BEFORE THE

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission : R-2018-3000164

Office of Consumer Advocate : C-2018-3001112

Office of Small Business Advocate : C-2018-3001043

Philadelphia Area Industrial Energy Users Group : C-2018-3001471

Trustees of the University of Pennsylvania : C-2018-3001636

West Norriton Township : C-2018-3003149

:

v. :

:

PECO Energy Company :

# **PREHEARING ORDER #5**

On March 29, 2018, PECO Energy Company (PECO) filed proposed Tariff Electric-Pa. P.U.C. No. 6 to become effective May 28, 2018. Tariff No. 6 sets forth proposed rates designed to produce an increase in PECO’s annual distribution revenue of approximately $82 million[[1]](#footnote-1), or 2.2% on the basis of total Pennsylvania jurisdictional operating revenue.

On April 4, 2018, Carrie B. Wright, Esq., entered a Notice of Appearance on behalf of the Commission’s Bureau of Investigation and Enforcement (I&E).

On April 9, 2018, the Office of Small Business Advocate (OSBA) filed a Verification, Public Statement, a Notice of Appearance on behalf of Elizabeth Rose Triscari, Esq., and a formal Complaint. The Complaint was docketed at C-2018-3001043.

On April 10, 2018, the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA) filed a Petition to Intervene in this proceeding.

On April 12, 2018, the Office of Consumer Advocate (OCA) filed a Public Statement, a Notice of Appearance on behalf of Christy M. Appleby, Esq., Hayley Dunn, Esq., and Aron J. Beatty and a formal Complaint. The Complaint was docketed at C-2018-3001112.

On April 17, 2018, the International Brotherhood of Electrical Workers, Local 614 (IBEW) filed a Petition to Intervene in this proceeding.

By Order entered April 19, 2018, the Pennsylvania Public Utility Commission (Commission) instituted an investigation into the lawfulness, justness, and reasonableness of the proposed rate increase. Pursuant to Section 1308(d) of the Public Utility Code, 66 Pa. C.S.A. § 1308(d), Tariff Electric-Pa. P.U.C. No. 6 was suspended by operation of law until December 28, 2018, unless permitted by Commission Order to become effective at an earlier date. In addition, the Commission ordered that the investigation include consideration of the lawfulness, justness and reasonableness of PECO’s existing rates, rules, and regulations. The matter was assigned to the Office of Administrative Law Judge for the prompt scheduling of hearings culminating in the issuance of a Recommended Decision.

In accordance with the Commission’s April 19, 2018, Order, the matter was assigned to Deputy Chief Administrative Law Judge Christopher P. Pell and Administrative Law Judge F. Joseph Brady.

On April 23, 2018, the Community Action Association of Pennsylvania (CAAP) filed a Petition to Intervene in this proceeding.

On April 26, 2018, the Philadelphia Area Industrial Energy Users Group (PAIEUG) filed a formal Complaint. The Complaint was docketed at C-2018-3001471.

In compliance with the Commission’s April 19, 2018, Order, PECO filed Supplement No. 1 to Tariff Electric No. 6 on April 27, 2018, to reflect the suspension of Tariff No. 6 until December 28, 2018.

On April 27, 2018, the Delaware Valley Regional Planning Commission (DVRPC) filed a Petition to Intervene in this proceeding.

On May 2, 2018, the Trustees of the University of Pennsylvania (UPenn) filed a formal Complaint. The Complaint was docketed at C-2018-3001636.

On May 3, 2018, the Tenant Union Representative Network and Action Alliance of Senior Citizens of Greater Philadelphia (collectively, TURN et al.) filed a Petition to Intervene in this proceeding.

On May 3, 2018, Tesla, Inc. (Tesla) filed a Petition to Intervene in this proceeding.

On May 3, 2018, Wal-Mart Stores East, LP and Sam’s East, Inc. (collectively, Walmart) filed a Petition to Intervene in this proceeding.

On May 4, 2018, the Retail Energy Supply Association (RESA) filed a Petition to Intervene in this proceeding.

On May 4, 2018, NRG Energy, Inc. (NRG) filed a Petition to Intervene in this proceeding.

In accordance with a Prehearing Conference Order dated April 20, 2018, PECO, I&E, OSBA, OCA, CAUSE-PA, IBEW, CAAP, PAEIUG, DVRPC, UPenn, TURN, et. al., Tesla, Walmart, NRG, and RESA submitted prehearing memoranda to the presiding officers.

A dual location Prehearing Conference was held on May 8, 2018. Counsel for PECO, I&E, OSBA, OCA, CAUSE-PA, IBEW, PAEIUG, DVRPC, UPenn, TURN, et. al., Tesla, Walmart, NRG, and RESA participated.[[2]](#footnote-2)

No party opposed the Petitions to Intervene filed by Walmart, Tesla, TURN et. al., IBEW, CAUSE-PA, and CAAP. Accordingly, we granted these parties’ Petitions during the prehearing conference and memorialized their status as Intervenors in our May 10, 2018, Prehearing Order #1.

During the Prehearing Conference, PECO indicated that it intended to file answers to the Petitions to Intervene filed by RESA, NRG, and DVRPC. We instructed PECO to file its answers to all three Petitions with the Commission’s Secretary by the close of business on May 16, 2018.

On May 16, 2018, the DVRPC filed a letter with the Commission requesting to withdraw its Petition to Intervene.

On May 16, 2018, PECO filed its Answers to the Petitions to Intervene of RESA and NRG.

On May 23, 2018, NRG filed a response to PECO’s Answer of PECO Energy Company to the Petition to Intervene of NRG Energy, Inc.

On May 24, 2018, RESA filed a response to PECO’s Answer of PECO Energy Company to the Petition to Intervene of the Retail Energy Supply Association.

By Prehearing Order #2 dated June 1, 2018, we granted NRG’s and RESA’s Petitions to Intervene.

On June 12, 2018, PECO filed the Motion of PECO Energy Company for Leave to File the Supplemental Direct Testimony of Richard A. Schlesinger.

By Prehearing Order #3 dated June 26, 2018, we granted PECO’s Motion.

On June 26, 2018, West Norriton Township filed a formal Complaint. The Complaint was docketed at C-2018-3003149.

By Prehearing Order #4 dated July 3, 2018, we directed West Norriton Township to have an attorney licensed to practice law in the Commonwealth of Pennsylvania enter an appearance to represent it in this proceeding on or before the close of business on July 17, 2018.[[3]](#footnote-3)

Also on July 3, 2018, ChargePoint, Inc. (ChargePoint) filed a Petition to Intervene in this proceeding.[[4]](#footnote-4) Separately on that date, Reizdan B. Moore, Esq., on behalf of ChargePoint, filed a Motion for Admission *Pro Hac Vice*, pursuant to 52 Pa.Code §§ 1.22 and 1.23 and Pa. B.A.R. 301(a), on behalf of Scott Dunbar, Esq., requesting that he be admitted for purposes of representing ChargePoint in this proceeding. To date, no answer opposing this Motion has been filed.

# ORDER

THERERFORE,

IT IS ORDERED:

1. That the Motion for Admission *Pro Hac Vice* filed on July 3, 2018 by Reizdan B. Moore, Esq., on behalf of Scott Dunbar, Esq. is granted; and
2. That Scott Dunbar, Esq. is admitted *Pro Hac Vice* to represent ChargePoint, Inc. in this proceeding pursuant to 52 Pa.Code §§ 1.22 and 1.23 and Pa. B.A.R. 301(a).

Date: July 24, 2018 /s/

Christopher P. Pell

Deputy Chief Administrative Law Judge

/s/

F. Joseph Brady

Administrative Law Judge

**R-2018-3000164 - PA PUBLIC UTILITY COMMISSION v. PECO ENERGY COMPANY**

**SERVICE LIST**

(*Revised July 24, 2018)*

\*Romulo L. Diaz, Jr. Esquire

\*Jack R. Garfinkle, Esquire

W. Craig Williams, Esquire

\*Michael S. Swerling

PECO Energy Company

2301 Market Street

P.O. Box 8699

Philadelphia, PA 19101

**215.841.5974**

***\*Accepts E-Service***

***\*Accepts E-Service***

***\*Accepts E-Service***

Kenneth M. Kulak, Esquire

Anthony C. DeCusatis, Esquire

Catherine G. Vasudevan Esquire

Brooke E. McGlinn Esquire

Morgan, Lewis & Bockius LLP

1701 Market Street

Philadelphia, PA 19103

**215.963.5384**

***Accepts E-Service***

Carrie B. Wright, Esquire

Bureau of Investigation & Enforcement

Pennsylvania Public Utility Commission

Post Office Box 3265

Harrisburg, PA 17105-3265

**717.783.6156**

***Accepts E-Service***

Elizabeth Rose Triscari, Esquire

Office of Small Business Advocate

300 North Second Street - Suite 202   
Harrisburg, PA  17101

**717.783.2525**

\*Christy M. Appleby, Esquire

\*Hayley Dunn, Esquire

Aron J. Beatty, Esquire

Office of Consumer Advocate

555 Walnut Street, 5th Fl, Forum Place

Harrisburg, PA 17101-1923

**717.783.5048**

***\*Accepts E-Service***

***\*Accepts E-Service***

Patrick M. Cicero, Esquire

\*Elixabeth R. Marx, Esquire

Kadeem G. Morris, Esquire

118 Locust Street

Harrisburg, PA 17101

**717.236.9486**

***\*Accepts E-Service***

*Counsel for the Coalition for Affordable*

*Utility Services and Energy Efficiency*

*in Pennsylvania*

Scott J. Rubin, Esquire

333 Oak Lane

Bloomsburg, PA 17815

**570.387.1893**

***Accepts E-Service***

*Counsel for the International*

*Brotherhood of Electrical Workers,*

*Local 614*

Charles T. Joyce, Esquire

Spear Wilderman, P.C.

230 South Broad Street, Suite 1400

Philadelphia, PA 19102

**215.732.0101**

***Accepts E-Service***

*Counsel for the International*

*Brotherhood of Electrical Workers,*

*Local 614*

Joseph L. Vullo Esquire

Burke Vullo Reilly Roberts

1460 Wyoming Avenue

Forty Fort PA 18704

570-288-6441

***Accepts E-Service***

*Representing Community Association of Pennsylvania*

Roger E. Clark

905 Denston Drive

Ambler, PA 19002

***Accepts E-Service***

*Counsel for the Delaware Valley*

*Regional Planning Commission*

Charis Mincavage, Esquire

Adeolu Bakare, Esquire

Alessandra Hylander, Esquire

100 Pine Street

P.O. Box 1166

Harrisburg, PA 17108-1166

***Accepts E-Service***

*Counsel for the Philadelphia Area*

*Industrial Energy Users Group*

David P. Zambito Esquire

Jonathan Nase Esquire

Cosen O’Connor

17 North Second St. Suite 1410

Harrisburg PA 17101

**717.703.5892**

***Accepts E-Service***

*Counsel for The Trustees of University of Pennsylvania*

Roman Petyk Esquire

Assistant General Counsel

The University of Pennsylvania

2929 Walnut Street FMC Tower

Suite 400

Office of General Counsel

PHILADELPHIA PA 19104-5099

**215.746.5275**

*Counsel for The Trustees of University of Pennsylvania*

Joline Price Esquire

Robert W. Ballenger Esquire

Community Legal Services

1424 Chestnut Street

Philadelphia Pa 19102

**215-981-3756**

***Accepts E-Service***

*Turn et al.*

Mark Hammond Esquire

Land Air Water Legal Solutions LLC

1000 Westlakes Drive

SUITE 150

BERWYN PA 19312

**610-898-3854**

***Accepts E-Service***

*Counsel for Tesla, Inc.*

Donald R. Wagner Esquire

Linda R. Evers Esquire

Michael A Gruin Esquire

Stevens & Lee

111 N Sixth Street

READING PA 19601

**610.478.2216**

***Accepts E-Service***

*Counsel for Wal-mart Stores East, LP, et al.*

Karen O. Moury Esquire

Deanne M. O’Dell Esquire

Eckert Seamans

213 Market Street

Harrisburg, PA 17101

**717.237.6036**

***Accepts E-Service***

*Counsel for NRG Energy, Inc. and Retail Energy Supply Association*

Deanne M. O’Dell, Esquire

[dodell@eckertseamans.com](mailto:dodell@eckertseamans.com)

Sarah C. Stoner, Esquire

[sstoner@eckertseamans.com](mailto:sstoner@eckertseamans.com)

Eckert Seamans Cherin & Mellott, LLC

213 Market Street, 8th Floor

Harrisburg, PA 17101

*Counsel for the Retail Energy*

*Supply Association*

Mark Belland, Esquire

[mbelland@obbblaw.com](mailto:mbelland@obbblaw.com)

O’Brien, Belland & Bushinsky, LLC

500-506 North 6th Street

Philadelphia, PA 19123

*Counsel for Laborers International*

*Union of North America, Local 57*

Charles E. Thomas, III, Esquire

[Cet3@tntlawfirm.com](mailto:Cet3@tntlawfirm.com)

Thomas, Niesen & Thomas, LLC

212 Locust Street, Suite 302

Harrisburg, PA 17101

*Counsel for Calpine Energy*

*Solutions, LLC*

Derrick Price Williamson, Esquire

[dwilliamson@spilmanlaw.com](mailto:dwilliamson@spilmanlaw.com)

Barry A. Naum, Esquire

[bnaum@spilmanlaw.com](mailto:bnaum@spilmanlaw.com)

Spilman Thomas & Battle, PLLC

1100 Bent Creek Boulevard, Suite 101

Mechanicsburg, PA 17050

*Counsel for ArcelorMittal USA LLC*

Jason Bobst

1630 West Marshall Street

Jeffersonville, PA 19403

*West Norriton Township*

Reizdan B. Moore, Esquire

[Reizdan.moorelaw@comcast.net](mailto:Reizdan.moorelaw@comcast.net)

Reizdan B. Moore, LLC

3544 N. Progress Avenue, Suite 108

Harrisburg, PA 17110

*Counsel for ChargePoint, Inc.*

Scott F. Dunbar, Esquire

[sdunbar@keyesfox.com](mailto:sdunbar@keyesfox.com)

Keyes & Fox LLP

1580 Lincoln St., Suite 880

Denver, CO 80203

*Counsel for ChargePoint, Inc.*

1. PECO’s proposed rate increase reflects $71 million savings in 2019 from changes in the Federal Income Tax Law, effective January 1, 2018. [↑](#footnote-ref-1)
2. Due to a conflict, Joseph Vullo, Esq., counsel for CAAP, was excused from attending the Prehearing Conference. [↑](#footnote-ref-2)
3. West Norriton Township filed a Petition for Leave to Withdraw its Complaint on July 18, 2018. [↑](#footnote-ref-3)
4. Pursuant to paragraph #5 of our Prehearing Order #1 issued on May 10, 2018, ChargePoint’s Petition to Intervene was deemed granted as there were no objections to their Petition within three calendar days of filing. [↑](#footnote-ref-4)