the case of *Pa. PUC v. Makovsky Brothers, Inc.*, 53 Pa. P.U.C. 510, 511 (1979) (*Makovsky*), the Commission stated, in pertinent part, that:

[I]n deciding whether to stay one of our orders pending appeal, this Commission should not indulge in a further review of the case. Rather this Commission should

concentrate solely on the effect our order will have pending appeal.

*Makovsky* at 511. Therefore, in our analysis of whether to grant a stay, we will not engage in reweighing evidence or further review of the matter. Further, the Commission has distinguished proceedings in which the “strong showing . . . of a likelihood of success on the merits” is considered in a request for the issuance of a stay after a full and fair opportunity of the parties to the matter to litigate substantive issues from those proceedings in which the substantive issues have not been fully addressed.<sup>5</sup>

Here, Ms. Wilmer refers to evidence and documentation already considered by the Commission in this matter for her assertions of “compromised infrastructure” necessitating a stay. The Commission may not rely on the opinions and conclusions of Ms. Wilmer as substantial evidence supporting finding a strong likelihood that Ms. Wilmer prevails on the merits. *See, Norman v. Phila. Gas Works*, Docket No. C-2018-2640719 (Opinion and Order entered October 7, 2021). This Commission has already considered this evidence in dismissing Ms. Wilmer’s underlying Complaint, wherein she alleged PECO had violated the Code by creating unsafe conditions at her property. *See September 2025 Order*. Accordingly, we believe Ms. Wilmer is asking the Commission to engage in further review of this matter. Therefore, pursuant to *Makovsky*, we shall decline to engage in further consideration of our *September 2025 Order*.

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<sup>5</sup> *See Pa. PUC v. UGI Corp.*, 57 Pa. P.U.C. 83, 88-89 (1983); *see also, Implementation of Act 40 of 2017, Petition of Cypress Creek Renewables, LLC for a Stay or Supersedeas of the Commission's Final Implementation Order Entered May 3, 2018*, Docket No. M-2017-2631527 (Opinion and Order entered August 2, 2018) (finding that “the first prong of the four-part test of whether a stay, requiring the petitioner to make a strong showing that he is likely to prevail on the merits, is applicable in a matter where the Commission has not had an opportunity to rule on the substantive facts at issue”).

Under the next Process Gas criterion, we consider whether denial of the relief requested will cause irreparable injury. In her Petition, Ms. Wilmer alleges that failure to issue a stay “will result in the permanent destruction of the physical evidence necessary to substantiate” the claims underlying her Complaint. Again, we are cognizant of the language of *Makovsky* in considering Ms. Wilmer’s request and find that Ms. Wilmer, through her Petition, improperly asks this Commission to indulge in further review of this matter. In consideration of our prior finding that Ms. Wilmer’s Complaint was without merit, we find that this criterion of *Process Gas* weighs against the issuance of a stay.

We also believe that any issuance of a stay based on Ms. Wilmer’s asserted harm would exceed the limited scope of the Commission’s review. *See* Pa.R.A.P. 1701. Ms. Wilmer’s asserted harm involves the destruction of evidence in a matter currently pending before Commonwealth Court, not before the Commission. Specifically, the harms alleged by Ms. Wilmer arose after resolution of her Complaint before the Commission and have only a tangential relationship to the matter previously before the Commission. At this late date, Ms. Wilmer’s request would not serve to “preserve the status quo” as it existed when the matter was before the Commission. In her Petition, Ms. Wilmer does not raise or meet any of the exceptions to the general prohibition on further action by the Commission post-appeal to Commonwealth Court. Pa.R.A.P. 1701(b). Therefore, we find Ms. Wilmer has failed to show she will suffer irreparable injury should the Commission fail to issue a stay in this matter.

With respect to the third criterion of *Process Gas*, that a stay or supersedeas will not substantially harm other interested parties, we find that Ms. Wilmer has submitted no evidence that a stay would not harm PECO. Indeed, the facts alleged by Ms. Wilmer indicate that PECO may suffer harm from the cessation of construction activities currently underway. We, therefore, cannot find that Ms. Wilmer has satisfied the criterion of showing that a stay would not substantially harm other parties.

Finally, on consideration of the fourth *Process Gas* criterion, we find that Ms. Wilmer has not demonstrated that the issuance of a stay will not adversely affect the public interest. The only interests asserted by Ms. Wilmer pertain to her personal interest in her alleged basis for relief, *i.e.*, that the preservation of the “evidence” is somehow necessary to support her request for relief. The public interest is served by utilities remaining free to address necessary repairs to utility infrastructure. The cessation of such repairs would be adverse to the public interest. Accordingly, we conclude the Petition fails to satisfy the fourth prong under *Process Gass*.

Here, Ms. Wilmer has failed to satisfy the four-prong test for issuance of a stay, as outlined in *Process Gas*. As such, we find that a stay should not be granted in this matter. Accordingly, the Petition is denied, consistent with this Opinion and Order.

### **III. Conclusion**

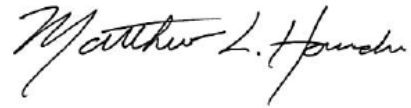
Based upon our review of the record and the applicable law, we shall deny the Emergency Application for Stay and for Sanctions Due to Spoliation of Evidence filed by Dontissa Wilmer, consistent with this Opinion and Order; **THEREFORE,**

#### **IT IS ORDERED:**

1. That the Emergency Application for Stay and for Sanctions Due to Spoliation of Evidence, filed by Dontissa Wilmer on March 3, 2026, is denied, consistent with this Opinion and Order.

2. That this proceeding, at Docket No. C-2024-3050153, be marked closed.

**BY THE COMMISSION,**

A handwritten signature in black ink, reading "Matthew L. Homsher". The signature is written in a cursive style with a large initial "M".

Matthew L. Homsher  
Secretary

(SEAL)

ORDER ADOPTED: April 16, 2026

ORDER ENTERED: April 16, 2026