

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

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June 7, 2010

Rosemary Chiavetta
Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

RE: Pennsylvania Public Utility Commission
v.
PECO Energy Company – Gas Division
Docket No. R-2010-2161592

Dear Secretary Chiavetta:

Enclosed for filing is the Prehearing Memorandum of the Office of Consumer Advocate, in the above-referenced proceeding.

Copies have been served as indicated on the Certificate of Service.

Respectfully Submitted,

A handwritten signature in black ink that reads "Barrett Sheridan".

Barrett C. Sheridan
Assistant Consumer Advocate
PA Attorney I.D. # 61138

Enclosures

cc: Honorable Marlane R. Chestnut
Honorable Christopher Pell

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission	:	R-2010-2161592
Office of Consumer Advocate	:	C-2010-2172335
Office of Small Business Advocate	:	C-2010-2171283
Richard Carroll	:	C-2010-2169991
Craig Vorwald	:	C-2010-2172542
	:	
v.	:	
	:	
PECO Energy Company – Gas Division	:	

PREHEARING MEMORANDUM
OF THE
OFFICE OF CONSUMER ADVOCATE

Pursuant to Section 333 of the Public Utility Code, 66 Pa.C.S. §333, and as directed by Prehearing Conference Order issued by Presiding Officers Marlane R. Chestnut and Christopher Pell on May 21, 2010, the Office of Consumer Advocate (OCA) provides the following information:

I. INTRODUCTION

On March 31, 2010, PECO Energy Company – Gas Division (PECO Gas or Company) filed Tariff Supplement No. 92 to Tariff Gas - Pa. P.U.C. No. 2 (Supplement No. 92) with the Pennsylvania Public Utility Commission (Commission) to become effective on May 30, 2010. In its filing, PECO Gas requests that the Commission approve rates and rate changes, which would increase the rates for all customers. The proposed rates reflect an increase in overall

annual distribution revenues of \$43.8 million, or approximately 15.6% over the Company's annual distribution revenues at present rates. The Company's proposed rates would provide a 5.28% increase in total annualized gas revenues over present rates.

PECO Gas provides utility service to approximately 480,000 retail customers in Bucks, Chester, Delaware, Lancaster and Montgomery Counties in Southeastern Pennsylvania.

II. HISTORY OF THE PROCEEDING

On April 21, 2010, the Office of Small Business Advocate (OSBA) filed a Formal Complaint, Public Statement and Notice of Appearance. On April 22, 2010, the Office of Trial Staff (OTS) filed a Notice of Appearance. On April 23, 2010, the OCA filed a Formal Complaint, Public Statement and Notice of Appearance. A Formal Complaints was also filed by Philadelphia Area Industrial Energy Users Group (PAIEUG). The International Brotherhood of Electrical Workers Local 614, AFL-CIO (Local 614) filed a Petition to Intervene. Several formal complaints and protests were filed by PECO Gas customers as well.

By Order entered May 20, 2010, the Commission suspended the Company's proposed Supplement No. 92 pending investigation. The proceeding was assigned to Administrative Law Judges Marlane R. Chestnut and Christopher Pell (ALJs). A prehearing conference is scheduled for Wednesday, June 9, 2010.

III. ISSUES AND SUB-ISSUES

Based upon a preliminary analysis of PECO Gas' base rate filing, the Office of Consumer Advocate has compiled a list of issues, which it anticipates will be included in its investigation of the Company's request. It is anticipated that issues in addition to those enumerated below may arise and may be pursued once the answers to the OCA's interrogatories have been received and

analyzed. The OCA reserves the opportunity to present any new or unanticipated issues at such time.

As soon as the OCA has had the opportunity to review the answers to interrogatories, the OCA anticipates that informal discovery meetings can be scheduled, and potential settlement discussions may take place. At those meetings and discussions, the OCA will be able to narrow the scope of additional information requests. Once the discovery process is complete, the OCA will file direct testimony setting forth the specific issues to be addressed in this proceeding. At that time the OCA will also be able to make and to quantify its specific recommendations.

The list of issues and sub-issues set forth below will be analyzed and presented as appropriate by the OCA with the assistance of OCA's expert witnesses:

A. Rate of Return

The OCA will perform a detailed analysis of the cost of common equity claimed by PECO Gas. The OCA will carefully examine the Company's methodologies and supporting data used to develop its final cost of common equity claim of 11.75%. In particular, the OCA will review the cost of equity models and how they have been implemented and will evaluate the theoretical and empirical foundations of the proposed leverage adjustment to the equity cost rate. Further, the OCA will examine the Company's performance, which it asserts justifies a rate of return at the top of its witness's cost of common equity range.

The OCA will examine the capital structure and long-term debt proposed by PECO Gas so as to determine if they are appropriate. The OCA will also examine the applicable rate of return, cost of equity and capital structure issues outlined in Appendix A to the Commission's Order adopted May 20, 2010, in this matter.

B. Rate Base/Measure of Values

The OCA will examine the reasonableness and accuracy of the projections of PECO Gas pertaining to the utility plant in service at the time relevant to this proceeding including, but not limited to, whether the test year plant will be completed as claimed and whether retirements are accurately reflected. The OCA will review the Company's claim for plant additions during the future test year to determine if the Company has demonstrated that all such costs are prudently incurred. Further, the OCA will assess the Company's cash working capital claim. The OCA will also examine the applicable rate base issues outlined in Appendix A to the Commission's Order adopted May 20, 2010, in this matter.

C. Revenues and Expenses

The OCA will review the reasonableness and accuracy of the Company's revenue annualizations and normalizations, consistent with appropriate levels of normalized customers and usage adjusted for known and certain rate year changes. The OCA will examine the appropriateness, reasonableness and accuracy of the Company's claims for wages and benefits, rate case expenses, service company charges, outside service, uncollectible accounts, pensions and OPEBs, as well as other categories of expenses. The OCA will also investigate the reasonableness of the Company's pro-forma income tax claims, including an investigation into the Company's adherence to the established precedent concerning consolidated tax savings. The OCA will also examine the applicable revenue and expense issues outlined in Appendix A to the Commission's Order adopted May 20, 2010, in this matter.

D. Rate Structure/Cost of Service/Rate Design

The OCA will examine PECO Gas' Class Cost of Service Study with particular regard to appropriate and Commission-approved methods to allocate mains,, and the proper recognition of

weighting of various Customer Service, Accounting, and Information expenses between classes. The OCA will examine the Company's Class Revenue responsibility and apportionment of the revenue increase given cost of service results, as well as recognition of other relevant factors and ratemaking principles. Also, the OCA will examine the Company's proposed rate design, including the increase to residential customer charges. With regard to the customer charge, the OCA will consider the Commission-approved methodology for determining "customer costs," proper economic pricing signals for the efficient use of natural gas, conservation, revenue stability and risk reductions to PECO Gas, gradualism, and the impact on low users. The OCA will examine PECO Gas' proposal to implement a Smart Meter Cost Recovery Surcharge for recovery of the costs of obtaining and operating smart meters, as well as PECO Gas' existing meters and meter reading costs. The OCA will also examine the applicable rate structure, rate design and cost allocation issues outlined in Appendix A to the Commission's Order adopted May 20, 2010, in this matter.

E. Universal Service Programs

The OCA will review the Company's proposed changes to its Customer Assistance Program and Universal Service Fund Charge. The OCA will also examine the applicable universal service issues outlined in Appendix A to the Commission's Order adopted May 20, 2010, in this matter.

F. Other Issues

The OCA will examine the reasonableness and appropriateness of the Company's proposed tariff changes, any relevant issues that arise as a result of the Company's operations and will investigate to ensure that the Company is complying with all prior orders. The OCA will

also examine the other issues outlined in Appendix A to the Commission's Order adopted May 20, 2010, in this matter.

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, testimony, and answers to interrogatories be emailed directly to the expert witness(es) responsible for the area of the case, as well as emailing and mailing a copy to counsel for the OCA.

Accounting/Regulatory Policy:

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E-mail: david.parcell@tai-econ.com

Rate Design/Cost of Service:

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Universal Service:

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Facsimile: (617) 484-0594
E-mail: roger@fsconline.com

The OCA specifically reserves the right to call additional witnesses, as necessary. As soon as OCA has determined whether an additional witness or witnesses will be necessary for any portion of its case, the Presiding Officers and all parties of record will be notified promptly.

V. EVIDENCE

The OCA will rely on the direct, rebuttal, and surrebuttal testimony of its expert witnesses as well as the testimony of the other parties to the proceeding. The OCA will present relevant exhibits to support its own testimony, including but not limited to, materials obtained from the Company through discovery and cross-examination. As described above, the OCA's witnesses will present testimony in the following areas: accounting and regulatory policy, rate of return, rate design and cost of service and universal service.

VI. PROCEDURAL RULES / DISCOVERY

The OCA proposes the following discovery rules modifications:

1. 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.
2. The response period for replying to written interrogatories, requests for production and requests for admissions is ten (10) calendar days of receipt. Responses may be served electronically but hard copies must follow by first-class mail, unless otherwise agreed to by the parties.
3. Objections to written interrogatories, requests for production and requests for admissions are to be communicated orally to the party serving the interrogatory within three (3) calendar days of receipt and in writing within five (5) calendar days of receipt. The parties are directed to confer, by telephone or e-mail, and attempt to resolve the objections.

4. Motions to dismiss objections and to compel response shall be filed with the Commission and served on the Administrative Law Judge and the other parties within three (3) calendar days of receipt of the written objections. Answers to such motions shall be filed and served within three (3) calendar days after filing of the motion.
5. If the objections are not resolved, counsel will alert the presiding officer by e-mail of the need for a ruling, and a conference call will be scheduled. The presiding officer will make a ruling over the telephone and not reduce it to writing unless requested to do so.
6. 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.
7. Requests for admission shall be deemed admitted unless objected to within five (5) calendar days of service or answered within ten (10) calendar days of service.
8. 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 Judge, although a certificate of service may be filed with the Commission's Secretary.
9. Discovery requests, motions to compel and responses are to be served electronically as well as on paper.

VII. PUBLIC INPUT HEARINGS

To date, the OCA has not received a specific request for a public input hearing. The OCA notes that a dozen or so PECO Gas customers have filed protests opposing both the proposed gas or gas and electric increases. One consumer from Horsham contacted Senator Stewart Greenleaf to protest; Senator Greenleaf forwarded the protest to the PUC. The OCA suggests that public input hearings be scheduled so that PECO gas consumers have the opportunity to voice their concerns as part of the record in this proceeding. The OCA will work with the parties and the ALJs to develop a public input hearing schedule that is acceptable to the ALJs and active parties involved in this proceeding.

VIII. SERVICE ON THE OFFICE OF CONSUMER ADVOCATE

The OCA will be represented in this case by Senior Assistant Consumer Advocate Tanya J. McCloskey, Assistant Consumer Advocate Barrett C. Sheridan and Assistant Consumer Advocate James Mullins. Two copies of all documents should be served on the OCA as follows:

Barrett C. Sheridan
Assistant Consumer Advocate
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Telephone: (717) 783-5048
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As a courtesy, the OCA would appreciate it if the following email address could also be included on any electronic correspondence: JHorner@paoca.org.

IX. PROPOSED SCHEDULE

The OCA will engage in discussions with the Company and other parties to develop a proposed schedule, taking into consideration the Close of Record, Main Brief, Reply Brief and Recommended Decision dates identified in the ALJs' Prehearing Conference Order dated May 21, 2010.

Respectfully Submitted,



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Dated: June 7, 2010
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CERTIFICATE OF SERVICE

Pennsylvania Public Utility Commission	:	Docket No.	R-2010-2161592
Office of Consumer Advocate	:		C-2010-2172335
Office of Small Business Advocate	:		C-2010-2171283
Richard Carroll	:		C-2010-2169991
Craig Vorwald	:		C-2010-2172542
	:		
	:		
v.	:		
	:		
PECO Energy Company – Gas Division	:		

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

Dated this 7th day of June 2010.

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