

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

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April 24, 2019

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:

Attached for electronic filing 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,

A handwritten signature in blue ink, appearing to read "H. Breitman", written over a horizontal line.

Harrison W. Breitman
Assistant Consumer Advocate
PA Attorney I.D. # 320580
E-Mail: HBreitman@paoca.org

Enclosures:

cc: Honorable Marta Guhl
Certificate of Service
*270949

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

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 Prehearing Conference Order issued by Administrative Law Judge Marta Guhl (ALJ Guhl) in the above-captioned matter, the Office of Consumer Advocate (OCA) provides the following information:

I. INTRODUCTION

On November 7, 2018, PECO Energy Company (PECO or the Company), filed a Semiannual Adjustment to the Non-Bypassable Transmission Service Charge (NBT) in PECO Energy Electric Tariff No. 5, Supplement No. 76, in accordance with PECO's Tariff approved in Docket No. P-2014-2409362 in which it proposes to adjust the NBT to reflect the impact of the approved Regional Transmission Expansion Plan (RTEP), pursuant to a Settlement Agreement under FERC Docket No. EL05-121-009 (FERC Settlement Agreement). 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.

Under the FERC Settlement Agreement, PECO will receive \$83 million in credits that PJM will refund through 2025.¹ The FERC Settlement Agreement provides for Transmission Enhancement Charge Adjustments to the billings for the Covered Transmission Enhancements through a schedule of credits and payments in order to address a period from 2007 to January 1, 2016 in which the costs of Covered Transmission Enhancements were recovered under the method previously approved under FERC Opinion No. 494. PECO proposed that the adjustment would become effective on December 1, 2018. As a part of this filing, PECO submitted a one-page explanation to the Commission regarding its reasoning for the NBT adjustment and the Company's decision to retain \$5.5 million in FERC-ordered credits.

On November 29, 2018, the OCA filed a Formal Complaint with the Commission. The Complaint provides that a preliminary examination of PECO's proposed semiannual adjustment to its NBT, specifically the proposal to retain \$5.5 million of FERC-ordered credits, is or may be unjust, unreasonable, in violation of the Pennsylvania Public Utility Code, and otherwise may be contrary to sound ratemaking principles and public policy. See gen'ly, OCA Complaint. Since that time, this proceeding was sent to the Office of Administrative Law Judge and was further assigned to Administrative Law Judge (ALJ) Marta Guhl. ALJ Guhl issued a Call-In Telephonic Prehearing Conference Notice on April 2, 2019. Pursuant to the Prehearing Notice, a telephonic Prehearing Conference has been scheduled for April 26, 2019.

II. ISSUES AND SUB-ISSUES

Based upon a preliminary analysis of PECO's proposed tariff adjustment, the OCA has identified a number of issues which it anticipates will be included in its investigation of the

¹ PECO's initial estimate of the total RTEP credits of \$79.5 million was subsequently updated in an interrogatory response to approximately \$83 million. See, PECO's Response to OCA-I-1-c.

proposed tariff adjustment. It is anticipated that other issues may arise and be pursued as this case proceeds.

The OCA has begun conducting discovery in this case and has served four sets of discovery to date. As the OCA receives the Company's Direct Testimony and responses to interrogatories, the OCA may be able to narrow the scope of additional information requests. Once the discovery process has been completed, the OCA will file direct testimony which will set forth the specific issues that the OCA will address in this proceeding. At that time, the OCA will also be able to make its specific recommendations.

The following list sets forth the issues that, at this time, the OCA anticipates it may raise.

The Company's proposal raises significant legal and policy questions that must be addressed regarding the Company's decision to retain \$5.5 million of FERC-ordered credits. The OCA will investigate the following issues in this area:

- Whether the proposal is consistent with the Public Utility Code, Commission and Court precedent, and is in the public interest;
- Whether it is legally permissible for PECO to retain the \$5.5 million of FERC-ordered credits under the Public Utility Code and in the manner that PECO has proposed; and
- Whether PECO has accurately determined the amount of the credits that it seeks to retain in this matter.

The OCA specifically reserves the right to raise additional issues in this matter, as the Company has not yet submitted its testimony to set forth the complete factual basis for its case-in-chief as to its proposal to keep \$5.5 million of this refund amount.

III. WITNESSES

The OCA intends to present the direct, rebuttal, and surrebuttal testimony, as may be necessary, of the following witness in this proceeding. The 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, in addition to mailing copies to OCA counsel, parties send copies of all interrogatory answers and testimony directly to the expert witness(es) responsible for the appropriate area of the case. The OCA also requests that CDs containing any interrogatory responses be mailed directly to the applicable consultant. The OCA's witness and their contact information is as follows:

Karl Pavlovic
PCMG and Associates, LLC
22 Brookes Ave.
Gaithersburg, MD 20877
Telephone: (202) 422-2720
E-mail: kpavlovic@pcmgregcon.com

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

IV. SERVICE ON THE OCA

The OCA will be represented in this proceeding by Senior Assistant Consumer Advocate Darryl Lawrence, and Assistant Consumer Advocates Lauren M. Burge and Harrison W. Breitman. Two copies of all documents should be served on the OCA as follows:

Harrison W. Breitman
Assistant Consumer Advocate
HBreitman@paoca.org

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5th Floor, Forum Place
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V. DISCOVERY

To date, the OCA has served four (4) sets of interrogatories on the Company. The OCA expects that multiple rounds of discovery will be necessary in this proceeding. As discussed below, the OCA worked with the other parties to develop a litigation schedule. Because the time-period for discovery and preparation of testimony is limited, the OCA submits that a shortened discovery response time may be necessary in this proceeding and agrees with the Company's proposed discovery modifications.

VI. PUBLIC INPUT HEARINGS

The OCA is not aware at this time of any need for public input hearings in this matter. If that situation changes, the OCA will promptly notify the Presiding Officer and the other Parties.

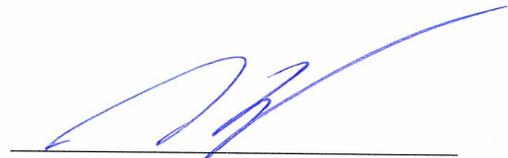
VII. PROPOSED SCHEDULE

The parties have discussed PECO's proposed schedule and it is the OCA's understanding that it is mutually agreeable to the OCA, OSBA, and PECO.

VIII. SETTLEMENT

The OCA is willing to participate in settlement discussions and it is our intent to collectively work with the other Parties to find a constructive and reasonable resolution to this matter.

Respectfully Submitted,



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April 24, 2019

270947

CERTIFICATE OF SERVICE

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

I hereby certify that I have this day served a true copy of the foregoing, the Office of Consumer Advocate's Prehearing Memorandum, 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 24th day of April 2019.

SERVICE BY E-MAIL and INTEROFFICE MAIL

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