

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

PES HOLDINGS, LLC , *et al.*,

Debtors.¹

Chapter 11

Case No. 19-11626 (KG)

Jointly Administered

NOTICE OF SUBPOENA

To: ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that, pursuant to Rules 26, 30(b)(6), 34, and 45 of the Federal Rules of Civil Procedure, as made applicable to this contested matter by Rules 7026, 7030, 7034, 9014, and 9016 of the Federal Rules of Bankruptcy Procedure, counsel for the Official Committee of Unsecured Creditors (the “**Committee**”), duly appointed in the Chapter 11 cases of PES Holdings, LLC and its affiliated debtors and debtors-in-possession, will take the oral deposition of Hilco Redevelopment Partners, LLC to testify regarding the topics of examination set forth in Exhibit A to the Subpoena (the “Topics”) on **January 31, 2020, beginning at 10:00 a.m. (EST)**, and continuing day to day until completed, at the offices of Elliott Greenleaf, P.C., located at 1105 North Market Street, Suite 1700, Wilmington, Delaware, 19801, or on such other date and at such other location as mutually agreed by the parties. A true and correct copy of the subpoena is attached hereto as Exhibit 1. The deposition will proceed

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: PES Holdings, LLC (8157); North Yard GP, LLC (5458); North Yard Logistics, L.P. (5952); PES Administrative Services, LLC (3022); PES Energy Inc. (0661); PES Intermediate, LLC (0074); PES Ultimate Holdings, LLC (6061); and Philadelphia Energy Solutions Refining and Marketing LLC (9574). The Debtors’ service address is: 1735 Market Street, Philadelphia, Pennsylvania 19103.

before an officer authorized by law to administer oaths, and will be recorded by audio, video, and/or stenographic means.

Dated: January 27, 2020

ELLIOTT GREENLEAF, P.C.

Jonathan M. Stemerman

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*Counsel to the Official Committee
of Unsecured Creditors of PES Holdings, LLC
et al.*

EXHIBIT 1

B2560 (Form 2560 – Subpoena to Testify at a Deposition in a Bankruptcy Case or Adversary Proceeding) (12/15)

UNITED STATES BANKRUPTCY COURT

FOR THE District of DELAWARE

In re PES HOLDINGS, LLC, et al. Debtor

Case No. 19-11626 (KG)

(Complete if issued in an adversary proceeding)

Chapter 11

Plaintiff

Adv. Proc. No.

v.

Defendant

SUBPOENA TO TESTIFY AT A DEPOSITION IN A BANKRUPTCY CASE (OR ADVERSARY PROCEEDING)

To: Hilco Redevelopment Partners, LLC; See Exhibit A for Deposition Topics (Name of person to whom the subpoena is directed)

Testimony: YOU ARE COMMANDED to appear at the time, date, and place set forth below to testify at a deposition to be taken in this bankruptcy case (or adversary proceeding). If you are an organization, you must designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on your behalf about the following matters, or those set forth in an attachment:

Table with 2 columns: PLACE (Elliott Greenleaf, P.C., 1105 N. Market Street, Suite 1700, Wilmington, DE 19801) and DATE AND TIME (January 31, 2020, at 10:00 a.m. (ET))

The deposition will be recorded by this method: Audio, Video, or Stenography

Production: You, or your representatives, must also bring with you to the deposition the following documents, electronically stored information, or objects, and must permit inspection, copying, testing, or sampling of the material: See Exhibit B

The following provisions of Fed. R. Civ. P. 45, made applicable in bankruptcy cases by Fed. R. Bankr. P. 9016, are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and 45(g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: January 24, 2020

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

/s/ Jonathan M. Stemerman Attorney's signature

The name, address, email address, and telephone number of the attorney representing (name of party) UCC, who issues or requests this subpoena, are:

Jonathan Stemerman, Elliott Greenleaf, P.C., 1105 N. Market Street, Ste 1700, Wilmington, DE 19801, (302) 384-9400, jms@elliottgreenleaf.com Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things, or the inspection of premises before trial, a notice and a copy of this subpoena must be served on each party before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)*: _____
on *(date)* _____.

I served the subpoena by delivering a copy to the named person as follows: _____
_____ on *(date)* _____ ; or

I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of \$ _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____.

I declare under penalty of perjury that this information is true and correct.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information concerning attempted service, etc.:

Federal Rule of Civil Procedure 45(c), (d), (e), and (g) (Effective 12/1/13)
(made applicable in bankruptcy cases by Rule 9016, Federal Rules of Bankruptcy Procedure)

(c) Place of compliance.

(1) *For a Trial, Hearing, or Deposition.* A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) *For Other Discovery.* A subpoena may command:

- (A) production of documents, or electronically stored information, or things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises, at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) *Avoiding Undue Burden or Expense; Sanctions.* A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

(2) *Command to Produce Materials or Permit Inspection.*

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) *Quashing or Modifying a Subpoena.*

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

- (ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) *Producing Documents or Electronically Stored Information.* These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) *Claiming Privilege or Protection.*

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

...

(g) *Contempt.* The court for the district where compliance is required — and also, after a motion is transferred, the issuing court — may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

EXHIBIT A

Hilco Redevelopment Partners, LLC shall produce to testify on its behalf one or more officers, directors, or managing agents, or designate other persons who consent to testify on their behalf, in each case who have knowledge on the topics set forth below (the “Topics”). The individual(s) designated shall testify as to matters known or reasonably available to Hilco. Hilco shall identify in writing at least 24 hours in advance of the deposition the name of each person who will testify and the subject matters on which each person will testify.

Definitions²

For the purposes of the Topics, the following Definitions shall apply:

1. The term “affiliate” shall have the meaning set forth in the Bankruptcy Code.
2. The term “Assumed Contracts” shall have the meaning set forth in the Hilco PSA.
3. The term “Auction” means the auction that occurred on Friday, January 16, 2020, at the offices of Kirkland and Ellis LLP in New York, New York.
4. The term “Bankruptcy Code” means title 11 of the United States Code.
5. The term “Board” means the board of directors for the Debtor.
6. The term “Closing” shall have the meaning set forth in Section 2.04 of the Hilco PSA.
7. The term “Communication” or “Communications” means every manner or means of disclosure, transfer, or exchange of information orally, electronically, or in writing.
8. The term “Concerning” means relating to, evidencing, supporting, negating, refuting, embodying, containing, memorializing, comprising, reflecting, analyzing, constituting,

² Capitalized terms not otherwise defined herein shall have the meaning set forth in the Plan Supplement [D.I. 780-1].

describing, identifying, referring to, referencing, discussing, indicating, connected with or otherwise pertaining in any way, in whole or in part, to the subject matter being referenced.

9. The terms “Conditions” or “Contingencies” refers to any internal, regulatory, or other approvals necessary for the closing of the Sale Transaction.

10. The term “Debtors” means, collectively or individually, as context requires and to encompass responsive documents, PES Holdings, LLC, North Yard GP, LLC, North Yard Logistics, L.P., PES Administrative Services, LLC, PES Energy Inc., PES Intermediate, LLC, PES Ultimate Holdings, LLC, and Philadelphia Energy Solutions Refining and Marketing LLC, and each of their agents, accountants, financial advisors, employees, attorneys, officers, direct or indirect shareholders, members, representatives, affiliates, subsidiaries, predecessors and/or successors.

11. The term “Hilco” means Hilco Redevelopment Partners, Hilco Global, HRP Philadelphia Holdings, LLC, and each of their agents, accountants, financial advisors, employees, attorneys, officers, direct or indirect shareholders, members, representatives, affiliates, parents, subsidiaries, predecessors and/or successors.

12. The term “Hilco Bid” means Hilco’s binding final proposal for the purchase of the membership interests of PES Holdings, LLC, submitted to the Debtors on January 10, 2020.

13. The term “Hilco PSA” means the PSA with Hilco’s proposed edits, as submitted to the Debtors on January 10, 2020.

14. The term “including” means including without limitation.

15. The term “KEIP Motion” means the Debtors’ Motion for Entry of an Order (i) Approving the Debtors’ Key Employee Incentive Plan and (ii) Granting Related Relief [D.I. 605].

16. The term “PaDEP” refers to the Pennsylvania Department of Environmental Protection.
17. The term “person” shall have the meaning set forth in the Bankruptcy Code.
18. The term “PSA” means the proposed Purchase and Sale Agreement provided by the Debtors to potential bidders as part of the Sale Transaction.
19. The term “Sale Transaction” shall have the meaning set forth in the KEIP Motion.
20. The term “Soil Management Plan” shall have the meaning set forth in Section 9.11 of the Hilco PSA.
21. The term “Steering Committee” means the Committee of independent Board members.
22. The terms “You” or “Your” include the persons to whom these requests are addressed, and all that person's agents, representatives, or attorneys.

Topics of Examination³

1. The Auction.
2. Hilco’s PSA.
3. Any Conditions or Contingencies for Closing the Sale Transaction.
4. Any conditions precedent for Hilco’s Closing.
5. Hilco’s assessment, evaluation, consideration, or analysis of the uses for the Girard Point Refinery.
6. Hilco’s Soil Management Plan.
7. Hilco’s discussions with the PaDEP or any Philadelphia environmental government agency concerning the Girard Point facility.

³ Capitalized terms not otherwise defined herein shall have the meaning set forth in the Plan Supplement [D.I. 780-1].

8. Hilco's discussions with any other governmental entity or affiliate concerning the Girard Point facility.

9. Hilco's discussions with Sunoco about the Sunoco environmental indemnity.

10. Hilco's intentions with respect to the Consent Orders listed in Section 5.11 of the Hilco PSA.

11. Hilco's intentions with respect to assumption of the PaDEP Consent Order, dated January 15, 2020.

12. Hilco's plans to implement the corrective actions outlined in the Consent Order.

13. Hilco's plans to terminate or transfer any existing permits related to the Girard Point facility.

14. Permits necessary for Hilco to complete its redevelopment of the Girard Point facility.

15. Hilco's plans for decommissioning the Girard Point facility and the equipment remaining at the facility.

16. Hilco's intentions with respect to the CBA, as defined in Section 4.12(a) of the Hilco PSA.

17. Hilco's intentions with respect to any Union, as defined in Section 4.12(a) of the Hilco PSA.

18. The Assumed Contracts.

19. The contracts currently in place that the Debtors are parties to.

20. Hilco's investigation into the business of the Debtors prior to submitting the Hilco Bid.

EXHIBIT B TO SUBPOENA TO HILCO REDEVELOPMENT PARTNERS, LLC

DEFINITIONS¹

For the purposes of these requests (the “Requests”), the following Definitions shall apply:

1. The term “affiliate” shall have the meaning set forth in the Bankruptcy Code.
2. The term “Assumed Contracts” shall have the meaning set forth in the Hilco PSA.
3. The term “Auction” means the auction that occurred on Friday, January 16, 2020, at the offices of Kirkland and Ellis LLP in New York, New York.
4. The term “Bankruptcy Code” means title 11 of the United States Code.
5. The term “Board” means the board of directors for the Debtor.
6. The term “Closing” shall have the meaning set forth in Section 2.04 of the Hilco PSA.
7. The term “Communication” or “Communications” means every manner or means of disclosure, transfer, or exchange of information orally, electronically, or in writing.
8. The term “Concerning” means relating to, evidencing, supporting, negating, refuting, embodying, containing, memorializing, comprising, reflecting, analyzing, constituting, describing, identifying, referring to, referencing, discussing, indicating, connected with or otherwise pertaining in any way, in whole or in part, to the subject matter being referenced.
9. The terms “Conditions” or “Contingencies” refers to any internal, regulatory, or other approvals necessary for the closing of the Sale Transaction.
10. The term “Debtors” means, collectively or individually, as context requires and to encompass responsive documents, PES Holdings, LLC, North Yard GP, LLC, North Yard Logistics, L.P., PES Administrative Services, LLC, PES Energy Inc., PES Intermediate, LLC,

¹ Capitalized terms not otherwise defined herein shall have the meaning set forth in the KEIP Motion.

PES Ultimate Holdings, LLC, and Philadelphia Energy Solutions Refining and Marketing LLC, and each of their agents, accountants, financial advisors, employees, attorneys, officers, direct or indirect shareholders, members, representatives, affiliates, subsidiaries, predecessors and/or successors.

11. The terms "Document" or "Documents" have the meaning ascribed to them in Federal Rule of Civil Procedure 34 and includes each and every form of communication, and also includes, without limitation, all written, printed, typed, recorded, or graphic matter of any kind, type, nature, or description, in whatever form (*e.g.*, final and draft versions) that is or has been in your actual or constructive possession, custody or control, including, but not limited to, all printed and electronic copies of electronic mail, notes, correspondence, memoranda, tapes, stenographic or handwritten notes, written forms of any kind, charts, blueprints, drawings, sketches, graphs, plans, articles, specifications, diaries, letters, telegrams, photographs, minutes, contracts, agreements, reports, surveys, computer printouts, data compilations of any kind, teletypes, telexes, facsimiles, invoices, order forms, checks, drafts, statements, credit memos, reports, summaries, books, ledgers, notebooks, schedules, transparencies, recordings, catalogs, advertisements, promotional materials, films, video tapes, audio tapes, brochures, pamphlets or any written or recorded materials of any other kind, however stored (whether in tangible or electronic form), recorded, produced or reproduced, including backup tapes. The term "Document" shall include not only originals, but also any copies or reproductions of all such written, printed, typed, recorded or graphic matter upon which any notations, comments or markings of any kind have been made that do not appear on the original documents or that are otherwise not identical to the original documents. Any document with marks such as initials,

comments or notations of any kind is not deemed to be identical to one without such marks and is to be produced as a separate Document.

12. The term "Hilco" means Hilco Redevelopment Partners, Hilco Global, HRP Philadelphia Holdings, LLC, and each of their agents, accountants, financial advisors, employees, attorneys, officers, direct or indirect shareholders, members, representatives, affiliates, parents, subsidiaries, predecessors and/or successors.

13. The term "Hilco Bid" means Hilco's binding final proposal for the purchase of the membership interests of PES Holdings, LLC, submitted to the Debtors on January 10, 2020.

14. The term "Hilco PSA" means the PSA with Hilco's proposed edits, as submitted to the Debtors on January 10, 2020.

15. The term "including" means including without limitation.

16. The term "Insurance Claims" shall have the meaning set forth in the KEIP Motion.

17. The term "KEIP Motion" means the Debtors' Motion for Entry of an Order (i) Approving the Debtors' Key Employee Incentive Plan and (ii) Granting Related Relief [D.I. 605].

18. The term "PaDEP" refers to the Pennsylvania Department of Environmental Protection.

19. The term "person" shall have the meaning set forth in the Bankruptcy Code.

20. The term "PSA" means the proposed Purchase and Sale Agreement provided by the Debtors to potential bidders as part of the Sale Transaction.

21. The term "Sale Transaction" shall have the meaning set forth in the KEIP Motion.

22. The term "Soil Management Plan" shall have the meaning set forth in Section 9.11 of the Hilco PSA.

23. The term "Steering Committee" means the Committee of independent Board members.

24. The terms "You" or "Your" include the persons to whom these requests are addressed, and all that person's agents, representatives, or attorneys.

INSTRUCTIONS

The preceding Definitions apply to each of these Instructions, and for purposes of the Requests, the following Instructions shall be followed:

1. Unless otherwise stated in a specific request herein, the time period covered by the following Requests is the period of June 21, 2019 to the present.

2. The following Requests are continuing in nature. In the event You become aware of or acquire additional information relating or referring to any of the following Requests, such additional information is to be promptly produced.

3. You are to produce all responsive Documents in Your possession, custody or control, wherever located, including, without limitation, those in the custody of Your representatives and affiliates. A Document is deemed to be in Your possession, custody, or control if it is in Your physical custody, or if it is in the physical custody of any other person or entity and You: (i) own such Document in whole or in part; (ii) have a right, by contract, statute, or otherwise, to use, inspect, examine, or copy such Document on any terms; (iii) have an understanding, express or implied, that You may use, inspect, examine, or copy such Document on any terms; or (iv) as a practical matter, You have been able to use, inspect, examine, or copy such Document when You sought to do so. Documents in Your control include Documents in

the possession or custody of any of Your financial, legal, or other advisors or any of their respective affiliates, including without limitation, the advisors identified in the Hilco Bid. If any requested Document was, but no longer is, in Your control, state the disposition of each such Document.

4. If any Document requested herein was formerly in Your possession, custody or control and has been lost or destroyed or otherwise disposed of, You are requested to submit in lieu of any such Document a written statement (a) describing in detail the nature of the Document and its contents, (b) identifying the person(s) who prepared or authored the Document and, if applicable, the person(s) to whom the Document was sent, (c) specifying the date on which the Document was prepared or transmitted, and (d) specifying the date on which the Document was lost or destroyed and, if destroyed, the conditions of and reasons for such destruction and the person(s) requesting and performing the destruction.

5. If any part of the following Requests cannot be responded to in full, please respond to the extent possible, specifying the reason(s) for Your inability to respond to the remainder and stating whatever information or knowledge You have concerning the portion to which You do not respond.

6. If You object to any of these Requests, state in writing with specificity the grounds of Your objections. Any ground not stated shall be waived. If You object to a particular portion of any Request, You shall respond to any other portions of such Request as to which there is no objection and state with specificity the grounds of the objection.

7. The fact that an investigation is continuing or that discovery is incomplete shall not be a justification for failing to respond to these Requests based on the knowledge or information that You possess at the time You respond to these Requests. If an investigation is

continuing or discovery is not complete with respect to the matter inquired into by any Request, so state in Your response to that Request.

8. Where any copy of any Document whose production is sought herein, whether a draft or final version, is not identical to any copy thereof, by reason of alterations, notes, comments, initials, underscoring, indication of routing, or other material contained thereon or attached thereto, all such non-identical copies are to be produced separately.

9. Hard copies of all Documents should be produced; in addition, copies of all Documents available electronically should be delivered in a readily accessible electronic form.

10. The words “and” and “or” are to be construed both conjunctively and disjunctively. The singular form of a noun or pronoun includes the plural form and vice versa. The word “all” shall also include “each of,” and vice versa. The word “any” shall be construed to mean “any and all” where the effect of such construction is to broaden the scope of the Request.

11. If there are no Documents responsive to any particular request, please state so in writing.

12. A request for any Document shall be deemed to include a request for any and all transmittal sheets, cover letters, exhibits, enclosures, or attachments to such Document, in addition to the Document in its full and unexpurgated form.

13. Documents should be segregated according to the number of the Requests to which You are responding or produced in the manner they are kept in the ordinary course of business. Documents attached to each other should not be separated.

14. Each request for Documents herein includes a request for exact copies of all disks, CDs, DVDs, and other removable media containing any information responsive to such

Requests. Electronic records and computerized information should be produced in an intelligible format or together with a sufficient description of the system or program from which each was derived to permit rendering the material legible.

15. If the identity of Documents responding to a request is not known, then that lack of knowledge must be specifically indicated in the response. If any information requested is not in Your possession, but is known or believed to be in the possession of another person or entity, then identify that person or entity and state the basis of Your belief or knowledge that the requested information is in such person's or entity's possession.

16. If any privilege is claimed as to any Communication requested or sought to be identified herein:

- a. State the nature of the privilege claim (*i.e.*, attorney/client communication, attorney work product, etc.);
- b. State the name of the party claiming privilege and the name of the attorney, if any, with respect to whom the privilege is claimed;
- c. State the basis for claiming the privilege as to the specific Communication;
- d. Identify all persons present at any Communication to which privilege is claimed and all persons to whom the subject matter of the Communication was discussed or disclosed; and
- e. State the date of each such Communication.

17. If any privilege is claimed as to any Document requested or sought to be identified herein:

- a. State the nature of the privilege claimed (*i.e.*, attorney/client

communication, attorney work product, etc.);

- b. State the basis for claiming the privilege as to the specific information or Documents; and
- c. State the date of such Document; identify the type of document (*i.e.*, letter, memo, etc.); set forth the subject matter thereof, identify each person who prepared it and each person (if any) who signed it; identify each person to whom it was directed, circulated or shown; and identify each person now in possession of the Document.

18. In the event that any Document called for by these Requests has been destroyed, lost or discarded, that Document is to be identified by stating:

- a. The nature of the Document;
- b. Any addressor and addressee;
- c. Any indicated or blind copies;
- d. The Document's date, subject matter, number of pages, and attachments and appendices;
- e. All persons to whom the Document was distributed, shown, or explained;
- f. Its date of destruction or discard, manner of destruction or discard, and reason for destruction or discard; and
- g. The persons authorizing or carrying out such destruction or discard.

DOCUMENT REQUESTS

- 1. All Documents and Communications Concerning the Hilco Bid.
- 2. All Documents and Communications Concerning the development or preparation of the Hilco Bid.

3. All Documents and Communications Concerning the Hilco PSA.
4. All Documents and Communications Concerning the preparation of the Hilco PSA and changes or amendments to the PSA.
5. All Documents and Communications Concerning Hilco's preparation for the Auction.
6. All Documents and Communications Concerning Hilco's participation in the Auction.
7. All Documents and Communications Concerning any conditions for the Closing.
8. All Documents and Communications Concerning any Conditions or Contingencies for the Closing.
9. All Documents and Communications Concerning Hilco's assessment, evaluation, consideration, or analysis of the purchase of any of the assets of the Debtors, including the Girard Point facility.
10. All Documents and Communications Concerning Hilco's assessment, evaluation, consideration, or analysis of the use of the Girard Point facility.
11. All Documents and Communications Concerning Hilco's discussions with the PaDEP.
12. All Documents and Communications Concerning Hilco's discussions with any governmental entity or affiliate concerning the Girard Point Facility.
13. All Documents and Communications Concerning any draft or final soil management plan.
14. All Documents and Communications Concerning the Sunoco environmental indemnity.

15. All Documents and Communications Concerning the Consent Orders identified in Section 5.11 of the Hilco PSA.

16. All Documents and Communications Concerning Hilco's assumption of the PaDEP Consent Order, dated January 15, 2020.

17. All Documents and Communications Concerning any existing permits related to the Girard Point facility.

18. All Documents and Communications Concerning permits required by Hilco to complete its redevelopment of the Girard Point facility.

19. All Documents and Communications Concerning Hilco's decommissioning of the Girard Point facility.

20. All Documents and Communications Concerning the CBA, as defined in Section 4.12(a) of the Hilco PSA.

21. All Documents and Communications Concerning any Union, as defined in Section 4.12(a) of the Hilco PSA.

22. All Documents and Communications Concerning Hilco's selection of the Assumed Contracts.

23. All Documents and Communications Concerning Hilco's consideration of all contracts to which one or more Debtors are a party.

24. All Documents and Communications Concerning Hilco's research or investigation into the Girard Point facility and/or the operation of any of the Debtors.

25. All Documents and Communications Concerning the Closing.

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re: : Chapter 11
: :
PES HOLDINGS, LLC, *et al.*,¹ : Case No. 19-11626 (KG)
: :
Debtors. : (Jointly Administered)

CERTIFICATE OF SERVICE

I, Jonathan M. Stemerman, hereby certify that on January 27, 2020, a true and correct copy of the foregoing *Notice of Subpoena* was served upon the parties on the attached service list via first class mail.

Dated: January 27, 2020

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¹ The Debtors in these chapter 11 cases along with the last four digits of each Debtor's federal tax identification number are as follows: PES Holdings, LLC (8157); North Yard GP, IIC (5458); North Yard Logistics, L.P. (5952); PES Administrative Services, LLC (3022); PES Energy Inc. (0661); Pes Intermediate, LLC (0074); PES Ultimate Holdings, LLC (6061); and Philadelphia Energy Solutions Refining and Marketing LLLC (9574). The Debtors' service address is: 1735 Market Street, Philadelphia, PA 19103.

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