

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

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June 13, 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. 6,  
Supplement No. 13, Effective June 1, 2019  
Docket No. M-2019-3010032

Dear Secretary Chiavetta:

Attached for electronic filing please find the Office of Consumer Advocate's Formal Complaint and Public Statement in the above-referenced proceeding. The Office of Consumer Advocate is requesting this issue to be consolidated with Docket No. M-2018-3005860.

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](mailto:HBreitman@paoca.org)

Enclosures:

cc: The Honorable Marta Guhl  
Office of Special Assistants (email only: [ra-OSA@pa.gov](mailto:ra-OSA@pa.gov))  
Bureau of Technical Utility Services (email only)  
Certificate of Service  
\*274011

CERTIFICATE OF SERVICE

Re: Non-Bypassable Transmission :  
Service Charge (NBT) Semiannual :  
Adjustment, PECO Energy Electric : Docket No. M-2019-3010032  
Tariff No. 6, Supplement No. 13, :  
Effective June 1, 2019 :

I hereby certify that I have this day served a true copy of the foregoing, the Office of Consumer Advocate's Formal Complaint and Public Statement, 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 13<sup>th</sup> day of June 2019.

SERVICE BY E-MAIL & INTER-OFFICE MAIL

Richard A. Kanaskie, Esquire  
Bureau of Investigation & Enforcement  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2<sup>nd</sup> Floor  
Harrisburg, PA 17120

SERVICE BY E-MAIL & FIRST CLASS MAIL, POSTAGE PREPAID

Erin K. Fure, Esquire  
Office of Small Business Advocate  
300 North Second Street  
Commerce Building, Suite 202  
Harrisburg, PA 17101

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Morgan, Lewis & Bockius LLP  
1701 Market Street  
Philadelphia, PA 19103

Romulo L. Diaz Jr., Esquire  
Jack R. Garfinkle, Esquire  
Ward L. Smith, Esquire  
Richard G. Webster Jr., Esquire  
PECO Energy Compnay  
2301 Market Street  
Philadelphia, PA 19103

/s/ Harrison W. Breitman  
Harrison W. Breitman  
Assistant Consumer Advocate  
PA Attorney I.D. # 320580  
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\*274384

Counsel for: Office of Consumer Advocate  
555 Walnut Street  
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Harrisburg, PA 17101-1923  
Phone: (717) 783-5048  
Fax: (717) 783-7152  
Dated: June 13, 2019

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Formal Complaint**

**1. CUSTOMER NAME (COMPLAINANT)**

Tanya J. McCloskey, Acting Consumer Advocate  
555 Walnut Street  
5<sup>th</sup> Floor, Forum Place  
Harrisburg, PA 17101-1923  
Phone: (717) 783-5048  
Fax: (717) 783-7152

**2. UTILITY NAME (RESPONDENT)**

PECO Energy Company – Electric Division  
Docket No. M-2019-3010032

**3. TYPE OF UTILITY**

Electric

**4. COMPLAINT**

- A. On November 7, 2018, in Docket No. M-2018-3005860, 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). The adjustment became effective on December 1, 2018.
- B. On November 29, 2018, the Office of Consumer Advocate (OCA) filed a Formal Complaint and Public Statement in Docket No. M-2018-3005860.
- C. On May 15, 2019, PECO filed a Semiannual Adjustment to the Non-Bypassable Transmission Service Charge (NBT) in accordance with PECO's Tariff approved in Docket No. P-2014-2409362. The May 15, 2019 filing updates the filing in Docket No. M-2018-3005860, in which the OCA is currently participating in an ongoing complaint proceeding.
- D. 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

- E. The Consumer Advocate is empowered to represent the interests of Pennsylvania consumers before the Pennsylvania Public Utility Commission (Commission), pursuant to Act 161 of the General Assembly, as amended, 71 P.S. Sections 309-1, *et seq.*
- F. A preliminary examination of PECO's proposed NBT Semiannual Adjustment to PECO Energy Electric Tariff No. 5, Supplement No. 76, indicates that the adjustment, specifically the proposal to retain \$5.5 million of the FERC-ordered credits, is or may be unjust, unreasonable, and in violation of the Pennsylvania Public Utility Code, 66 Pa. C.S. Section 1301 *et seq.*, 66 Pa. C.S. Section 2804, and otherwise may be contrary to sound ratemaking principles and public policy.
- G. The Acting Consumer Advocate files this Formal Complaint to ensure that the Commission will fully and fairly adjudicate issues pertaining to whether the Company's proposed adjustment to the NBT is unjust, unreasonable, unduly discriminatory, or otherwise unlawful.

## 5. RELIEF

The Acting Consumer Advocate respectfully requests that the Commission take the following actions:

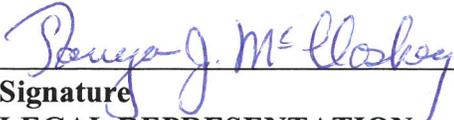
- A. Suspend and investigate the operation of the proposed NBT Semiannual Adjustment Tariff No. 6, Supplement No. 13;
- B. Consolidate all complaints filed against the proposed NBT Semiannual Adjustment in Docket No. M-2019-3010032;
- C. Consolidate Docket No. M-2019-3010032 and Docket No. M-2018-3005860 for purposes of hearings and decision;
- D. Hold full evidentiary hearings examining the reasonableness of the Company's NBT Semiannual Adjustment; and
- E. Grant such other relief that the Commission deems necessary.

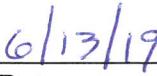
## 6. VERIFICATION AND SIGNATURE

### *Verification:*

***I, Tanya J. McCloskey, Acting Consumer Advocate, hereby state that the facts above set forth are true and correct (or are true and correct to the best of my knowledge, information, and belief) and that I expect to be able to prove the same at a hearing held***

*in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. Section 4904 (relating to unsworn falsification to authorities).*

  
\_\_\_\_\_  
Signature

  
\_\_\_\_\_  
Date

7. **LEGAL REPRESENTATION**

Darryl Lawrence, Senior Assistant Consumer Advocate, PA Attorney I.D. #93682  
Lauren M. Burge, Assistant Consumer Advocate, PA Attorney I.D. #311570  
Harrison W. Breitman, Assistant Consumer Advocate, PA Attorney I.D. #320580

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HBreitman@paoca.org

**PUBLIC STATEMENT OF THE OFFICE OF CONSUMER ADVOCATE  
PURSUANT TO 71 P.S. SECTION 309-4(e)**

Act 161 of the Pennsylvania General Assembly, 71 P.S. Section 309-2, as enacted July 9, 1976, authorizes the Consumer Advocate to represent the interests of consumers before the Pennsylvania Public Utility Commission (Commission). In accordance with Act 161, and for the following reasons, the Acting Consumer Advocate determined to file a Formal Complaint and participate in proceedings before the Commission involving the 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 by PECO Energy Company (PECO or the Company). On May 15, 2019, PECO filed a Semiannual Adjustment, with a proposed effective date of June 1, 2019, to the NBT in accordance with PECO's Tariff approved in Docket No. P-2014-2409362. The May 15, 2019 filing updates the filing in Docket No. M-2018-3005860, in which the OCA is currently participating in an ongoing complaint proceeding.

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. On November 7, 2018, 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 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). The adjustment became effective on December 1, 2018.

Under the FERC Settlement Agreement, PECO will receive \$83 million in credits that PJM will refund through 2025. 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. Under the Company's proposal, PECO will retain \$5.5 million of the total credits over the NBT filing period from December 1, 2018 through November 30, 2019 instead of refunding its customers the total amount of the credit. PECO claims that retaining \$5.5 million of the FERC-ordered credit permits recovery of overpaid RTEP costs previously absorbed by PECO from 2007 through 2010.

The Acting Consumer Advocate will participate in this proceeding in order to determine whether PECO's proposal is just and reasonable. The Acting Consumer Advocate will represent the interests of PECO's customers before the Commission and seek to ensure that customers are not charged rates that are unjust, unreasonable, unduly discriminatory, or otherwise inconsistent with the Public Utility Code, sound ratemaking principles, and public policy.