

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**PENNSYLVANIA PUBLIC UTILITY
COMMISSION**

v.

**PECO ENERGY COMPANY -
ELECTRIC DIVISION**

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DOCKET NO. R-2010-2161575

**STATEMENT OF PECO ENERGY COMPANY
IN SUPPORT OF THE
JOINT PETITION FOR PARTIAL SETTLEMENT**

I. INTRODUCTION

PECO Energy Company ("PECO" or the "Company"), the Office of Consumer Advocate ("OCA), the Office of Small Business Advocate ("OSBA), the Office of Trial Staff ("OTS"), the Philadelphia Area Industrial Energy Users Group ("PAIEUG"), Pennsylvania Communities Organizing for Change, Inc. ("PCOC"), the International Brotherhood of Electrical Workers Local 614, AFL-CIO ("IBEW"), Dominion Retail, **Inc.** ("Dominion Retail"), the City of Philadelphia ("**City**"), the Tenant Union Representative Network and Action Alliance of Senior Citizens of Greater Philadelphia ("**TURN, et al.**"), Citizens for Pennsylvania's Future ("**PennFuture**"), the Philadelphia Housing Authority ("PHA), and the Commercial Group ("CG) (collectively, the "Joint Petitioners"), by their respective counsel, filed with the Pennsylvania Public Utility Commission (the "**Commission**") a Joint Petition For Partial Settlement Of Rate Investigation ("Joint Petition" or "Settlement") of all but one issue in the above-captioned proceeding and requested that the Administrative Law Judges approve the

Settlement without modification.' The item reserved for litigation by the Joint Petitioners involves whether PECO should "unbundle" generation-related uncollectible accounts expense. The Joint Petition contains a statement of the factual background and procedural history of this case. This Statement in Support (the "Statement") is filed on behalf of PECO pursuant to Paragraph 8 of the Joint Petition.

II. THE SETTLEMENT

PECO believes that the Settlement is in the best interests of the Company and its customers, and is therefore in the public interest. The Settlement was achieved only after extensive discovery, submission of direct, rebuttal and surrebuttal testimony by the parties on a wide range of issues, and negotiations among the Joint Petitioners as to the appropriate revenue level, rate structure, rate design and other matters. PECO is in full agreement with each of the reasons for approval of the Settlement set forth in the Joint Petition. In this Statement, the Company offers additional reasons why the Settlement is in the public interest and should be approved.

A. Revenue Requirement

The Settlement provides for an increase in **PECO's** annual retail transmission and distribution revenues of **\$225.0** million. See Settlement ¶ 7.A. To put this in perspective, PECO last increased its base rates for electric customers in May **1990**. See Pa. P. U.C. v. Philadelphia Electric Company, Docket No. **R-891364**. Since its last base rate increase, PECO has invested approximately **\$2.9** billion in new and replacement electric distribution plant; has granted its employees annual wage and salary adjustments; has incurred increases in the costs of providing healthcare, pension and other benefits to its workforce and has incurred inflation on material **and**

¹ C. Stanley **Stubbe**, who is also a party to this case, has authorized the Joint Petitioners to represent that he does not oppose the Settlement.

contracting costs. *See* PECO St. No. 2, p. 2. Despite concerted efforts to attract new customers and to hold the line on expenses, those factors have severely compromised the Company's ability to earn a fair return on its investment. *Id.* Accordingly, the additional revenues that will be provided by the Settlement Rates are essential if the Company is to have a reasonable opportunity to earn a fair return and to attract the additional capital needed to finance future **plant** improvements.

B. Revenue Allocation and Rate Design

The rate design and revenue allocation aspects of this case were also the subject of extensive negotiations among the Joint Petitioners. The rate design elements and revenue allocation agreed to by the Joint Petitioners, which are set forth in detail in Paragraph No. 7.B of the Settlement, provide a fair, reasonable and non-discriminatory distribution of the revenue increase among the various customer classes. As the Commission is aware, revenue allocation and rate design require an appropriate balancing of the interests of all classes of customers. The fact that a diverse group of parties, representing all major customer classes, has reached agreement on these issues is strong evidence that the Settlement has achieved an appropriate balance of those interests.

C. Smart Meters

The Settlement addresses several key cost recovery issues related to the implementation of PECO's Smart Meter Technology Procurement and Installation Plan. In order to ensure that appropriate credit is being passed through the Smart Meter Charge, the Company will allocate the portion of the \$200 million American Recovery and Reinvestment Act grant related to Act 129 smart meter costs consistent with the allocation of smart meter costs in the smart meter surcharge. *See* Settlement ¶ 7.C. In addition, in order to meet the Commission's direction in *Petition of PECO Energy Company for Approval of Smart Meter Technology Procurement and*

Installation Plan, Docket No. M-2009-2123944, the parties have stipulated to the common equity return rate that PECO will utilize for purposes of computing its smart meter charge (10.00%). *Id.*

D. Universal Service

As part of the Settlement, the Joint Petitioners reached consensus on several significant elements of PECO's Customer Assistance Program ("CAP), including electric service affordability targets, cost containment and cost recovery. *See* Settlement ¶ 7.D; Settlement Exhibit 4. In addition, and in response to concerns raised by the parties, the Company agreed to take particular actions regarding: (1) limited self-enrollment for medical certificate renewals; (2) coordination with Act 129 Energy Efficiency and Conservation Programs; (3) termination suspension for certain low-income customers; and (4) December service reconnections. *Id.* The Settlement ensures that PECO's universal service programs will continue to provide affordable electric service to tens of thousands of PECO's poorest customers.

E. Tax Accounting for Repairs

The Settlement sets forth a reasonable process for PECO to consider whether or not a change in its method of tax accounting for repairs is in the best interests of customers and the Company and should be adopted. The Settlement also provides an agreed upon mechanism to recognize tax benefits that may accrue from adopting a change in the Company's method of tax accounting for repairs. *See* Settlement ¶ 7.E.

F. Non-Residential Customer Deposits

As part of the Settlement, PECO will modify its tariff concerning the return of deposits for non-residential customer accounts. PECO will return a deposit on a non-residential account if the account experienced fewer than two late payments in the previous 24 months. In addition, the first annual review of the customer's payment status will occur 24 months after the initial

deposit date. This change will become effective in 2011 after the appropriate tracking systems are modified to reflect the change. **See** Settlement ¶ 7.F. PECO believes this change appropriately balances PECO's collection security needs with a customer's interest in the return of its deposit.

G. Rate Case Expense and Depreciation Rates

As part of the Settlement, the Joint Petitioners agree that the rate revenues authorized by this Settlement include a provision for rate case expense that, for accounting purposes, is based on an expense normalization period of no less than two years from the effective date of the rates approved in this proceeding. **See** Settlement ¶ 7.G. In addition, the depreciation rates proposed by PECO in its March 31,2010 filing and as set forth in PECO Exhibit JA-1 were not **challenged** in this case and, therefore, the Joint Petitioners agree that the Company will use such depreciation rates to calculate the depreciation expense it records on its regulated books of account. **See** Settlement ¶ 7.H. ¶

III. APPENDIX A TO THE SUSPENSION ORDER

In Appendix A to its May 20,2010 Order suspending the Company's rate filing and instituting an investigation of **PECO's** existing and proposed rates (the "Suspension Order"), the Commission identified seven issues to which the parties to the proceeding were instructed to **give** particular consideration. The first five items contained directives to other parties to thoroughly investigate particular key issues, including test year revenue and expense claims, investment in utility plant, and **PECO's** CAP. PECO presented comprehensive evidence addressing each of these issues in its initial filing on March 31,2010, and, in some instances, provided additional and updated information in rebuttal and surrebuttal testimony.

The Company provided supplemental direct and rebuttal testimony addressing items six (dividend payout policy) and seven (ring-fencing) to ensure that sufficient information was available for consideration by the parties. Concerning its dividend payout policy, PECO described its recent efforts to reduce its equity capitalization ratio by temporarily increasing its dividend payout ratio. PECO also explained that this strategy did not adversely impact the Company's access to capital or cost rates of debt, and that the resulting reduction in common equity ratio reduced PECO's revenue requirement in this case. *See* PECO St. No. 2-S, pp. 2-4.

To address ring-fencing, PECO described the extensive set of corporate structural protections instituted pursuant to the Joint Petition for Settlement in the **PECO-Unicom** merger proceeding (Docket No. A-110550F014) and the additional ring-fencing measures that it adopted pursuant to commitments made to the Federal Energy Regulatory Commission ("FERC") in connection with the application for FERC approval of **Exelon's** proposed acquisition of NRG Energy, Inc. *See* PECO St. No. 2-S, pp. 4-10. PECO also responded to the ring-fencing concerns raised by the OCA by noting that, in addition to the measures previously described, PECO obtained a "non-consolidation opinion." The non-consolidation opinion is an opinion of PECO's outside legal counsel that, based on PECO's existing ring-fencing measures, regulatory structure and other factors, in the event of a bankruptcy by **Exelon**, a bankruptcy court would not order that PECO's assets and liabilities be "substantially consolidated into **Exelon's** bankruptcy proceeding. *See* PECO St. No. 2-R, pp. 17-21.

In summary, the Company provided the parties in this proceeding with comprehensive evidence addressing the areas of concerns identified by the Commission in the Suspension Order and this evidence was carefully examined by the parties in reaching the Settlement.

IV. CONCLUSION

The Settlement provides a reasonable means of resolving all but one issue raised in this proceeding. It also reduces the administrative burdens on the Commission and the litigation costs of all parties. Accordingly, for the reasons set forth above and in the Joint Petition, the Settlement is in the public interest and should be approved without modification.

Respectfully submitted,


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