

# PES AUCTION OVERVIEW

The timeline for the PES bankruptcy auction is short, but eventful, beginning in Nov. 2019 and ending Feb. 12. In the weeks before the court finalized the sale, the USW was in talks with all of the key players, including Philip Rinaldi and Industrial Realty Group (IRG).

Ultimately, however, neither Rinaldi nor IRG were able to line up the needed financing, and no one put forward a concrete, financed plan for restarting the refinery, leaving only Hilco.

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## INITIAL STAGES

The initial stages of the PES auction started last November when the bankruptcy court approved bidding procedures.

PES received bids from several parties by the Jan. 10 deadline. PES disqualified all but two of the bids by Jan. 15 because the bids were too low or because the financing was shaky.

Phillip Rinaldi, who had formed an entity called Philadelphia Energy Industries, LLC, did not submit a bid on Jan. 10.

## TWO QUALIFIED BIDDERS

PES determined that two parties were qualified to bid at the Jan. 17 auction: Hilco and IRG, both of which are real estate developers.

The USW was present and actively involved in the auction, which resulted in the following bids, neither of which guaranteed a restart:

- Hilco – A bid for \$240 million, with a \$30 million deposit and no financing contingencies. Hilco informed the parties that its financing was in place, but agreed that if it failed to close the transaction, it would forfeit its \$30 million deposit.
- IRG – A bid for \$265 million, with a \$5 million deposit and a 30-day financing contingency. IRG had not lined-up its financing and asked for 30 days to obtain the loans needed to complete the transaction. If it failed to obtain financing, IRG would lose its much smaller \$5 million deposit.

**At the end of the auction, PES declared that Hilco’s bid was “higher and better” than IRG’s bid because it concluded there was greater certainty that Hilco, which had arranged for its bank financing, would close on the sale. Hilco also offered more material assurance in the form of its deposit showing that it was serious about finishing the transaction.**

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## **IRG CHANGES ITS BID**

IRG and Rinaldi met at the auction, a connection the USW strongly encouraged. The USW remained in contact with IRG and Rinaldi throughout the period between the auction and the Feb. 12 confirmation hearing, urging them to develop a viable plan for keeping the facility operating as a refinery.

PES, the creditors' committee and the lenders were also in frequent contact with IRG throughout this time, urging IRG to eliminate the conditions in its bid. Though IRG made several changes to its bid, it was never able to satisfy PES.

## **NO CONCRETE PLANS**

During this time, we had numerous conversations with Rinaldi and his representatives. It was clear that though he wanted to restart the refinery, Rinaldi never was able to line up the needed financing.

Further, based upon many conversations with IRG, we learned that reaching an agreement with Rinaldi and reopening the refinery were not built into IRG's bid. If IRG had been able to revise its bid in a way that satisfied PES, the lenders, and the creditors' committee, it could have proceeded with acquiring the company and redeveloped the property, just as Hilco intends to do.

**We never saw a concrete plan from anyone to restart the refinery at any time. If we had, that would have been a game-changer. Such a plan, coupled with an investor with committed financing who was capable of closing, would have had a real advantage over the Hilco bid.**

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## THE HEARING

On the afternoon of Feb. 12, the bankruptcy court finally held a hearing to approve PES's plan to reorganize based on Hilco's bid, a hearing that had been postponed to allow negotiations with IRG to develop. Bankruptcy Judge Gross had encouraged PES and all of the objecting parties – which included the USW and the creditors' committee – to attempt to resolve the remaining issues.

Even in the final hours before the hearing, IRG was given the opportunity to improve its bid to eliminate the concerns that caused PES and its lenders to favor Hilco. This would have required IRG to commit additional money to back its bid and offer more concrete assurance it would close on the deal. IRG and IRG alone had to do this.

**The USW couldn't have fixed these problems for IRG, nor could the company's trade creditors. IRG wasn't able to address these concerns and, in the final hours, it was unable convince PES to switch its support from Hilco.**

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## IRG FAILS TO ACT

When IRG failed to act, it became clear that PES could only go forward with the Hilco deal. The hearing started and IRG did not even speak. This left us with no choice but to reach an agreement with PES and Hilco. We withdrew our objection to the plan of reorganization, in exchange for continued employment for the caretakers through August 2021 to the extent work continues and \$5 million to be paid to union members.

**If we had seen any evidence that IRG, with or without a partner, could have topped the Hilco bid, we would have backed it, and we would have urged the trade creditors to join us. We didn't see anything.**

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We know from our many conversations with IRG and Rinaldi, along with our conversations with PES and the Creditors' Committee, that IRG and Rinaldi put a lot of effort and thought into their discussions. But, sadly, neither could finalize the investments that would have allowed these plans to materialize.

We made our decisions based solely upon what actually occurred. Any different account – which tells you that IRG had a winning bid or that anybody had a firm plan to restart operations, backed by bank financing – simply isn't true.