



COMMONWEALTH OF PENNSYLVANIA

April 23, 2019

E-FILED

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

**Re: Non-Bypassable Transmission Service Charge (NBT) Semiannual Adjustment,
PECO Energy Electric Tariff No. 5, Supplement No. 76 Effective December 1, 2018 /
Docket No. M-2018-3005860**

Dear Secretary Chiavetta:

Enclosed for filing please find the Prehearing Memorandum, on behalf of the Office of Small Business Advocate (“OSBA”), in the above-captioned proceeding. I respectfully request that a copy of any documents filed in this case also be shared with our witness at the address below:

Brian Kalcic
Excel Consulting
225 S. Meramec Avenue, Suite 720 T
St. Louis, MO 63105
excel.consulting@sbcglocal.net

Copies will be served on all known parties in this proceeding, as indicated on the attached Certificate of Service.

If you have any questions, please do not hesitate to contact me.

Sincerely,

Erin K. Fure
Assistant Small Business Advocate
Attorney ID No. 312245

Enclosures

cc: Brian Kalcic
Parties of Record

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Non-Bypassable Transmission Service Charge :
(NBT) Semiannual Adjustment, PECO : **Docket No. M-2018-3005860**
Energy Electric Tariff No. 5, Supplement No. :
76 Effective December 1, 2018 :

**OFFICE OF SMALL BUSINESS ADVOCATE
PREHEARING MEMORANDUM**

I. INTRODUCTION

The Office of Small Business Advocate (“OSBA”) is authorized to represent the interests of small business consumers of utility services before the Pennsylvania Public Utility Commission (“Commission”) pursuant to the provisions of the Small Business Advocate Act, Act 181 of 1988, 73 P.S. §§ 399.41 - 399.50 (“the Act”). In order to discharge this statutory duty, the Small Business Advocate deems it necessary to participate as a party to this proceeding. Representing the OSBA in this matter is Assistant Small Business Advocate Erin K. Fure. Please address all correspondence as follows:

Erin K. Fure
Assistant Small Business Advocate
Office of Small Business Advocate
300 North Second Street, Suite 202
Harrisburg, Pennsylvania 17101
(717) 783-2525
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efure@pa.gov

II. FILING BACKGROUND

On November 7, 2018, PECO Energy Company (“PECO” or the “Company”) filed its semiannual adjustment to the Non-Bypassable Transmission Service Charge (“NBT”) in PECO Electric Tariff No. 5, Supplement No. 76 (“Supplement No. 76”). In Supplement No. 76, the Company proposed to adjust its NBT to reflect the impact of approved Regional Transmission Expansion Plan (“RTEP”) credits being refunded to the PECO Zone by PJM Interconnection, LLC (“PJM”) pursuant to a settlement agreement reached under Federal Energy Regulatory Commission (“FERC”) Docket No. EL05-121-009. Specifically, PECO proposed in its filing to retain \$5.5 million of the total credits over the NBT filing periods from December 1, 2018 through November 30, 2019 and refund approximately \$74 million to customers through 2025.

On November 29, 2018, the Office of Consumer Advocate (“OCA”) filed its Notice of Appearance and Formal Complaint. On December 19, 2018, PECO filed its Preliminary Objection to the OCA’s Formal Complaint. The OCA filed its Answer to PECO’s Preliminary Objection on December 31, 2018.

On January 4, 2019, the OSBA filed its Notice of Intervention, Notice of Appearance, and Public Statement. By Order dated February 8, 2019, Administrative Law Judge (“ALJ”) Marta Guhl denied PECO’s Preliminary Objection and directed PECO to file an Answer to the OCA’s Formal Complaint. On February 28, 2019, PECO filed an Answer and New Matter to the OCA’s Complaint. On April 2, 2019, the Commission issued a Call-In Telephone Pre-Hearing Conference Notice scheduling a pre-hearing conference for April 26, 2019.

III. IDENTIFICATION OF WITNESSES AND TENTATIVE ISSUES

Assisting in the development and presentation of the OSBA's case in this proceeding will be:

Brian Kalcic
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St. Louis, MO 63105
(314) 725-2511
excel.consulting@sbcglobal.net

After an initial review of the materials submitted by PECO, the OSBA has identified the following issues:

1. Whether PECO's proposal to retain \$5.5 million of the total RTEP credits is just, reasonable and appropriate; and
2. Whether PECO's methodology for calculating the portion of the total RTEP credits to be retained by the Company is appropriate.

The OSBA will participate in the case to assure that the interests of small business customers of PECO are adequately represented and protected.

As appropriate and necessary, the OSBA will investigate and analyze the claims and proposals of the Company and other parties through discovery, through the cross-examination of witnesses appearing for those parties, through the filing of testimony, and through briefing. The OSBA will particularly focus on any issue where the impact on the interests of the Company's small business consumers would be unjustifiably different than, or disproportionate to, the impact on another class of customers, or otherwise lacking in reasonableness or basic fairness.

The OSBA reserves the right to pursue additional issues as they arise throughout the proceeding.

IV. SERVICE OF DOCUMENTS

In accordance with 52 Pa. Code § 1.54(b)(3)(i), the OSBA agrees to accept electronic mail delivery of documents on the due date¹ as satisfying the in-hand requirement, provided that such documents are followed by hard copy delivery to OSBA. Hard copy delivery may be accomplished by first class mail, by personal hand delivery, or by overnight courier.² Service by electronic mail only is not sufficient. The OSBA requests that such hard copies are also provided to its witnesses identified above.

In addition to hard copies of pleadings, briefs, and exceptions, the OSBA requests hard copies of responses to discovery propounded by the OSBA or any other party. The OSBA also requests that all parties serve an electronic copy of all interrogatory responses upon the OSBA and the OSBA witnesses identified above.

V. DISCOVERY

The OSBA does not propose any discovery modifications.

VI. SETTLEMENT

The OSBA notes its willingness to enter into settlement discussions at the appropriate phase of this proceeding.

¹ In accordance with 52 Pa. Code § 1.56(a)(5), documents must be received by 4:30 pm.

² See 52 Pa. Code §§ 1.54(b)(1), 1.54(b)(2), and 1.56(a)(2). Regarding the *perfection of service*, the OSBA respectfully submits that 52 Pa. Code § 1.56(a)(2), as currently written, does not satisfy the requirements of due process.

VII. HEARING AND BRIEFING SCHEDULE

The OSBA will cooperate with the other parties to develop a procedural schedule.

Respectfully submitted,



Erin K. Fure
Assistant Small Business Advocate
Attorney ID No. 312245

For:

John R. Evans
Small Business Advocate

Office of Small Business Advocate
300 North Second Street, Suite 202
Harrisburg, PA 17101

Dated: April 23, 2019

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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(NBT) Semiannual Adjustment, PECO : **Docket No. M-2018-3005860**
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CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of the foregoing have been served via email and/or First-Class mail (*unless otherwise noted below*) upon the following persons, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

The Honorable Marta Guhl
Administrative Law Judge
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DATE: April 23, 2019



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