

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

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November 5, 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  
Docket No. R-2020-3018929

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

Enclosures:

cc: The Honorable Christopher P. Pell (**email only**)  
Certificate of Service

\*298856

CERTIFICATE OF SERVICE

Re: Pennsylvania Public Utility Commission :  
v. : Docket No. R-2020-3018929  
PECO Energy Company – Gas Division :

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 5<sup>th</sup> day of November 2020.

**SERVICE BY E-MAIL ONLY**

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

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Office of Small Business Advocate  
555 Walnut Street  
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Harrisburg, PA 17109-1923

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Brandon J. Pierce, Esquire  
PECO Energy Company  
2301 Market Street  
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Elizabeth R. Marx, Esquire  
John W. Sweet, Esquire  
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Pennsylvania Utility Law Project  
118 Locust Street  
Harrisburg, PA 17101

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Harrisburg, PA 17101-1923  
Phone: (717) 783-5048  
Fax: (717) 783-7152  
Dated: November 5, 2020  
\*298855

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission	:	
	:	
v.	:	Docket No. R-2020-3018929
	:	
PECO Energy Company – Gas Division	:	

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PREHEARING MEMORANDUM  
OF THE  
OFFICE OF CONSUMER ADVOCATE

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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 Deputy Chief Administrative Law Judge Christopher P. Pell (Deputy Chief ALJ Pell) in the above-captioned matter, the Office of Consumer Advocate (OCA) provides the following information:

**I. INTRODUCTION**

On September 30, 2020, PECO Energy Company – Gas Division (PECO Gas or the Company) filed Tariff Gas – PA. P.U.C. No. 4 (Tariff No. 4). Through Tariff No. 4, the Company proposes to increase rates to produce additional annual operating revenues of \$68.7 million, or an increase of 8.9 percent on a total revenue basis. More specifically, the Company is proposing to allocate \$43.2 million, or approximately 63% of the proposed \$68.7 million increase, to the residential customer class. The Company produces this result, in part, by increasing the residential monthly customer charge by \$4.25, from \$11.75 to \$16.00, or by 36.2%.

The Company is engaged in the business of furnishing natural gas to approximately 534,000 residential, commercial, and industrial customers in several counties throughout southeastern Pennsylvania.

On October 6, 2020, a Notice of Appearance was filed on behalf of the Bureau of Investigation and Enforcement (I&E). On October 14, 2020, the OCA filed a Formal Complaint, Public Statement, and Notice of Appearance. On October 15, 2020, a Formal Complaint, Public Statement, and Notice of Appearance was filed on behalf of the Office of Small Business Advocate (OSBA). On October 22, 2020, the Coalition for Affordable Utility Service and Energy Efficiency in Pennsylvania (CAUSE-PA) filed a Petition to Intervene and Answer to the Company's proposed rate increase.

On October 29, 2020, the Commission issued an Order initiating an investigation into the lawfulness, justness, and reasonableness of the proposed rate increase in this filing, in addition to the Company's existing rates, rules, and regulations, and suspended the effective date of Tariff No. 4 until June 29, 2021, by operation of law. The case was assigned to the Office of Administrative Law Judge (OALJ) and further assigned to Deputy Chief ALJ Pell. A Prehearing Conference is scheduled for Monday, November 9, 2020.

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

Based upon a preliminary analysis of the Company's filing, the OCA has compiled a list of issues that it anticipates will be included in its investigation of this rate request. It is anticipated that other issues may arise and may be pursued once the answers to all of the OCA's data requests have been received and analyzed.

The OCA has served three (3) sets of data requests at the time of this filing. Upon receipt of the answers to all of its data requests, the OCA may then be able to narrow the scope of

additional information requests. Once the discovery process has been completed, the OCA will serve direct testimony that 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 and to quantify its specific recommendations.

The following sets forth the issues that the OCA anticipates it may raise at this time:

A. Public Policy Concerns (COVID-19)

The OCA will examine the reasonableness of the proposed rate increase in light of the COVID-19 pandemic conditions. The OCA will also investigate whether there is adequate support for the Company's projections due to the COVID-19 pandemic.

B. Rate of Return

The OCA will examine the rate of return requested by the Company, including the following areas:

- Whether the capital structure claimed by the Company is representative of the period in which rates will be in effect, is comparable to other similarly situated gas utilities, and is otherwise appropriate for ratemaking purposes;
- Whether the cost of debt used by the Company is appropriate;
- Whether the cost of common equity claimed by the Company, as well as the Company's methodologies and supporting data used to develop its final cost of common equity claim, are appropriate; and
- Whether the Company's request for an increase to the return on equity for management performance is supported and will result in just and reasonable rates.

### C. Rate Base/Measure of Value

The OCA will examine the reasonableness of the Company's filing as it relates to rate base/measures of value, including the following areas:

- The Company's plant in service claims and forecasted plant additions, in order to determine whether the plant claimed is used and useful in providing utility service;
- The appropriateness of the inclusion of the Pension Asset in rate base; and
- The Company's stored gas inventory.

### D. Revenue and Expenses

The OCA will examine the reasonableness of the Company's filing as it relates to revenues and expenses, including the following areas:

- The sales forecast utilized by the Company in order to project future test year and fully forecasted test year sales and revenues, including forecasted reductions to customer usage;
- Accounting for excess take revenues;
- The Company's payroll expense;
- The Company's environmental remediation cost recovery;
- The Company's rate case expense;
- The Company's pension, post-retirement benefits, and employee benefits;
- Energy efficiency and grant programs;
- Regulatory initiative cost recovery;
- Cost to achieve recovery; and
- Tax issues, including repairs deductions to the Company's income taxes.

E. Depreciation

The OCA will examine the Company's depreciation claim, including the depreciation study submitted with the filing.

F. Rate Structure, Cost of Service, and Rate Design

The OCA will examine the rate structure, cost of service, and rate design issues in the Company's filing, including the following:

- The cost of service study, including the methodology used and the reasonableness of the allocations;
- The Company's proposed customer charge;
- The rate design proposed by the Company and whether it is reasonable and appropriate;
- The Company's proposed allocation of the revenue increase among customer classes;
- The reasonableness and appropriateness of the Company's line extension changes; and
- The Company's calculation of its Gas Procurement Charge and Merchant Function Charge.

G. Universal Service Programs

The OCA will review issues related to low-income customers and universal service programs, including:

- The Company's Customer Assistance Program (CAP) to ensure that the budget amount is reasonable and that the program appropriately serves low-income customers;
- The effect of the proposed customer charge on low-income customers;
- The quality of customer service provided by the Company;
- Whether the Company has proposed an appropriate offset in its Universal Service Rider for uncollectibles and working capital expenses, as well as whether the trigger for these offsets is set at an appropriate level; and



- Whether the Company's costs are recovered appropriately through the Universal Service Rider.

#### H. Energy Efficiency and Conservation

The OCA will examine the Company's proposed Energy Efficiency and Conservation programs to determine:

- Whether they are cost effective and reasonable;
- Whether the Company has appropriately evaluated its past programs and incorporated the lessons learned into the modified and expanded programs;
- Whether the Company's proposed budget, cost recovery and annual true-up methodology are reasonable and appropriate; and
- Whether the Company's proposed program designs and implementation strategies are reasonable and appropriate.

### **III. WITNESSES**

The OCA intends to present the direct, rebuttal, and surrebuttal testimony, as may be necessary, of the following witnesses in this proceeding. The witnesses 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.

#### A. Public Policy Concerns

Scott Rubin  
333 Oak Lane  
Bloomsburg, PA 17815

Telephone: (570) 387-1893  
E-mail: [scott.j.rubin@gmail.com](mailto:scott.j.rubin@gmail.com)

B. Rate Base, Revenues, Expenses, and General Accounting

Lafayette Morgan  
Exeter Associates, Inc.  
10480 Little Patuxent Parkway  
Suite 300  
Columbia, Maryland 21044

Telephone: (410) 992-7500  
E-mail: [lmorgan@exeterassociates.com](mailto:lmorgan@exeterassociates.com)

C. Rate Structure/Cost Allocation

Glenn Watkins  
Technical Associates, Inc.  
6377 Mattawan Trail  
P.O. Box 1690  
Mechanicsville, VA 23116

Telephone: (804) 272-5363  
E-mail: [watkinsg@tai-econ.com](mailto:watkinsg@tai-econ.com)

D. Rate of Return

Kevin O'Donnell  
Nova Energy Consultants, Inc.  
1350 SE Maynard Road  
Suite 101  
Cary, NC 27511

Telephone: (919) 461-0270  
E-mail: [kodonnell@novaenergyconsultants.com](mailto:kodonnell@novaenergyconsultants.com)

E. Universal Service and Impacts on Low-Income Customers

Roger Colton  
Fisher, Sheehan and Colton  
34 Warwick Road  
Belmont, MA 02478

Telephone: (617) 484-0597  
E-mail: [roger@fsconline.com](mailto:roger@fsconline.com)

F. Energy Efficiency and Conservation

Geoffrey Crandall  
MSB Energy Associates, Inc.  
6907 University Ave # 162  
Middleton, WI 53562

Telephone: (608) 831-1127  
E-mail: [crandall@msbnrg.com](mailto:crandall@msbnrg.com)

The OCA specifically reserves the right to call additional witnesses as may be necessary. As soon as the OCA has determined whether an additional witness or witnesses will be necessary for any portion of its case, the OCA will promptly notify Deputy Chief ALJ Pell and all parties of record.

**IV. SERVICE ON THE OCA**

The OCA will be represented in this case by Senior Assistant Consumer Advocate Darryl A. Lawrence and Assistant Consumer Advocates Phillip D. Demanchick, Laura J. Antinucci, Christy M. Appleby, and Barrett C. Sheridan. Mr. Demanchick will be speaking as the lead attorney for the purposes of the prehearing conference.

The OCA has created a group email address provided below. This is the only email address that is required for service on the OCA; it will provide the emailed materials to all members of the OCA team, including the witnesses listed above. During the ongoing emergency period, the OCA does not require hard copies to satisfy service in this proceeding. The OCA may request hard copy service if circumstances change. Accordingly, e-service of all documents should be served on the OCA as follows:

Phillip D. Demanchick  
Assistant Consumer Advocate  
Office of Consumer Advocate  
555 Walnut Street  
5th Floor, Forum Place

Harrisburg, PA 17101-1923  
Telephone: (717) 783-5048  
Fax: (717) 783-7152  
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## V. DISCOVERY

The OCA supports the discovery modifications set forth by the Company in its Prehearing Memorandum. They are as follows:

1. Answers to written interrogatories are to be served in-hand within ten (10) calendar days of service of the interrogatories.
2. Objections to interrogatories are to be communicated orally within three (3) days of service; unresolved objections are to be served on the Administrative Law Judge in writing within five (5) days of service of the interrogatories.
3. Motions to dismiss objections and/or direct the answering of interrogatories are to be filed within three (3) calendar days of service of written objections.
4. Answers to motions to dismiss objections and/or directing the answering of interrogatories shall be filed within three (3) calendar days of service of such motions.
5. Responses to requests for documents production, entry for inspection, or other purposes are to be served in-hand within ten (10) calendar days of service.
6. Requests for admission are deemed admitted unless answered within ten (10) calendar days or objected to within five (5) calendar days of service.
7. 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.
8. 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.
9. Pursuant to 52 Pa. Code §5.341(b), neither discovery requests nor responses thereto are to be served on the Commission or the Administrative Law Judge, although a certificate of service may be filed with the Commission's Secretary.

## **VI. PUBLIC INPUT HEARINGS**

Given the magnitude of the requested rate increase, the OCA requests that public input hearings be held for PECO Gas' consumers in this matter. Taking into account the current circumstances, the OCA requests that, in lieu of "in-person" public input hearings within PECO Gas' service territory, the Commission arrange for two telephonic public input hearings, or Smart Hearings, for consumers to participate in. The OCA proposes that one Smart Hearing be held at 1:00 PM and the other at 6:00 PM during the week of December 7<sup>th</sup>. At a minimum, the OCA requests that PECO Gas place advertisements within its service territory and publications in local newspapers and on PECO Gas' website to make its consumers aware of these hearings.

## **VII. PROPOSED SCHEDULE**

The OCA will work with the Presiding Officer and the other parties to develop a mutually agreed upon procedural schedule.

## VIII. SETTLEMENT

The OCA is willing to participate in settlement discussions at the appropriate time in this proceeding.

Respectfully Submitted,

Office of Consumer Advocate  
555 Walnut Street  
5<sup>th</sup> Floor, Forum Place  
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DATED: November 5, 2020  
298848

Counsel for:  
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Acting Consumer Advocate