



COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA PUBLIC UTILITY COMMISSION  
COMMONWEALTH KEYSTONE BUILDING  
400 NORTH STREET, HARRISBURG, PA 17120

BUREAU OF  
INVESTIGATION  
&  
ENFORCEMENT

April 26, 2022

**Via Electronic Filing**

Secretary Rosemary Chiavetta  
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-2022-3031113  
**I&E Prehearing Memorandum**

Dear Secretary Chiavetta:

Enclosed for electronic filing please find the Bureau of Investigation and Enforcement's (I&E) **Prehearing Memorandum** for the above-captioned proceeding.

Copies are being served on parties per the attached Certificate of Service. Should you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink that reads 'Scott B. Granger'.

Scott B. Granger  
Prosecutor  
Bureau of Investigation and Enforcement  
PA Attorney ID No. 63641  
(717) 425-7593  
[sgranger@pa.gov](mailto:sgranger@pa.gov)

SBG/jfm  
Enclosures

cc: Hon. F. Joseph Brady, OALJ-Philadelphia (*via email only*)  
Per Certificate of Service

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	
	:	
v.	:	Docket No. R-2022-3031113
	:	
PECO Energy Company – Gas Division	:	
Rate Increase	:	

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**PREHEARING MEMORANDUM  
OF THE  
BUREAU OF INVESTIGATION AND ENFORCEMENT**

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**TO: ADMINISTRATIVE LAW JUDGE F. JOSEPH BRADY:**

The Bureau of Investigation and Enforcement (“I&E”) of the Pennsylvania Public Utility Commission (“Commission”) respectfully submits the following Prehearing Memorandum in the above-captioned consolidated proceedings.

The Bureau of Investigation and Enforcement Prosecutor in these proceedings will be Scott B. Granger. Contact information is as follows:

By mail:           Scott B. Granger  
                      Pennsylvania Public Utility Commission  
                      Commonwealth Keystone Building  
                      400 North Street  
                      Harrisburg, PA 17120

By e-mail:         [sgranger@pa.gov](mailto:sgranger@pa.gov)  
By telephone:     (717) 425-7593  
By fax:            (717) 772-2677

## I. INTRODUCTION

On March 31, 2022, pursuant to Section 1308 of the Pennsylvania Public Utility Code,<sup>1</sup> PECO Energy Company (“PECO” or the “Company”) filed its proposed PECO Tariff Gas - Pa. P.U.C. No. 5 (“Tariff No. 5”). Tariff No. 5 sets forth proposed rates designed to produce an increase in the Company’s annual natural gas distribution revenue of approximately \$82.1 million, or 9.1%, based on data for a fully projected future test year ending December 31, 2023. Tariff No. 5 also contains revisions in, additions to, and deletions from, certain Rules and Regulations, rate schedules and riders in the Company’s currently effective tariff.<sup>2</sup> Tariff No. 5 bears an issue date of March 31, 2022, and an effective date of May 30, 2022. The Company states that it expects the Commission to suspend the rate filing for investigation, and as a result the Company expects the new rates will become effective on approximately January 1, 2023.

I&E filed its Notice of Appearance on April 4, 2022.

The Office of Consumer Advocate (“OCA”) filed a Formal Complaint and Notice of Appearance on April 4, 2022.

The Office of Small Business Advocate (“OSBA”) filed a Formal Complaint and Notice of Appearance on April 8, 2022.

The Coalition for Affordable and Energy Efficiency in Pennsylvania (“CAUSE-PA”) filed a petition to intervene on April 13, 2022.

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<sup>1</sup> 66 Pa. C.S. §1308.

<sup>2</sup> PECO Supplement 8 to Gas – Tariff Pa. P.U.C. No. 4 (effective March 1, 2022).

Additionally, at least one PECO Gas customer has filed a formal complaint in response to PECO's rate increase filing.

On April 14, 2022, the Commission entered an Order suspending the implementation of proposed PECO Tariff Gas-PA. P.U.C. No. 5 by operation of law until December 30, 2022, and opening an investigation to determine the lawfulness, justness, and reasonableness of the rates, rules, and regulations contained in PECO Gas' proposed Tariff Gas No. 5. The Commission also stated the investigation shall include consideration of the lawfulness, justness, and reasonableness of the PECO Energy Company's existing rates, rules, and regulations.

The case was assigned to the Office of Administrative Law Judge for the prompt scheduling of such hearings as may be necessary culminating in the issuance of a Recommended Decision.

A telephonic Prehearing Conference is scheduled for Wednesday, April 27, 2022, beginning at 10:00 am before Administrative Law Judge F. Joseph Brady presiding telephonically.

## **II. ISSUES**

The following list represents I&E's preliminary determination of the potential issues in these proceedings. The listing is as complete as can be made at this time. I&E specifically reserves the right to address other issues, as it deems appropriate if any such relevant issues arise. The issues are as follows:

- Rate Case Expense
- Payroll Expense
- Employee Benefits

Payroll Taxes  
Employee Activity Costs  
Industry Organization Memberships  
Energy Efficiency and Conservation Program  
Contracting/Materials  
Travel, Meals, and Entertainment  
Other Post-Employment Benefits  
Cash Working Capital  
Proxy Group  
Capital Structure  
Cost of Long-Term Debt  
Cost of Equity  
Adjustments to the Cost of Equity  
Overall Rate of Return  
Rate base  
Reporting requirements  
Plant additions  
Accumulated Depreciation  
Materials and Supplies  
Gas Storage  
Customer Deposits  
Customer Advances for Construction  
DSIC revenue allocation proposal to rate base  
Other Operating Revenue  
Forfeited Discounts  
Cost of Service  
Revenue allocation  
Negotiated Gas Service  
Customer Charges / Rate Design  
Gradualism / Rate shock  
Scale back of rates  
Line hits  
One Call  
Risk Reduction  
Classes of leaks and leak statistics analysis  
Pipeline replacement costs including restoration costs

### **III. WITNESSES**

It is currently expected that I&E may call the following expert witnesses without being limited thereto:

Christine Wilson, Fixed Utility Financial Analyst Supervisor;  
Brian LaTorre, Fixed Utility Financial Analyst;  
Anthony Spadaccio, Fixed Utility Financial Analyst;  
Joseph Kubas, Fixed Utility Valuation Engineer Supervisor;  
Esysan Sakaya, Fixed Utility Valuation Engineer;  
Terri Cooper-Smith, Safety Engineer Supervisor;  
Elena Bozhko, Safety Engineer

The I&E witnesses may be contacted through the information listed above for Prosecutor Granger. The witness list is provided without the benefit of complete discovery or analysis of the positions of potential other parties to this proceeding. Accordingly, I&E reserves the right to call additional witnesses or withdraw the name of the witnesses listed above.

### **IV. EVIDENCE**

I&E expects to present all written direct, rebuttal and surrebuttal testimony and accompanying exhibits at the evidentiary hearing. Moreover, I&E intends to rely on the Company's filing, supplemental testimony, answers to data requests and interrogatories, annual reports and other documents submitted to the Commission, other relevant Commission filings, any other relevant Commonwealth agency letters or reports, general financial market information sources and other public documents and reports.

### **V. DISCOVERY**

Discovery in these proceedings will be conducted according to 52 Pa. Code §§5.321 et. seq. No modifications to the rules of discovery have been proposed by I&E.

I&E will give due consideration to any discovery modifications proposed by any other party. In the past, I&E has accepted the “usual” discovery modifications as proposed by the OCA. Also, pursuant to 52 Pa. Code §§5.322 and 5.331(b), discovery has begun and is ongoing.

## **VI. SCHEDULE**

I&E is working with the parties to develop a schedule in this proceeding. As of this date, the parties have not yet agreed on a schedule. I&E tentatively proposes the following:

Filing w/Company Direct	March 31, 2022
Non-Company Direct	June 22, 2022
Rebuttal Testimony	July 21, 2022
Surrebuttal Testimony	August 4, 2022
Oral Rejoinder Outlines	August 9, 2022
Hearings <sup>3</sup>	August 11-12, 2022
Main Brief	September 7, 2022
Reply Brief	September 19, 2022, NOON

## **VII. PUBLIC INPUT HEARINGS**

I&E does not oppose public input hearings. Should public input hearings be deemed necessary, I&E recommends the Commission consider the use of telephonic hearings to encourage increased participation by the ratepayers.

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<sup>3</sup> Upon the rescinding of Governor Tom Wolf’s Proclamation of Disaster Emergency; the re-opening of the Keystone Commonwealth Building; and the return to in-person hearings; I&E requests that Hearings be held in Harrisburg, PA.

## VIII. SERVICE OF DOCUMENTS

The Commission's March 20, 2020 Emergency Order,<sup>4</sup> which was controlling regarding electronic service of documents, expired on September 30, 2021. In anticipation of the expiration of the March 20 Order, the Commission issued a new Order on September 15, 2021 regarding the regulations controlling service requirements.<sup>5</sup> Pursuant to the September 15 Order, the Commission recognized, for purposes of satisfying service of documents requirements:

... that some of the measures we implemented significantly benefitted the operational needs of the Commission, the public and the regulated community. Specifically, the electronic service requirements we adopted were essential to ensuring continued, uninterrupted operations, providing needed flexibility. Therefore, in order to maintain that flexibility to respond to operational demands, we will waive certain regulatory service provisions, consistent with our previous actions.<sup>6</sup>

Further, the Commission stated:

... some of the operational restraints occasioned by the pandemic remain. ... Toward this end, we will continue to permit electronic service *by* the Commission on all parties, regardless of whether a particular party has agreed to electronic service. ... Additionally, service *on* Commission staff in proceedings pending before it, whether staff is a party or otherwise, shall be exclusively electronic unless the parties agree otherwise.<sup>7</sup>

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<sup>4</sup> Docket No. M-2020-3019262, *Re: Suspension of Regulatory and Statutory Deadlines, Modification to Filing and Service Requirements* ("March 20 Order").

<sup>5</sup> Docket No. M-2021-3028321, *Re: Waiver of Regulations Regarding Service Requirements* ("September 15 Order")

<sup>6</sup> September 15 Order, p. 3.

<sup>7</sup> *Id.*, p. 6.



Therefore, for purposes of satisfying in-hand service requirements for discovery responses, prepared testimony, briefs and other documents; while operational restraints continue during this proceeding, and consistent with the Commission's September 15 Order, I&E requests that electronic delivery of documents continue to satisfy the service requirements.

## **IX. SETTLEMENT**

I&E will maintain an open dialogue and is willing to make good faith efforts to successfully resolve this matter through settlement. In the event settlement discussions fail to result in a full and complete resolution of the matter, I&E is prepared to fully or partially litigate this proceeding.

Respectfully Submitted,



Scott B. Granger

Prosecutor

PA Attorney ID No. 63641

Bureau of Investigation and Enforcement  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, Pennsylvania 17120  
(717) 425-7593

Dated: April 26, 2022

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission :  
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 v. : Docket No. R-2022-3031113  
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 PECO Energy Company – Gas Division :  
 Rate Increase :

**CERTIFICATE OF SERVICE**

I hereby certify that I am serving the foregoing **Prehearing Memorandum** dated April 26, 2022, in the manner and upon the person listed below.

**Served via Electronic Mail Only**

Hon. F. Joseph Brady  
Office of Administrative Law Judge  
Pennsylvania Public Utility Commission  
801 Market Street  
Suite 4063  
Philadelphia, PA 19107  
[fbrady@pa.gov](mailto:fbrady@pa.gov)

Anthony E. Gay, Esq.  
Jack R. Garfinkle, Esq.  
Brandon J. Pierce, Esq.  
Caroline S. Choi, Esq.  
PECO Energy Company  
2301 Market Street  
P.O. Box 8699  
Philadelphia, PA 19101  
[anthony.gay@exeloncorp.com](mailto:anthony.gay@exeloncorp.com)  
[jack.garfinkle@exeloncorp.com](mailto:jack.garfinkle@exeloncorp.com)  
[brandon.pierce@exeloncorp.com](mailto:brandon.pierce@exeloncorp.com)  
[caroline.choi@exeloncorp.com](mailto:caroline.choi@exeloncorp.com)  
*Counsel for PECO*

Kenneth M. Kulak, Esq.  
Mark A. Lazaroff, Esq.  
Brooke E. McGlinn, Esq.  
Catherine G. Vasudevan, Esq.  
Morgan, Lewis & Bockius LLP  
1701 Market Street  
Philadelphia, PA 19103  
[ken.kulak@morganlewis.com](mailto:ken.kulak@morganlewis.com)  
[mark.lazaroff@morganlewis.com](mailto:mark.lazaroff@morganlewis.com)  
[brooke.mcglinn@morganlewis.com](mailto:brooke.mcglinn@morganlewis.com)  
[catherine.vasudevan@morganlewis.com](mailto:catherine.vasudevan@morganlewis.com)  
*Counsel for PECO*

Richard G. Webster, Jr., VP  
Regulatory Policy & Strategy  
PECO Energy Company  
2301 Market Street - S15  
Philadelphia, PA 19103  
[dick.webster@exeloncorp.com](mailto:dick.webster@exeloncorp.com)

Charis Mincavage, Esq.  
Adeolu A. Bakare, Esq.  
McNees Wallace & Nurick, LLC  
100 Pine Street  
P.O. Box 1166  
Harrisburg, PA 17108-1166  
[cmincavage@mcneeslaw.com](mailto:cmincavage@mcneeslaw.com)  
[abakare@mcneeslaw.com](mailto:abakare@mcneeslaw.com)

Laura J. Antinucci, Esq.  
Barrett C. Sheridan, Esq.  
Mackenzie C. Battle, Esq.  
Darryl A. Lawrence, Esq.  
Office of Consumer Advocate  
555 Walnut Street  
5th Floor, Forum Place  
Harrisburg, PA 17101-1923  
[lantinucci@paoca.org](mailto:lantinucci@paoca.org)  
[bsheridan@paoca.org](mailto:bsheridan@paoca.org)  
[mbattle@paoca.org](mailto:mbattle@paoca.org)  
[dlawrence@paoca.org](mailto:dlawrence@paoca.org)

Steven C. Gray, Esq.  
Office of Small Business Advocate  
555 Walnut Street  
1st Floor, Forum Place  
Harrisburg, PA 17101-1923  
[sgray@pa.gov](mailto:sgray@pa.gov)

Lauren N. Berman, Esq.  
Ria M. Pereira, Esq.  
John W. Sweet, Esq.  
Elizabeth R. Marx, Esq.  
Pennsylvania Utility Law Project  
118 Locust Street  
Harrisburg, PA 17101  
[pulp@pautilitylawproject.org](mailto:pulp@pautilitylawproject.org)  
*Counsel for CAUSE-PA*

Byron Goldstein  
2365 Geneva Ave  
Glenside, PA 19038  
[colletheadmissionscounselor@yahoo.com](mailto:colletheadmissionscounselor@yahoo.com)



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Scott B. Granger  
Prosecutor  
Bureau of Investigation and Enforcement  
PA Attorney ID No. 63641