


COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

555 Walnut Street, 5th Floor, Forum Place  
Harrisburg, Pennsylvania 17101-1923  
(717) 783-5048  
800-684-6560

 @pa\_oca

 /pennoca

FAX (717) 783-7152  
consumer@paoca.org

June 9, 2020

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 – Gas Division  
1307(f) Proceeding  
Docket No. R-2020-3019661

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,

/s/ Phillip D. Demanchick  
Phillip D. Demanchick  
Assistant Consumer Advocate  
PA Attorney I.D. # 324761  
E-Mail: [PDemanchick@paoca.org](mailto:PDemanchick@paoca.org)

Enclosures:

cc: The Honorable F. Joseph Brady (**email only**)  
Certificate of Service

\*289875

CERTIFICATE OF SERVICE

Re: Pennsylvania Public Utility Commission :  
v. : Docket No. R-2020-3019661  
PECO Energy Company – Gas Division :  
1307(f) Proceeding :

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 proceeding 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 9<sup>th</sup> day of June 2020.

**SERVICE BY E-MAIL ONLY**

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

Daniel G. Asmus, Esquire  
Sharon E. Webb, Esquire  
Office of Small Business Advocate  
555 Walnut Street  
1<sup>st</sup> Floor, Forum Place  
Harrisburg, PA 17101-1923

Richard G. Webster, Jr., VP  
Jack R. Garfinkle, Esquire  
Brandon J. Pierce, Esquire  
PECO Energy Company  
2301 Market Street  
Suite 15  
Philadelphia, PA 19103

Charis Mincavage, Esquire  
Adeolu A. Bakare, Esquire  
Jo-Anne S. Thompson, Esquire  
McNees Wallace & Nurick LLC  
100 Pine Street  
P.O. Box 1166  
Harrisburg, PA 17108-1166

Courtney L. Schultz, Esquire  
Shane P. Simon, Esquire  
Saul, Ewing, Arnstein & Lehr, LLP  
1500 Market Street  
38<sup>th</sup> Floor  
Philadelphia, PA 19102

/s/ Phillip D. Demanchick  
Phillip D. Demanchick  
Assistant Consumer Advocate  
PA Attorney I.D. # 324761  
E-Mail: [PDemanchick@paoca.org](mailto:PDemanchick@paoca.org)

Counsel for:  
Office of Consumer Advocate  
555 Walnut Street  
5<sup>th</sup> Floor, Forum Place  
Harrisburg, PA 17101-1923  
Phone: (717) 783-5048  
Fax: (717) 783-7152  
Dated: June 9, 2020  
\*289874

Aron J. Beatty  
Senior Assistant Consumer Advocate  
PA Attorney I.D. # 86625  
E-Mail: [ABeatty@paoca.org](mailto:ABeatty@paoca.org)

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission,	:	
	:	
v.	:	Docket Nos. R-2020-3019661
	:	C-2020-3019817
PECO Energy Company – Gas Division	:	
1307(f) Proceeding	:	

---

PREHEARING MEMORANDUM  
OF THE  
OFFICE OF CONSUMER ADVOCATE

---

Pursuant to the Prehearing Conference Order of Administrative Law Judge F. Joseph Brady (ALJ Brady) issued on June 2, 2020, Section 333 of the Public Utility Code, 66 Pa. C.S. § 333, and in anticipation of the Prehearing Conference scheduled for Thursday, June 11, 2020, the Office of Consumer Advocate (OCA) provides the following information:

**I. INTRODUCTION**

On April 30, 2020, 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 Pennsylvania 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 18, 2020, 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 29, 2020, PECO filed its definitive PGC filing with the Commission, PGC No. 37, proposed Supplement No. 28 to Tariff Gas - Pa. P.U.C. No. 3, to become effective for service

rendered on and after December 1, 2020. This filing was assigned to ALJ 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, 2020, and its definitive filing of May 29, 2020, 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 to 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.<sup>1</sup>

---

<sup>1</sup> The OCA understands that mail service may be disrupted during the ongoing novel coronavirus (COVID-19) emergency pandemic. The OCA's operations are likewise impaired during this time. Accordingly, the OCA agrees to waive service of hard copies during this period and respectfully requests that hard copy service be waived for the OCA during this period.

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 Advocate Phillip D. Demanchick and Senior Assistant Consumer Advocate Aron J. Beatty. Two copies of all documents should be served on the OCA as follows:

Phillip D. Demanchick  
Assistant Consumer Advocate  
Office of Consumer Advocate  
555 Walnut Street, 5<sup>th</sup> Floor Forum Place  
Harrisburg, PA 17101-1923  
Telephone: (717) 783-5048  
Facsimile: (717) 783-7152  
E-mail: PDemanchick@paoca.org

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

#### **V. PROPOSED SCHEDULE**

The OCA supports the litigation schedule proposed by the Company. To the extent there are any conflicts, the OCA will work with the parties to develop a mutually convenient procedural schedule.

#### **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 ALJ and other parties to this proceeding.

## VII. DISCOVERY

The OCA supports the Company's proposed modifications to the rules of discovery, which are as follows:

- (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 eight (8) 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) 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, unless otherwise agreed to by the parties.
- (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,

/s/Phillip D. Demanchick  
Phillip D. Demanchick  
Assistant Consumer Advocate  
PA Attorney I.D. # 324761  
E-Mail: PDemanchick@paoca.org

Aron J. Beatty  
Senior Assistant Consumer Advocate  
PA Attorney I.D. 86625  
E-Mail: ABeatty@paoca.org

Office of Consumer Advocate  
5th Floor, Forum Place  
555 Walnut Street  
Harrisburg, PA 17101-1923  
Phone: (717) 783-5048  
Fax: (717) 783-7152

Counsel for:  
Tanya J. McCloskey  
Acting Consumer Advocate

DATE: June 9, 2020  
289781