

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

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June 10, 2019

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  
Docket No. R-2019-3009624

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 that reads "Christy M. Appleby".

Christy M. Appleby  
Assistant Consumer Advocate  
PA Attorney I.D. # 85824  
E-Mail: [CAappleby@paoca.org](mailto:CAappleby@paoca.org)

Enclosures:

cc: Honorable F. Joseph Brady  
Certificate of Service  
\*274110

CERTIFICATE OF SERVICE

Pennsylvania Public Utility Commission:

v.

PECO Energy Company

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:  
:  
:

Docket No. R-2019-3009624

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

Dated this 10<sup>th</sup> day of June 2019.

SERVICE BY E-MAIL & INTER-OFFICE MAIL

Carrie B. Wright, Esquire  
Bureau of Investigation & Enforcement  
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SERVICE BY E-MAIL & FIRST CLASS MAIL, POSTAGE PREPAID

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/s/ Christy M. Appleby  
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BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission,	:	
	:	
v.	:	Docket Nos. R-2019-3009624
	:	C-2019-3009951
PECO Energy Company	:	C-2019-3010147

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PREHEARING MEMORANDUM  
OF THE  
OFFICE OF CONSUMER ADVOCATE

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Pursuant to the Prehearing Conference Order of Administrative Law Judge F. Joseph Brady issued on June 5, 2019, Section 333 of the Public Utility Code, 66 Pa. C.S. § 333, and in anticipation of the Prehearing Conference scheduled for Wednesday, June 12, 2019, the Office of Consumer Advocate (OCA) provides the following information:

**I. INTRODUCTION**

On April 30, 2019, PECO Energy Company (PECO or the Company) submitted its purchased gas cost (PGC) pre-filing pursuant to Sections 53.64 and 53.65 of the Public Utility Commission's (Commission) regulations, 52 Pa. Code §§ 53.64, 53.65. The OCA filed a Formal Complaint and Public Statement in this proceeding on May 16, 2019, to help ensure that the proposed PGC rates are consistent with a least cost fuel procurement policy and do not result in rates and charges that are excessive, unjust or unreasonable, discriminatory, or otherwise contrary to Commission regulations or policy.

On May 31, 2019, PECO filed its annual PGC No. 36 filing with the Commission. This filing was assigned to Administrative Law Judge (ALJ) F. Joseph Brady for investigation and

scheduling of hearings to determine whether PECO's gas costs comply with the standards set forth in the Public Utility Code.

## **II. ISSUES AND SUB-ISSUES**

Based upon a preliminary analysis of PECO's purchased gas cost pre-filing of April 30, 2019 and its definitive filing of May 31, 2019, the OCA has compiled a list of issues and sub-issues, which it anticipates will be included in its investigation of the Company's proposed rate changes. The OCA anticipates that other issues may arise and may be pursued as responses to interrogatories are received and analyzed.

The OCA has identified several issues that may require further review as follows:

- (1) Reasonableness and prudence of historic period purchased gas costs and assessment of compliance with Commission Orders in previous 1307(f) cases;
- (2) Reasonableness and accuracy of estimating gas costs during the interim and prospective periods;
- (3) Reasonableness and prudence of the Company's gas supply mix;
- (4) Reasonableness and prudence of the Company's mix of demand entitlements, storage, and other supply sources and reasonableness of the Company's estimate of design day requirements;
- (5) Reasonableness and prudence of contracts with pipelines and suppliers;
- (6) Reasonableness of the Company's allocation of purchased gas costs between customer classes and assessment of any other subsidies or unreasonable discrimination between customer classes;
- (7) Reasonableness and prudence of the Company's use of capacity release, off-system sales, and interruptible sales and the crediting of such revenues to PGC ratepayers;

(8) Assessment of the value of any purchased gas cost incentive mechanisms as components of a least cost fuel procurement policy;

(9) Reasonableness of sales volumes projections;

(10) Reasonableness of gas cost recovery mechanisms;

(11) Reasonableness of physical and financial hedging transactions and strategies entered into under the terms of previous PGC settlements and assessment of the Company's plan to evaluate and continue incorporate Marcellus Shale production into its supply portfolio;

(12) The Company's overall compliance with Section 1307(f) of the Public Utility Code; and

(13) Assessment of the Company's high volume transportation program.

The OCA reserves the right to raise additional issues.

### **III. WITNESSES**

The OCA intends to present the direct, rebuttal, and surrebuttal testimonies, as may be necessary, of Jerome D. Mierzwa in this proceeding. He will present testimony in written form and may also attach various exhibits, documents, and explanatory information that will assist in the presentation of the OCA's case. In order to expedite the resolution of this proceeding, the OCA requests that hard copies of all interrogatories, testimony, and answers to interrogatories be mailed directly to Mr. Mierzwa at the below address, as well as mailing a copy to counsel for the OCA.

Jerome D. Mierzwa  
Exeter Associates, Inc.  
10480 Little Patuxent Parkway, Suite No. 300  
Columbia, MD 21044  
Telephone: 410-992-7500  
E-mail: [jmierzwa@exeterassociates.com](mailto:jmierzwa@exeterassociates.com)

**IV. SERVICE ON THE OCA**

The OCA will be represented in this case by Assistant Consumer Advocates Christy M. Appleby and Lauren M. Burge. Two copies of all documents should be served on the OCA as follows:

Christy M. Appleby  
Assistant Consumer Advocate  
Office of Consumer Advocate  
555 Walnut Street, 5<sup>th</sup> Floor Forum Place  
Harrisburg, PA 17101-1923  
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E-mail: [CAAppleby@paoca.org](mailto:CAAppleby@paoca.org)

The OCA requests that any documents served electronically also be directed to Ms. Lauren M. Burge at [LBurge@paoca.org](mailto:LBurge@paoca.org) and the OCA's consultant, Mr. Jerome D. Mierzwa, at [jmierzwa@exeterassociates.com](mailto:jmierzwa@exeterassociates.com).

**V. PROPOSED SCHEDULE**

The parties have reached an agreement to present the following litigation schedule to the ALJs for consideration:

Prehearing Conference	June 12, 2016
Direct Testimony (Other Parties)	July 12, 2016
Rebuttal Testimony	July 26, 2016
Surrebuttal Testimony	August 8, 2016
Oral Rejoinder Outline	August 14, 2019
Hearings	August 15, 2019 and (if needed) August 16, 2019
Close of Record	August 19, 2019
Main Briefs	September 5, 2019

Reply Briefs	September 19, 2019
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## **VI. PUBLIC INPUT HEARINGS**

At present, it does not appear that a public input hearing in this proceeding is necessary. If, however, consumer interest arises, the OCA will promptly notify the ALJs and other parties to this proceeding.

## **VII. DISCOVERY**

The parties have agreed to present the following modifications to the rules of discovery to the ALJ for consideration:

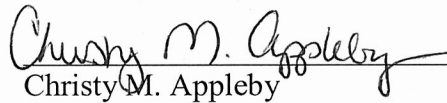
- (1) When an interrogatory, request for production, request for admission or motion is served after 12:00 p.m. on a Friday or the day before a holiday, the appropriate response period is deemed to start on the next business day.
- (2) The response period for replying to written interrogatories, requests for production and requests for admissions is seven (7) 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 responses 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 receipt or answered within ten (10) calendar days of receipt.
- (8) Discovery requests, motions to compel and responses are to be served electronically, with hard copies to follow by first-class mail.
- (9) Any discovery-related pleading such as objections, motions or answers served on a Friday or the day before a holiday recognized by the Commission will be deemed to have been served on the following business day for purposes of tracking due dates.

## VIII. SETTLEMENT

The OCA will participate fully in all settlement discussions.

Respectfully Submitted,



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DATE: June 10, 2019  
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