

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

555 Walnut Street, 5th Floor, Forum Place
Harrisburg, Pennsylvania 17101-1923
(717) 783-5048
800-684-6560

FAX (717) 783-7152
consumer@paoca.org

May 4, 2018

Rosemary Chiavetta, Secretary
PA Public Utility Commission
Commonwealth Keystone Bldg.
400 North Street
Harrisburg, PA 17120

Re: Pennsylvania Public Utility Commission v.
PECO Energy Company – Electric Division
Docket No. R-2018-3000164

Dear Secretary Chiavetta:

Enclosed please find the Office of Consumer Advocate's Prehearing Memorandum in the above-referenced proceeding.

Copies have been served per the attached Certificate of Service.

Respectfully Submitted,

Handwritten signature of Hayley E. Dunn in blue ink.

Hayley E. Dunn
Assistant Consumer Advocate
PA Attorney I.D. # 324763
E-Mail: HDunn@paoca.org

Enclosures

cc: The Honorable Christopher P. Pell
The Honorable F. Joseph Brady
Certificate of Service

*248273

CERTIFICATE OF SERVICE

Pennsylvania Public Utility Commission :
 :
 v. : Docket No. R-2018-3000164
 :
 PECO Energy Company :

I hereby certify that I have this day served a true copy of the following document, the Office of Consumer Advocate's Prehearing Memorandum, upon parties of record in this processing in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 4th day of May 2018.

SERVICE BY E-MAIL & INTER-OFFICE MAIL

The Honorable Christopher P. Pell
The Honorable F. Joseph Brady
Administrative Law Judges
Commonwealth of Pennsylvania
Pennsylvania Public Utility Commission
801 Market Street, Suite 4063
Philadelphia, PA 19107

Carrie B. Wright, Esquire
Bureau of Investigation & Enforcement
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

SERVICE BY E-MAIL & FIRST CLASS MAIL, POSTAGE PREPAID

Elizabeth Rose Triscari
Deputy Small Business Advocate
Pennsylvania Office of Small Business
Advocate
300 North Street, Suite 202
Harrisburg, PA 17101

Roger Clark, Esquire
Delaware Valley Regional Planning
Commission
905 Denston Drive
Ambler, PA 19002

Patrick M. Cicero, Esquire
Elizabeth R. Marx, Esquire
Kadeem G. Morris, Esquire
118 Locust Street
Harrisburg, PA 17101

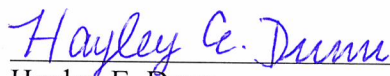
Scott J. Rubin, Esquire
333 Oak Lane
Bloomsburg, PA 17815

Romula L. Diaz, Jr., Esquire
Jack R. Garfinkle, Esquire
W. Craig Williams, Esquire
Michael S. Swerling, Esquire
PECO Energy Company
2301 Market Street
P.O. Box 8699
Philadelphia, PA 19101

Kenneth M. Kulak, Esquire
Anthony C. DeCusatis, Esquire
Morgan, Lewis & Brockius LLP
1701 Market Street
Philadelphia, PA 19101

David P. Zambito, Esquire
Cozen O'Conner
17 North Second Street
Suite 1410
Harrisburg, PA 17101

Joline R. Price, Esquire
Community Legal Services, Inc.
1424 Chestnut Street
Philadelphia, PA 19102



Hayley E. Dunn
Assistant Consumer Advocate
PA Attorney I.D. # 324763
E-Mail: HDunn@paoca.org

Christy M. Appleby
Assistant Consumer Advocate
PA Attorney I.D. # 85824
E-Mail: CAppleby@paoca.org

Counsel for
Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101-1923
Phone: (717) 783-5048
Fax: (717) 783-7152

Mark C. Hammond, Esquire
Land Air Water Legal Solutions, LLC
1000 Westlakes Dr., Suite 150
Berwyn, PA 19312

Donald R. Wagner, Esquire
Stevens & Lee
111 North 6th Street
Reading, PA 19601

Karen O. Moury, Esquire
Eckert Seamans Cherin & Mellott
213 Market Street, 8th Floor
Harrisburg, PA 17101
Counsel for NRG

Joseph L. Vullo, Esquire
1460 Wyoming Avenue
Forty Fort, PA 18704

Deanne O'Dell, Esquire
Eckert Seamans Cherin & Mellott
213 Market Street, 8th Floor
Harrisburg, PA 17101
Counsel for RESA

Aron J. Beatty
Senior Assistant Consumer Advocate
PA Attorney I.D. # 86625
E-Mail: ABeatty@paoca.org

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission	:	
	:	
v.	:	Docket No. R-2018-3000164
	:	
PECO Energy Company	:	

PREHEARING MEMORANDUM OF THE
OFFICE OF CONSUMER ADVOCATE

Pursuant to Section 333 of the Public Utility Code, 66 Pa. C.S. Section 333, and in response to the April 20, 2018 Prehearing Conference Order issued in the above-captioned matter, the Office of Consumer Advocate (OCA) provides the following information:

I. INTRODUCTION

On March 29, 2018, PECO Energy Company (PECO or the Company) filed proposed Tariff Electric – Pa. P.U.C. No. 6 (Tariff Supplement No. 6) with the Pennsylvania Public Utility Commission (Commission) at Docket No. R-2018-300164 and proposed a May 28, 2018 effective date. PECO is engaged in the business of providing electric distribution service to approximately 1.6 million residential, commercial, and industrial customers in southeastern Pennsylvania in all or parts of Bucks, Chester, Delaware, Montgomery, Philadelphia, and York Counties. In Tariff Supplement No. 6, PECO proposes to increase its electric distribution rates by \$81.9 million, or 6.7% on a distribution revenue basis. PECO’s proposed increase represents a 2.2% increase over its total revenues, including distribution, transmission, and generation revenues. PECO also proposes to increase its customer charge from \$8.45 to \$12.50. If approved, the rate increase would produce a 7.79% overall rate of return and a 10.95% return on common equity.

PECO also proposes, *inter alia*, to recover investments and expenses associated with new programs, including an Electric Vehicle Pilot Rider intended to support publicly available or workplace fleet fast chargers for electric vehicles. Through the Pilot Rider, the Company seeks to provide a fixed demand credit, initially equal to 50% of the combined maximum nameplate capacity for all of the Direct Current Fast Chargers connection to the service. Further, PECO proposes a new smart street lighting rate for outdoor lighting for any governmental agency.

II. PROCEDURAL HISTORY

On April 4, 2018, the Commission's Bureau of Investigation and Enforcement (I&E) entered its appearance in this matter. On April 9, 2018, the Office of Small Business Advocate (OSBA) filed a Formal Complaint. On April 10, 2018, the Coalition for Affordable Utility Services and Energy Efficiently in Pennsylvania (CAUSE-PA) filed a Petition to Intervene. On April 12, 2018, the OCA filed a Formal Complaint in this matter. On April 17, 2018, the International Brotherhood of Electric Workers, Local 614 (IBEW) filed a Petition to Intervene. On April 23, 2018, the Community Action Association of Pennsylvania (CAAP) also filed a Petition to Intervene. On April 26, 2018, the Philadelphia Area Industrial Energy Users Group (PAIEUG) filed a Formal Complaint. On April 27, 2018, the Delaware Valley Regional Planning Commission (DVRPC) a filed a Petition to Intervene. On May 2, 2018, the Trustees of the University of Pennsylvania (UPENN) filed a Formal Complaint. On May 3, 2018, the Tenant Union Representative Network and Action Alliance of Senior Citizens of Greater Philadelphia (TURN, *et al.*), Tesla, Inc. (Tesla), and Wal-Mart Stores East, LP and Sam's East, Inc. (collectively, Walmart) filed separate Petitions to Intervene. On May 4, 2018, NRG Energy, Inc. (NRG) and the Retail Energy Supply Association (RESA) also filed separate Petitions to Intervene.

On April 19, 2018, the Commission entered an Order suspending Tariff Supplement No. 6 until December 28, 2018, pursuant to Section 1308(d) of the Public Utility Code, 66 Pa. C.S. Section 1308(d), and initiated an investigation into the lawfulness, justness, and reasonableness of the proposed and existing rates, rules, and regulations. The Company's filing was subsequently assigned to the Office of Administrative Law Judge (OALJ) and further assigned to Deputy Chief Administrative Law Judge (DCALJ) Christopher P. Pell and Administrative Law Judge (ALJ) F. Joseph Brady. DCALJ Pell and ALJ Brady issued a Prehearing Conference Order on April 20, 2018, and scheduled a Prehearing Conference for May 8, 2018 at 9:30 a.m.

III. ISSUES AND SUB-ISSUES

Based upon a preliminary analysis of PECO's base rate increase filing, the OCA has identified several issues that require further review and will be included in its investigation of the proposed rate increase. The OCA has served five (5) sets of interrogatories on the Company to date. Upon further review of PECO's filing, including the issuance of additional discovery and review of the Company's responses, the OCA will narrow the scope of the issues to be raised and identify any other issues. The OCA will set forth the specific issues that it will address in this proceeding in its Direct Testimony. At that time, the OCA will also make and quantify its specific recommendations. Accordingly, the OCA specifically reserves the right to raise additional issues as this matter proceeds. The presently identified issues include the following:

A. Rate of Return

The OCA will perform a detailed analysis of the 10.95% cost of common equity claimed by PECO. The OCA will examine the methodologies and supporting data used to develop the Company's final cost of common equity claim. The OCA will review the cost of equity models and how the Company implemented those models. The OCA will also examine the capital structure

proposed by PECO to determine whether the capital structure is representative of the period in which rates will be in effect and is otherwise appropriate for ratemaking purposes. The OCA will further examine whether any company-specific adjustments proposed by PECO are justified.

B. Rate Base/Measure of Value

The OCA will examine the reasonableness and accuracy of the Company's plant in service claims. In this regard, the OCA will analyze whether the plant claimed is used and useful in providing utility service. The OCA will review the Company's forecast of additions to the plant in service, including plant additions related to PECO's Long-Term Infrastructure Improvement Plan (LTIIP). The OCA will also review the deduction of depreciation reserve. The OCA will further examine the Company's cash working capital claim.

C. Revenue and Expenses

The OCA will analyze PECO's sales projections and expenses. The OCA will evaluate the reasonableness of the Company's claims regarding revenues, including the various inputs and assumptions used by PECO. The OCA will review, *inter alia*, the Company's claims for wages and benefits, depreciation expense, rate case expense, labor expense, uncollectible accounts, and pensions. The OCA will also review the Company's calculation of income tax expense.

D. Taxes

On March 15, 2018, the Commission entered a Temporary Rates Order concerning the impact of the Tax Cuts and Jobs Act of 2017 (TCJA) on rates. See Tax Cuts and Jobs Act of 2017, Docket No. M-2018-2641242 (Temporary Rates Order entered March 15, 2018). In that Order, the Commission stated that it expected each public utility currently before the Commission with a base rate filing to address the effect of the tax rate reduction on the justness and reasonableness of

rates. Id. at 4-5. The OCA will analyze PECO's filing to ensure that tax expense is properly reflected in rates and that any 2018 tax expense savings are timely returned to customers.

E. Rate Structure/Cost of Service/Rate Design

The OCA will examine PECO's cost of service study and evaluate cost allocations for reasonableness. The OCA will also examine the Company's proposal to increase the customer charge from \$8.45 to \$12.50. In addition, the OCA will review the proposed distribution of the revenue increase among customer classes. The OCA also review the reasonableness of PECO's proposed rate design and any proposed tariff changes. In particular, the OCA will evaluate the proposed Electric Vehicle Pilot Rider and the new smart street lighting rate.

F. Universal Service Programs

The OCA will assess the impact of the PECO's proposed rate increase on universal service. Additionally, the OCA will review the Company's Customer Assistance Program (CAP) cost recovery. The OCA will also evaluate the Company's calculation of the IPAF cost recovery.

IV. WITNESSES

The OCA intends to present the direct, rebuttal, and surrebuttal testimony, as may be necessary, of the following witnesses in this proceeding. Each witness will present testimony in written form and will also attach various exhibits, documents, and explanatory information, which will assist in the presentation of the OCA's case. In order to expedite the resolution of this proceeding, the OCA requests that copies of all interrogatories, answers to interrogatories, and testimony be sent to the OCA's witnesses at the addresses below as well as counsel for the OCA:

Accounting and Regulatory Policy:
David J. Effron
Berkshire Consulting Services
12 Pond Path
Northampton, NH 03862
E-Mail: djeffron@aol.com

Rate of Return:

David S. Habr
Habr Economics
213 Cornuta Way
Nipomo, CA 93444
E-Mail: david.habr@habreconomics.com

Cost of Service/Rate Structure/Rate Design:

Clarence L. Johnson
CJ Energy Consulting
3707 Robinson Avenue
Austin, TX 78722
E-Mail: cjenergyconsult@att.net

Universal Service:

Roger D. Colton
Fisher, Sheehan and Colton
34 Warwick Road
Belmont, MA 02478
E-Mail: roger@fsconline.com

The OCA specifically reserves the right to call additional witnesses, as necessary. If the OCA determines that additional witnesses are necessary for any portion of its case, the OCA will promptly notify the ALJ and all parties of record.

V. SERVICE ON THE OCA

Senior Assistant Consumer Advocate Aron J. Beatty and Assistant Consumer Advocates Christy M. Appleby and Hayley E. Dunn will represent the OCA in this proceeding.

Two copies of all documents should be served on the OCA as follows:

Aron J. Beatty
Senior Assistant Consumer Advocate
E-Mail: ABeatty@paoca.org

Christy M. Appleby
Assistant Consumer Advocate
E-Mail: CAppleby@paoca.org

Hayley E. Dunn
Assistant Consumer Advocate
E-Mail: HDunn@paoca.org

Office of Consumer Advocate
5th Floor, Forum Place
555 Walnut Street
Harrisburg, PA 17101-1923
Phone: (717) 783-5048
Fax: (717) 783-7152

In addition, as instructed by DCALJ Pell and ALJ Brady April 20, 2018 in the Prehearing Order, the OCA notes that the attorney who will speak as the lead attorney for the purposes of the Prehearing Conference is Assistant Consumer Advocate Christy M. Appleby.

VI. DISCOVERY

As the timeframe for discovery and preparation of testimony is limited, the OCA submits that a shorted timeframe for discovery responses is appropriate in this proceeding. The OCA supports the modifications to the discovery rules proposed by PECO, which include the following:

1. Answers to written interrogatories are to be served in-hand within ten (10) calendar days of service of the interrogatories.
2. Objections to interrogatories are to be communicational orally within three (3) days of service; unresolved objections are to be served on the Administrative Law Judge in writing within five (5) days of service of the interrogatories.
3. Motions to dismiss objections and/or direct the answering of interrogatories are to be filed within three (3) calendar days of service of written objections.
4. Answers to motions to dismiss objections and/or directing the answering of interrogatories shall be filed within three (3) calendar days of service of such motions.
5. Responses to requests for documents production, entry for inspection, or other purposes are to be served in-hand within ten (10) calendar days of service.
6. Requests for admission are deemed admitted unless answered within ten (10) calendar days or objected to within five (5) calendar days of service.
7. When an interrogatory, request for production, request for admission or motion is served after 12:00 p.m. on a Friday or the day before a holiday, the appropriate response period is deemed to start on the next business day.

8. Interrogatories, requests for production and requests for admissions that are objected to but which are not made the subject of a motion to compel will be deemed withdrawn.
9. Pursuant to 52 Pa. Code §5.341(b), neither discovery requests nor responses thereto are to be served on the Commission or the Administrative Law Judges, although a certificate of service may be filed with the Commission's Secretary.
10. Discovery requests, motions to compel and responses are to be served electronically as well as on paper.

VII. PUBLIC INPUT HEARINGS

The OCA has received four (4) legislative requests for Public Input Hearings to date. Senator Christine M. Tartaglione requests that a Public Input Hearing be held in the 2nd Senatorial District on a Thursday evening at a central location within the Business Improvement District to allow local businesses to attend. Representative Madeline Dean requests that a Public Input Hearing be held in the 153rd Legislative District in the Abington, Montgomery County, Pennsylvania area to allow the Board of Commissioners of the Township of Abington as well as local consumers to attend. Representative Morgan B. Cephas requests that a Public Input Hearing be held in the 192nd Legislative District in the Carroll Park, Haddington, Hestonville, Overbook, or Wynnefield areas. Further, Representative W. Curtis Thomas requests that the Public Input Hearing be held in the 181st Legislative District in the area of Northeast Philadelphia.

In addition, the OCA has received three (3) consumer requests for Public Input Hearings. These consumers request that Public Input Hearings be held in the Norristown, Pennsylvania area; Media, Delaware County; and within 10 miles of Elkins Park, Pennsylvania. The OCA also notes that five (5) consumers have submitted informal complaints to the Commission.

The OCA requests that in-person Public Input Hearings be held in the above-mentioned areas in order to receive comments from customers impacted by the rate increase. The OCA will work with the parties, DCALJ Pell and ALJ Brady, and the Commission's scheduling staff to

reach mutually agreeable hearing dates and locations. The OCA specifically reserves the right to request additional locations for Public Input Hearings in response to future requests from ratepayers and/or legislators. The OCA will promptly advise the parties as well as DCALJ Pell and ALJ Brady the parties of any further requests.

VIII. PROPOSED SCHEDULE


The OCA is presently working with the parties to develop a mutually agreeable procedural schedule in this matter. The OCA supports the following schedule:

Other parties' Direct Testimony	June 26, 2018
Rebuttal Testimony	July 24, 2018
Surrebuttal Testimony	August 8, 2018
Rejoinder Outline	August 16, 2018
Evidentiary Hearings	August 20-22, 2018
Main Brief	September 7, 2018
Reply Brief	September 17, 2018

IX. SETTLEMENT

The OCA will fully participate in settlement discussions with the parties at the appropriate time during this proceeding.

Respectfully submitted,


Hayley E. Dunn

Assistant Consumer Advocate
PA Attorney I.D. #324763
E-Mail: HDunn@paoca.org

Counsel for:
Tanya J. McCloskey
Acting Consumer Advocate

Office of Consumer Advocate
5th Floor, Forum Place
555 Walnut Street
Harrisburg, PA 17101-1923
Phone: (717) 783-5048
Fax: (717) 783-7152

Aron J. Beatty
Senior Assistant Consumer Advocate
PA Attorney I.D. # 86625
E-Mail: ABeatty@paoca.org

Christy M. Appleby
Assistant Consumer Advocate
PA Attorney I.D. # 85824
E-Mail: CAppleby@paoca.org

Dated: May 8, 2018