

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 25, 2021

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120

Re: Pennsylvania Power Co. Supplement No. 97 to  
Tariff Electric Pa. P.U.C. No. 36 -  
Distribution System Improvement Charge  
Docket No. M-2021-3026675

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.

Copies have been served per the attached Certificate of Service.

Respectfully submitted,

/s/ Erin L. Gannon  
Erin L. Gannon  
Senior Assistant Consumer Advocate  
PA Attorney I.D. # 83487  
E-Mail: [EGannon@paoca.org](mailto:EGannon@paoca.org)

Enclosure:

cc: Office of Administrative Law Judge (**email only**)  
Office of Special Assistants (**email only**: [ra-OSA@pa.gov](mailto:ra-OSA@pa.gov))  
Bureau of Technical Utility Services (**email only**)  
Bureau of Audits (**email only**)  
Certificate of Service

\*312044

CERTIFICATE OF SERVICE

Re: Pennsylvania Power Co. Supp. No. 97 to :  
Tariff Electric Pa. P.U.C. No. 36 – : Docket No. M-2021-3026675  
Distribution System Improvement Charge :

I hereby certify that I have this day served a true copy of the following document, 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 § 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 25<sup>th</sup> day of June 2021.

**SERVICE BY E-MAIL ONLY**

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

Steven C. Gray, Esquire  
Office of Small Business Advocate  
555 Walnut Street  
1<sup>st</sup> Floor, Forum Place  
Harrisburg, PA 17101-1923

Joanne M. Savage  
Director – Rates & Regulatory Affairs – PA  
2800 Pottsville Pike  
PO Box 16001  
Reading PA 19612-6001

David F. Boehm, Esquire  
Boehm, Kurtz & Lowry  
36 East Seventh Street  
Suite 1510  
Cincinnati, OH 45202

George Jugovic, Jr., Esquire  
200 First Avenue  
Suite 200  
Pittsburgh, PA 15222

John Finnagan, Esquire  
Environmental Defense Fund  
128 Winding Brook Lane  
Terrance Park, OH 45174

Charis Mincavage, Esquire  
Susan E. Bruce, Esquire  
McNees Wallace & Nurick LLC  
P.O. Box 1166  
100 Pine Street  
Harrisburg, PA 17108-1166

/s/ Erin L. Gannon  
Erin L. Gannon  
Senior Assistant Consumer Advocate  
PA Attorney I.D. # 83487  
E-Mail: [EGannon@paoca.org](mailto:EGannon@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 25, 2021  
\*312037

**FORMAL COMPLAINT**  
**BEFORE THE**  
**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**1. COMPLAINANT**

Christine Maloni Hoover, Interim Acting Consumer Advocate

555 Walnut Street, 5<sup>th</sup> Floor, Forum Place  
Harrisburg, PA 17101-1923  
Dauphin County

Phone - (717) 783-5048

Fax - (717) 783-7152

**2. UTILITY NAME**

Pennsylvania Power Company – Docket No. M-2021-3026675

**3. TYPE OF UTILITY**

Electric

**4. COMPLAINT**

A. On June 21, 2021, Pennsylvania Power Company (Penn Power or Company) filed Supplement No. 97 to Tariff Electric Pa. PUC No. 36 (Supplement No. 97), which proposes to change the Distribution System Improvement Charge (DSIC) to 3.58%, effective July 1, 2021.

B. Penn Power states on its cover letter accompanying the tariff filing that, as of December 2020, Advanced Distribution Management System (ADMS) costs are included for recovery in Penn Power's DSIC.

C. Pursuant to the settlement of a prior DSIC proceeding, Penn Power was required to directly notify all parties in the first DSIC or base rate filing in which Penn Power seeks recovery of ADMS costs in rates. *Petition of Pennsylvania Power Co. for a Waiver of the DSIC Cap*, Docket No. P-2019-3012628, Joint Petition for Settlement, ¶12.d (approved by PUC Order entered

Mar. 12, 2020) (2020 Settlement) (“Penn Power will serve such notification and filing to the parties via e-mail on the same date the filing is made”).

D. On review, the OCA identified that the cover letter accompanying the Company’s quarterly DSIC filing effective April 1, 2021 also included a sentence stating that “As of December 2020, Advanced Distribution Management System costs have been placed in service and are included for recovery in the filing for Penn Power with this rider.”

E. In the 2020 Settlement, the settling parties, which included Penn Power and the OCA, agreed that Penn Power could present a future claim to recover ADMS costs in rates and that the other parties could review and challenge such a claim.

F. According to the cover letters accompanying its two most recent quarterly updates, Penn Power has begun to claim ADMS costs in its DSIC rates effective April 1 and July 1, 2021.

G. The DSIC rate proposed and approved effective April 1, 2021 was 6.80%.

H. Penn Power provides service to approximately 170,000 electric utility customers in Allegheny, Beaver, Butler, Crawford, Lawrence and Mercer Counties.

I. The DSIC rates calculated to recover ADMS costs during the second and third quarters of 2021 may be unjust or unreasonable, in violation of Sections 1301 and 1350, 1351 and 1353 (with regard to “eligible property”), 66 Pa. C.S. §§ 1301, 1350, 1351, 1353.

J. The Consumer Advocate is empowered to represent the interests of consumers before the Pennsylvania Public Utility Commission, pursuant to Act 161 of the Pennsylvania General Assembly, 71 P. S. §§ 309-1 *et seq.*, as enacted July 9, 1976.

K. After initial review of Penn Power’s filing, the Interim Acting Consumer Advocate files this Formal Complaint in order to ensure that the Company’s existing and proposed DSIC tariff and DSIC rate, including *inter alia*, the recovery of ADMS costs, do not result in rates and

charges that are excessive, discriminatory or otherwise contrary to applicable statutes, Commission regulations or policy.

**5. RELIEF**

The Interim Acting Consumer Advocate respectfully respects that the Public Utility Commission:

A. Investigate the Tariff Supplement No. 97 and refund to customers all charges found to be improper;

B. Consolidate all complaints filed against Tariff Supplement No. 97;

C. Hold full evidentiary hearings examining the reasonableness of the Company's rate changes;

D. Hold public input hearings in Penn Power's service territory, if consumer interest arises;

E. Modify or reject the DSIC rate and tariff if they are not found to be in compliance with Sections 1301, 1350, 1351, 1353 of the Public Utility Code, 66 Pa.C.S. §§ 1301, 1350, 1351, 1353;

D. Modify or reject the July 1, 2021 DSIC rate and tariff if they are not found to be just and reasonable and in the public interest; and

E. Grant any other relief deemed necessary.

**6. VERIFICATION AND SIGNATURE**

***Verification:***

*I, Christine Maloni Hoover, 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. § 4904 (relating to unsworn falsification to authorities).*

/s/ Christine Maloni Hoover  
**(Signature)**

June 25, 2021  
**(Date)**

**7. LEGAL REPRESENTATION**

Erin L. Gannon, Senior Assistant Consumer Advocate  
Pa. Attorney No. 83487

Counsel for:  
Christine Maloni Hoover  
Interim Acting Consumer Advocate

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  
Email – egannon@paoca.org

312031

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. § 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 Interim Acting Consumer Advocate determined to file a Formal Complaint and participate in proceedings before the Commission involving the Distribution System Improvement Charge (DSIC) tariff and rate proposed by Pennsylvania Power Company (Penn Power or the Company) at Docket No. M-2021-3026675.

On July 21, 2021, Penn Power filed a proposed DSIC tariff, pursuant to 66 Pa. C.S. § 1353. The Company calculates a DSIC rate of 3.58%. The Interim Acting Consumer Advocate has filed this Complaint with the Commission to ensure that each aspect of Penn Power's existing and proposed DSIC rate and tariff is scrutinized and that the proposed DSIC rate and tariff are consistent with Sections 1301, 1350, 1351 and 1353 of the Public Utility Code, 66 Pa.C.S. §§ 1301, 1350, 1351 and 1353, and sound public policy. The OCA will seek to ensure that only those costs which comply with the requirements of the Public Utility Code will be paid through a DSIC by the Company's ratepayers. In addition, the OCA will also seek to ensure that any DSIC rate approved by the Commission is not otherwise excessive.