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April 26, 2022

VIA eFILING

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-2022-3031113**

Dear Secretary Chiavetta:

Enclosed for filing in the above-captioned proceeding, is the **Prehearing Memorandum of PECO Energy Company** (“Memorandum”). Copies of the Memorandum have been served upon Administrative Law Judge F. Joseph Brady and all parties of record.

If you have any questions, please do not hesitate to contact me.

Very truly yours,



Kenneth M. Kulak

KMK/tp
Enclosures

c: Per Certificate of Service (w/encls.)

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PENNSYLVANIA PUBLIC UTILITY COMMISSION	:	
	:	
v.	:	Docket No. R-2022-3031113
	:	
PECO ENERGY COMPANY – GAS DIVISION	:	

CERTIFICATE OF SERVICE

I hereby certify and affirm that I have this day served a copy of the **Prehearing Memorandum of PECO Energy Company** on the following persons in the matter specified in accordance with the requirements of 52 Pa. Code § 1.54:

BY ELECTRONIC MAIL

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Dated: April 26, 2022

Counsel for PECO Energy Company

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PENNSYLVANIA PUBLIC UTILITY COMMISSION	:	
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v.	:	Docket No. R-2022-3031113
PECO ENERGY COMPANY – GAS DIVISION	:	
	:	
	:	

**PREHEARING MEMORANDUM
OF
PECO ENERGY COMPANY – GAS DIVISION**

This memorandum is submitted in response to the Prehearing Conference Order issued by Administrative Law Judge F. Joseph Brady dated April 20, 2022.

I. INTRODUCTION

On March 31, 2022, PECO Energy Company (“PECO” or “the Company”) filed with the Pennsylvania Public Utility Commission (“Commission”) Tariff Gas – Pa. P.U.C. No. 5 (“Tariff No. 5”). Tariff No. 5 reflects an increase in annual natural gas distribution revenue of approximately \$81.2 million, or 9.1% of PECO’s total Pennsylvania jurisdictional gas operating revenue. The Company submitted a detailed Statement of Reasons supporting its requested rate increase with its initial filing, attached as Exhibit “A” hereto. By Order entered April 14, 2022, the Commission instituted a formal investigation to determine the lawfulness, justness and reasonableness of PECO’s existing and proposed rates, rules and regulations. Accordingly, Tariff No. 5 was suspended by operation of law until December 30, 2022.¹

Accompanying its tariff filing, PECO submitted extensive and detailed supporting information, including the prepared written testimony and exhibits of its ten initial witnesses.

¹ *Pa. P.U.C. v. PECO Energy Company*, Docket No. R-2022-3031113 (Order entered April 14, 2022).

During this case, PECO may submit additional testimony and exhibits in response to presentations of, or cross-examination by, other parties and with respect to any specific issues that might be raised by such parties. In addition, certain testimony and exhibits will be updated, as necessary, to reflect known changes that should be considered in this proceeding.

In support of its proposed rate increase, PECO has presented complete and separate data for the historic test year (“HTY”) ended December 31, 2021, the future test year (“FTY”) ending December 31, 2022, and the fully projected future test year (“FPFTY”) ending December 31, 2023. PECO intends, however, to rely primarily on the FPFTY data. PECO submits that the record at the close of this proceeding will fully demonstrate that the proposed rates are lawful, just and reasonable and should be approved in full by the Commission.

On April 4, 2022, the Office of Consumer Advocate (“OCA”) filed a formal Complaint and Public Statement, as well as a Notice of Appearance on behalf of Laura J. Antinucci, Esq., Barrett C. Sheridan, Esq., Mackenzie C. Battle, Esq., and Darryl A. Lawrence, Esq. On April 4, 2022, Scott B. Granger, Prosecutor for the Commission’s Bureau of Investigation and Enforcement (“I&E”) filed his Notice of Appearance. On April 8, 2022, Steven C. Gray, Esq., entered a Notice of Appearance on behalf of the Office of Small Business Advocate (“OSBA”) and filed a Complaint, Public Statement and Verification. On April 18, 2022, Byron L. Goldstein filed a *pro se* formal Complaint. On April 25, 2022, the Philadelphia Area Industrial Energy Users Group (“PAIEUG”) filed a Complaint.

As of this date, the Company has been served with the Petition to Intervene and Answer of the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (“CAUSE-PA”), dated April 13, 2022.

II. ISSUES

Generally, every rate case presents two major issues for resolution: (1) the total amount of the revenue increase to which the utility is entitled; and (2) the allocation of the increased revenues among the utility's rate classifications through a rate structure and rate design that will produce the required revenue.

A determination of the total revenue increase to which a utility is entitled involves several elements which may be grouped under three headings and characterized as the following major sub-issues herein:

A. Total Return. The total return (utility operating income) required by the utility to provide a fair rate of return on its claimed rate base. Fair rate of return involves the determination of the appropriate cost or return rate for the capital employed by the Company to furnish gas service. Such return must be sufficient to enable the Company to maintain the financial integrity of its existing capital and to attract additional capital on reasonable terms. In addition, the Company must be permitted an opportunity to earn, on the portion of its rate base financed by common equity, a return commensurate with the returns on investments in other enterprises having similar risks. The appropriate rate of return for the Company, and in particular the appropriate return rate for the Company's common equity, is an issue which is critical to the well-being of the Company and its ability to continue to provide the service that its customers have been receiving and are entitled to receive in the future.

B. Operating Expenses. The future or ongoing level of the utility's operating expenses to provide gas distribution service, including depreciation, amortizations and taxes, which must be recovered from customers through rates.

C. Revenues. The gas distribution revenue normally available to the utility under present rates and the level of revenue that will be produced by the proposed rates.

By comparing the gas distribution revenue produced by the utility's present rates with its total required operating income and anticipated electric distribution operating expenses, depreciation, amortizations and taxes, the necessary increase in revenue and rate levels required to provide a fair rate of return is determined.

PECO proposes certain changes in rate design, which include principally aligning fixed distribution/customer charges with, or closer to, customer-classified costs. Certain other changes in rate design and in the rules, regulations and riders set forth in the Company's tariff are described in the testimony of Mr. Bisti and Mr. Yin (PECO Statement Nos. 7 and 8, respectively).

III. WITNESSES AND EVIDENCE

Listed below are the initial witnesses for PECO, together with a brief summary of the subject matter of their direct testimony.

1. **Ronald A. Bradley** (PECO Statement No. 1) is PECO's Vice President of Gas. Mr. Bradley describes PECO's gas distribution operations; provides an overview of this rate filing, including an introduction of the other witnesses who will present testimony in support of PECO's case-in-chief; explains PECO's capital investment process and identifies the types of projects that comprise PECO's claimed FTY and FPFTY plant additions; discusses the Company's actions to ensure the safety and reliability of PECO's gas distribution system; briefly describes how the Company has fulfilled obligations from PECO's 2020 gas base rate proceeding; supports the claim for manufactured gas plant remediation expense; discusses various initiatives launched by the Company to enhance the customer service, community

support and economic development, and protect and preserve the environment; and explains why, pursuant to Section 523 of the Public Utility Code, PECO's superior management performance justifies a higher return on equity.

2. **Robert J. Stefani** (PECO Statement No. 2) is Senior Vice President, Chief Financial Officer and Treasurer at PECO. Mr. Stefani provides an overview of PECO's principal accounting exhibits; discusses PECO's budgeting process; explains and supports PECO's gas sales forecast; and describes the services that PECO receives from affiliated entities and the estimated costs of those services during the FTY and FPFTY.

3. **Michael J. Trzaska** (PECO Statement No. 3) is a Principal Regulatory and Rates Specialist at PECO. Mr. Trzaska sponsors PECO Exhibits MJT-1, MJT-2 and MJT-3, which set forth PECO's revenue requirement for the FPFTY ending December 31, 2023, FTY ending December 31, 2022, and HTY ended December 31, 2021, respectively. In those exhibits and his direct testimony, Mr. Trzaska specifically supports PECO's measures of value, revenue, operating expense and tax claims.

4. **Caroline Fulginiti** (PECO Statement No. 4) is the Director of Accounting at PECO. Ms. Fulginiti describes PECO's accounting processes; supports the assignment and allocation of common costs between PECO's electric and gas operations; and explains the development of the depreciated original cost of the Company's gas utility plant in service and its claim for annual depreciation expense.

5. **Paul R. Moul** (PECO Statement No. 5) is the Managing Consultant of P. Moul & Associates, Inc. Mr. Moul presents testimony concerning the rate of return that PECO should be afforded an opportunity to earn on its measures of value. He supports PECO's claimed capital structure ratios, its embedded costs of debt, and its requested equity allowance, as follows:

<u>Type of Capital</u>	<u>Ratios</u>	<u>Cost Rate</u>	<u>Weighted Cost Rate</u>
Long-Term Debt	46.59%	3.92%	1.83%
Common Equity	53.41%	10.95%	5.85%
Total	100.00%		7.68%

6. **Jiang Ding** (PECO Statement No. 6) is a Principal Regulatory and Rates Specialist at PECO. Ms. Ding presents an unbundled, fully allocated, customer class cost-of-service study (“COSS”).

7. **Joseph A. Bisti** (PECO Statement No. 7) is a Principal Regulatory and Rates Specialist at PECO. Mr. Bisti presents PECO’s proposed tariff rates and explains how the results of Ms. Ding’s COSS, as well as the consideration of other factors, were utilized in the rate design process.

8. **Benjamin S. Yin** (PECO Statement No. 8) is the Director of Regulatory Strategy and Revenue Policy at PECO. Mr. Yin discusses proposed changes and clarifications to PECO’s gas service tariff.

9. **Doreen L. Masalta** (PECO Statement No. 9) is the Director of Energy and Marketing Services at PECO. Ms. Masalta describes the Company’s proposed enhancements to its residential and low-income gas energy efficiency programs.

10. **Kelly Colarelli** (PECO Statement No. 10) is the Director of Customer Financial Operations at PECO. Ms. Colarelli discusses PECO’s expanded outreach and education plans to better serve and reach the Company’s low-to-moderate-income customers, a proposal to increase the budget for PECO’s gas Low-Income Usage Reduction Program, a proposed extension of

PECO's existing small commercial gas customer grant program, and a new Gas Customer Safety Program.

The Company may present additional witnesses to address the direct testimony of other parties; however, such witnesses cannot be identified until the direct testimony of such parties is reviewed and evaluated.

IV. DISCOVERY

PECO and the OCA are also proposing several discovery modifications, attached as Exhibit "B" hereto. These modifications are substantially the same as those previously approved by the presiding Administrative Law Judge in PECO's 2021 electric base rate proceeding, with some minor changes. The first change provides for written objections to interrogatories to be due five calendar days after the due date for oral objections instead of five days after the interrogatories were served to avoid issues arising when the period for oral objections includes Saturday and Sunday. The second change provides for the response time period to begin on the next business day when interrogatories, requests for production, requests for admission or a motion is served after 4:30 p.m. Monday through Thursday. The third change provides that responses to on-the-record data requests will be provided within five calendar days. PECO believes that the proposed modifications with these additional changes will be acceptable to all parties.

In addition, PECO has submitted to the parties for their consideration a proposed Protective Order, which is attached as Exhibit "C" hereto. It is substantially the same form of Protective Order approved by the presiding Administrative Law Judge in PECO's 2021 electric base rate proceeding. PECO also expects that the parties will have no objections to its adoption, and respectfully requests that the Administrative Law Judge enter the proposed Protective Order.

To date, PECO has been served with 102 interrogatories and data requests, many containing multiple subparts, and PECO has responded to approximately 11 of those inquiries. PECO encourages informal exchanges of information and is prepared to meet with representatives of the other active parties to discuss issues of interest. To that end, PECO intends to conduct a Technical Conference before the due date for other parties' direct testimony to facilitate discussions between the active parties and the Company about information the Company has provided.

V. PROPOSED PROCEDURAL SCHEDULE

PECO proposes the schedule attached as Exhibit "D" to this Memorandum for the submission of testimony, public input hearings, the conduct of evidentiary hearings, and briefing. The Company believes this schedule should be acceptable to the parties, subject to approval by the Administrative Law Judge of any scheduling accommodations in the order of witnesses at hearings.

In light of continuing concerns regarding COVID-19, PECO proposes that the public input hearings in this case be held telephonically at 1 p.m. and 6 p.m. on June 1, 2022, as agreed to by the parties.

VI. SETTLEMENT

PECO will pursue stipulations of individual issues with the parties and the possibility of settlement that might lead to a comprehensive resolution of this matter.

VII. SERVICE LIST

PECO requests that the official service list entry for the Company be as follows:

Anthony E. Gay (Pa. No. 74624)
Jack R. Garfinkle (Pa. No. 81892)
Brandon J. Pierce (Pa. No. 307665)
Caroline S. Choi (Pa. No. 320554)
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brandon.pierce@exeloncorp.com
caroline.choi@exeloncorp.com

PECO also requests that a copy of all correspondence, discovery, testimony and other materials sent to the Company be provided to:

Kenneth M. Kulak (Pa. No. 75509)
Catherine G. Vasudevan (Pa. No. 210254)
Brooke E. McGlinn (Pa. No. 204918)
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mark.lazaroff@morganlewis.com

The lead attorney for purposes of the Prehearing Conference will be Mr. Pierce, Assistant General Counsel for the Company.

VIII. CONCLUSION

Based on the evidence referenced above, PECO submits that the rates proposed in Tariff Gas – Pa. P.U.C. No. 5 are lawful, just and reasonable in all respects. Accordingly, the requested rate increase should be approved by the Administrative Law Judge and the Commission at the close of this proceeding.

Respectfully submitted,



Anthony E. Gay (Pa. No. 74624)
Jack R. Garfinkle (Pa. No. 81892)
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Dated: April 26, 2022

Counsel for PECO Energy Company

EXHIBIT A

Statement of Reasons

PECO ENERGY COMPANY

STATEMENT OF SPECIFIC REASONS FOR PROPOSED INCREASE IN GAS RATES

PECO Energy Company (“PECO” or the “Company”) is filing to increase its annual natural gas distribution rates by approximately \$82.1 million, or 9.1% on the basis of total Pennsylvania jurisdictional gas operating revenue. In accordance with Section 1308 of the Public Utility Code, the tariff setting forth the Company’s proposed rates bears an effective date of May 30, 2022. However, the Company anticipates that its requested increase will be suspended and investigated by the Pennsylvania Public Utility Commission (“PUC” or the “Commission”) and, therefore, the Company does not expect that new Commission-approved rates will become effective until approximately January 1, 2023.

The reasons for the Company’s proposed increase are summarized below.

Rate Increase

PECO last filed for an increase in gas base rates in September 2020.¹ Since rates were established in that case, PECO has continued to make substantial investments in new and replacement gas utility plant to ensure that customers can continue to receive the safe and reliable service they have come to expect. PECO projects that it will need to invest approximately \$1.8 billion in new and replacement gas utility plant between January 2022 and December 2026.

¹ *PECO Energy Company General Base Rate Filing for Gas Operations*, Docket No. R-2020-3018929, filed on September 30, 2020.

Since its last gas base rate case, PECO has carefully managed its operation and maintenance (“O&M”) expenses, including taking concrete steps that reduced its bad debt expense, pension costs and other post-employment benefit costs. Indeed, excluding increases in expenses since 2021 caused by PECO’s enhancement of its gas-facility mapping and locate system, PECO projects that the compound annual growth rate (“CAGR”) in O&M expense from 2021 through the end of the FPFTY, will be 1.7%, which continues PECO’s long-term favorable CAGR. Nonetheless, the CAGR in PECO’s O&M expense would only be 2.8% even if the increases, which are prudently incurred but largely beyond the Company’s control, in gas mapping and location expenses were included.

Notwithstanding PECO’s aggressive efforts to manage its gas operations efficiently and contain O&M expenses, based on PECO’s review of its gas operations’ current and projected financial results, an increase in gas distribution revenues is needed and cannot be achieved without an increase in rates. Significantly, the per-customer usage of PECO’s residential class has generally declined year-over-year and currently remains below the levels experienced in 2012.

Absent rate relief, the Company’s overall rate of return at present rates is projected to be only 5.67% for the fully projected future test year (“FPFTY”), as shown in Schedule A-1 of PECO Exhibit MJT-1. More importantly, the indicated return on common equity under present rates is anticipated to be only 7.18%, which is inadequate by any reasonable standard and far less than required to provide the Company with a reasonable opportunity to attract capital.

Without the requested rate relief, PECO’s financial results would deteriorate even further following the FPFTY. This would jeopardize the Company’s ability to appropriately invest in the infrastructure needed to maintain and improve its safety, reliability and customer-service levels. It would also have an adverse impact on PECO’s credit-coverage ratios and negative implications with respect to maintaining the Company’s current credit ratings, which would increase its financing costs.

The requested rates would produce a 7.68% return on the Company’s claimed measures of value and a return on its common equity of 10.95%. These return levels are recommended by Mr. Paul R. Moul (PECO Statement No. 5), the Company’s cost-of-capital consultant and an expert on the subject of rate of return. Mr. Moul’s rate of return recommendations are set forth in PECO Exhibit PRM-1 and are summarized in the following table:

	<u>Ratio</u>	<u>Cost Rate</u>	<u>Weighted Cost</u>
Long-Term Debt	46.59%	3.92%	1.83%
Common Equity	53.41%	10.95%	5.85%
Total	100%		7.68%

Mr. Moul proposes a 10.95% return on common equity for this case based on his analysis of the Company’s cost of capital and its superior management performance. The factors exhibiting PECO’s superior management performance are described in the testimony of Mr. Ronald A. Bradley, PECO’s Vice President of Gas (PECO Statement No. 1).

Supporting Data

PECO is filing all of the supporting data required by the Commission's regulations, including data for the historic test year ("HTY") ended December 31, 2021, the future test year ("FTY") ending December 31, 2022, and the FPFTY ending December 31, 2023. Because the Company is basing its claim principally on the level of operations for the FPFTY, the discussion that follows will address FPFTY data.

The revenue and expense claims for the FPFTY have been prepared in accordance with accepted practices of the Commission. Operating revenues at present rates were derived from budgeted revenues for PECO's gas operations for the twelve months ending December 31, 2023 and adjusted in the manner summarized on Schedule D-5 of PECO Exhibit MJT-1. Principal revenue adjustments include annualizing revenues for changes in the number of customers and the discounts provided to customers in PECO's Customer Assistance Program; and increasing revenue to reflect a normalized annual service period containing 365.25 days.

Pro forma FPFTY operating expenses were developed from PECO's budget for gas operations for the twelve months ending December 31, 2023. Budgeted expenses were prepared based on the business activities and related cost categories of PECO's gas division (e.g., payroll, pensions, employee benefits, outside contracting costs). The expenses were distributed to the accounts identified in the Federal Energy Regulatory Commission's Uniform System of Accounts for Natural Gas Companies based on the expense distribution experienced by the Company during the HTY. The budget data, as distributed to FERC accounts, were annualized and/or normalized in accordance with established Commission ratemaking

practices, and other appropriate adjustments were made, all of which are set forth in Schedules D-6 through D-16 of PECO Exhibit MJT-1.

Annual depreciation expense for gas and common plant in service at December 31, 2023 was calculated using the remaining life method, which the Commission has previously approved for PECO's gas operations. PECO's claim for the estimated annualized depreciation accrual associated with gas plant in service at December 31, 2023 is set forth in Schedule D-17 of PECO Exhibit MJT-1. The manner in which PECO developed its claimed annual accrual is described by Caroline Fulginiti in PECO Statement No. 4.

Income taxes were calculated using procedures commonly accepted by the Commission and reflect the tax rates and other tax changes enacted by the Tax Cuts and Jobs Act, which became effective on January 1, 2018. The interest expense deduction was synchronized with the Company's measures of value and claimed weighted average cost of long-term debt. The normalization method was used to reflect the tax-book timing differences associated with the use of accelerated methods of tax depreciation to the extent permitted by the Commission and appellate precedent. In addition, there are adjustments to other tax-book differences and flow-through amounts. Tax expense was reduced to reflect the amortization of the unamortized investment tax credits and to flow back "excess" accumulated deferred tax liabilities created by the reduction in the federal corporate income tax rate as of January 1, 2018. The income tax expense claims for the FPFTY at present rate and proposed rate revenue levels are shown on PECO Exhibit MJT-1, Schedule D-18.

PECO's measures of value reflect the Company's balances of gas plant at December 31, 2023, including common plant used in, and appropriately allocated to, gas operations, as shown in Schedules C-1, C-2, C-3 and C-8 of PECO Exhibit MJT-1. The estimated original cost of gross plant at December 31, 2023 was developed by taking the original cost of gross plant at December 31, 2021, adding the estimated plant additions by account for 2022 and 2023, and subtracting the estimated plant retirements for 2022 and 2023. The estimated accumulated book reserve at December 31, 2023 was calculated in similar fashion. Specifically, the accumulated book reserve at December 31, 2021 was brought forward to December 31, 2023 by adding the 2022 and 2023 estimated annual depreciation accrual; subtracting the 2022 and 2023 estimated plant retirements; and adding 2022 and 2023 estimated cost of removal net of salvage that is closed to the accumulated book reserve. The depreciated original cost of utility plant in service, cash working capital, materials and supplies, and gas storage inventory were included in the determination of the measures of value, while accumulated deferred Federal income taxes, a 13-month average of customer advances, and a 13-month average of customer deposits were deducted from measures of value.

As is evident from the foregoing and the extensive supporting data filed by the Company, the proposed increase is just and reasonable and is the minimum increase necessary to enable the Company to earn a reasonable return on the fair value of its property that is used and useful in the public service, to maintain the integrity of its existing capital, and to attract new capital.

Rate Structure and Rate Design

As Mr. Joseph A. Bisti (PECO Statement No. 7) explains, in developing its rate-structure proposal, the Company considered the results of a cost of service study performed by Ms. Jiang Ding (PECO Statement No. 6). While the cost of service study was used as a guide, the Company also considered the principle of gradualism that has traditionally been applied in Pennsylvania. Accordingly, the proposed rates were designed to mitigate the impact on each major rate class, to the extent practicable, while still making meaningful movement toward the system average rate of return.

PECO proposes certain changes in rate design, which include principally aligning fixed distribution/customer charges with, or closer to, customer-classified costs. Certain other changes in rate design and in the rules, regulations and riders set forth in the Company's tariff are described in the testimony of Mr. Bisti and Mr. Benjamin S. Yin (PECO Statement No. 8).

Energy Efficiency Programs

As part of this case, PECO is proposing to add new rebate measures and increase rebate ranges its residential energy efficiency programs within the Company's existing budget. In addition, PECO is proposing to increase funding for its Safe and Efficient Heating Program to support new measures and provide rebates and appliance upgrade opportunities to more

low-income customers. Ms. Doreen L. Masalta discusses the program changes in detail in PECO Statement No. 9.

Community Involvement

PECO also has a strong and continuing tradition of community involvement. The Company's corporate citizenship efforts are designed to improve the quality of life for the people who live and work in PECO's service territory, and include support for education and the environment, sponsorships, employee volunteer activities, and executive involvement on outside nonprofit boards. In addition, PECO's significant capital and infrastructure investments in its service territory create and maintain thousands of jobs in the region. The Company invests in their community and workforce by providing multiple workforce development programs to train job seekers for career opportunities at PECO.

Summary

The requested increase in revenues is the minimum necessary to enable the Company to appropriately invest in the infrastructure needed to maintain and improve its safety, reliability and customer-service levels; to maintain the integrity of PECO's existing capital; to attract additional capital at reasonable costs; and to have an opportunity to achieve a fair rate of return on its investment in property dedicated to public service. The Company's proposed revenue allocation and rate design are just, reasonable and non-

discriminatory. Accordingly, the Company's proposed rates, rules and terms of service should be permitted to become effective as filed.

EXHIBIT B

Proposed Discovery Modifications

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PENNSYLVANIA PUBLIC UTILITY COMMISSION	:	
	:	
v.	:	Docket No. R-2022-3031113
PECO ENERGY COMPANY – GAS DIVISION	:	
	:	
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PECO PROPOSED DISCOVERY PROCEDURE MODIFICATIONS

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) calendar days after oral objections to interrogatories are due.
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 4:30 p.m. Monday through Thursday or 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.
10. Responses to On the Record Data requests will be provided within five (5) calendar days.

EXHIBIT C

Proposed Protective Order

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PENNSYLVANIA PUBLIC UTILITY COMMISSION	:	
	:	
v.	:	Docket No. R-2022-3031113
PECO ENERGY COMPANY – GAS DIVISION	:	
	:	
	:	

PROTECTIVE ORDER

IT IS ORDERED THAT:

1. This Protective Order is hereby GRANTED and shall establish procedures for the protection of all materials and information identified in Paragraphs 2 and 3 below, which are or will be filed with the Commission, produced in discovery, or otherwise presented during the above-captioned proceeding and all proceedings consolidated with it. All persons now or hereafter granted access to the materials and information identified in Paragraph 2 of this Protective Order shall use and disclose such information only in accordance with this Order.

2. The information subject to this Protective Order is all correspondence, documents, data, information, studies, methodologies and other materials, whether produced or reproduced or stored on paper, cards, tape, disk, film, electronic facsimile, magnetic or optical memory, computer storage devices or any other devices or media, including, but not limited to, electronic mail (e-mail), furnished in this proceeding that the producing party believes to be of a proprietary or confidential nature and are so designated by being stamped “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL” protected material. Such materials are referred to in this Order as “Proprietary Information.” When a statement or exhibit is identified for the record, the portions thereof that constitute Proprietary Information shall be designated as such for the record.

3. For purposes of this Protective Order there are two categories of Proprietary Information: “CONFIDENTIAL” and “HIGHLY CONFIDENTIAL” protected material. A producing party may designate as “CONFIDENTIAL” those materials that are customarily treated by that party as sensitive or proprietary, that are not available to the public, and that, if generally disclosed, would subject that party or its clients to the risk of competitive disadvantage or other business injury. A producing party may designate as “HIGHLY CONFIDENTIAL” those materials that are of such a commercially sensitive nature, relative to the business interests of parties to this proceeding, or of such a private or personal nature, that the producing party determined that a heightened level of confidential protection with respect to those materials is appropriate. The parties shall endeavor to limit the information designated as “HIGHLY CONFIDENTIAL” protected material.

4. Subject to the terms of this Protective Order, Proprietary Information shall be provided to counsel for a party who meets the criteria of a “Reviewing Representative” as set forth below. Such counsel shall use or disclose the Proprietary Information only for purposes of preparing or presenting evidence, testimony, cross examination or argument in this proceeding. To the extent required for participation in this proceeding, such counsel may allow others to have access to Proprietary Information only in accordance with the conditions and limitations set forth in this Protective Order.

5. Information deemed “CONFIDENTIAL” shall be provided to a “Reviewing Representative.” For purposes of “CONFIDENTIAL” Proprietary Information, a “Reviewing Representative” is a person who has signed a Non-Disclosure Certificate and is:

- i. A statutory advocate, or an attorney for a statutory advocate pursuant to 52 Pa. Code § 1.8 or an attorney who has formally entered an appearance in this proceeding on behalf of a party;
- ii. An attorney, paralegal, or other employee associated for purposes of this case with an attorney described in subparagraph (i) above;
- iii. An expert or an employee of an expert retained by a party for the purpose of advising that party or testifying in this proceeding on behalf of that party; or
- iv. Employees or other representatives of a party to this proceeding who have significant responsibility for developing or presenting the party's positions in this docket.

6. Information deemed "HIGHLY CONFIDENTIAL" protected material shall be provided to a Reviewing Representative, provided, however that a Reviewing Representative, for purposes of "HIGHLY CONFIDENTIAL" protected material, is limited to a person who has signed a Non-Disclosure Certificate and is:

- i. A statutory advocate, or an attorney for a statutory advocate, pursuant to 52 Pa. Code § 1.8 or an attorney who has formally entered an appearance in this proceeding on behalf of a party;
- ii. An attorney, paralegal, or other employee associated for purposes of this case with an attorney described in subparagraph (i);
- iii. An outside expert or an employee of an outside expert retained by a party for the purposes of advising that party or testifying in this proceeding on behalf of that party; or
- iv. A person designated as a Reviewing Representative for purposes of HIGHLY CONFIDENTIAL protected material pursuant to paragraph 11.

Provided, further, that in accordance with the provisions of Sections 5.362 and 5.365(e) of the Commission's Rules of Practice and Procedure (52 Pa. Code §§ 5.362, 5.365(e)) any party may, by objection or motion, seek further protection with respect to HIGHLY CONFIDENTIAL protected material, including, but not limited to, total prohibition of disclosure or limitation of disclosure only to particular parties.

7. For purposes of this Protective Order, a Reviewing Representative may not be a “Restricted Person” absent agreement of the party producing the Proprietary Information pursuant to Paragraph 11. A “Restricted Person” shall mean: (a) an officer, director, stockholder, partner, or owner of any competitor of the parties or an employee of such an entity if the employee’s duties involve marketing or pricing of the competitor’s products or services or advising another person who has such duties; (b) an officer, director, stockholder, partner, or owner of any affiliate of a competitor of the parties (including any association of competitors of the parties) or an employee of such an entity if the employee’s duties involve marketing or pricing of the competitor's products or services or advising another person who has such duties; (c) an officer, director, stockholder, owner, agent (excluding any person under Paragraph 6.i or 6.ii), or employee of a competitor of a customer of the parties or of a competitor of a vendor of the parties if the Proprietary Information concerns a specific, identifiable customer or vendor of the parties; and (d) an officer, director, stockholder, owner or employee of an affiliate of a competitor of a customer of the parties if the Proprietary Information concerns a specific, identifiable customer of the parties; provided, however, that no expert shall be disqualified on account of being a stockholder, partner, or owner unless that expert’s interest in the business would provide a significant motive for violating the limitations of permissible use of the Proprietary Information. For purposes of this Protective Order, stocks, partnership or other ownership interests valued at more than \$10,000 or constituting more than a 1% interest in a business establish a significant motive for violation. A “Restricted Person” shall not include an expert for the Office of Small Business Advocate or Office of Consumer Advocate.

8. If an expert for a party, another member of the expert’s firm or the expert’s firm generally also serves as an expert for, or as a consultant or advisor to, a Restricted Person (other than an expert or expert firm retained by the Office of Small Business Advocate or Office of Consumer Advocate), that expert must: (1) identify for the parties each Restricted Person and all

personnel in or associated with the expert's firm that work on behalf of the Restricted Person; (2) take all reasonable steps to segregate those personnel assisting in the expert's participation in this proceeding from those personnel working on behalf of a Restricted Person; and (3) if segregation of such personnel is impractical, the expert shall give to the producing party written assurances that the lack of segregation will in no way adversely affect the interests of the parties or their customers. The parties retain the right to challenge the adequacy of the written assurances that the parties' or their customers' interests will not be adversely affected. No other persons may have access to the Proprietary Information except as authorized by order of the Commission.

9. Reviewing Representatives qualified to receive "HIGHLY CONFIDENTIAL" protected material may discuss HIGHLY CONFIDENTIAL protected material with their client or with the entity with which they are employed or associated, to the extent that the client or entity is not a "Restricted Person," but may not share with, or permit the client or entity to review or have access to, the HIGHLY CONFIDENTIAL protected material.

10. Proprietary Information shall be treated by the parties and by the Reviewing Representative in accordance with the terms of this Protective Order, which are hereby expressly incorporated into the certificate that must be executed pursuant to Paragraph 12(a). Proprietary Information shall be used as necessary, for the conduct of this proceeding and for no other purpose. Proprietary Information shall not be disclosed in any manner to any person except a Reviewing Representative who is engaged in the conduct of this proceeding and who needs to know the information in order to carry out that person's responsibilities in this proceeding, provided, however, that counsel for I&E, the Office of Consumer Advocate, and Office of Small Business Advocate may share Proprietary Information with the I&E Director, the Consumer Advocate, and the Small Business Advocate, respectively, without obtaining a Non-Disclosure Certificate from these individuals, provided, however, that these individuals otherwise abide by the terms of the Protective Order.

11. Reviewing Representatives may not use anything contained in any Proprietary Information obtained through this proceeding to give any party or any competitor of any party a commercial advantage. In the event that a party wishes to designate as a Reviewing Representative a person not described in paragraph 6 (i) through (iii) above, the party must first seek agreement to do so from the party providing the Proprietary Information. If an agreement is reached, the designated individual shall be a Reviewing Representative pursuant to Paragraph 6 (iv) above with respect to those materials. If no agreement is reached, the party seeking to have a person designated a Reviewing Representative shall submit the disputed designation to the presiding Administrative Law Judge for resolution.

12. (a) A Reviewing Representative shall not be permitted to inspect, participate in discussions regarding, or otherwise be permitted access to Proprietary Information pursuant to this Protective Order unless that Reviewing Representative has first executed a Non-Disclosure Certificate in the form provided in Appendix A, provided, however, that if an attorney or expert qualified as a Reviewing Representative has executed such a certificate, the paralegals, secretarial and clerical personnel under his or her instruction, supervision or control need not do so. A copy of each executed Non-Disclosure Certificate shall be provided to counsel for the party asserting confidentiality prior to disclosure of any Proprietary Information to that Reviewing Representative.

(b) Attorneys and outside experts qualified as Reviewing Representatives are responsible for ensuring that persons under their supervision or control comply with the Protective Order.

13. The parties shall designate data or documents as constituting or containing Proprietary Information by stamping the documents “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL” protected material. Where only part of data compilations or multi-page documents constitutes or contains Proprietary Information, the parties, insofar as reasonably

practicable within discovery and other time constraints imposed in this proceeding, shall designate only the specific data or pages of documents which constitute or contain Proprietary Information. The Commission and all parties, including the statutory advocates and any other agency or department of state government will consider and treat the Proprietary Information as within the exemptions from disclosure provided in the Pennsylvania Right-to-Know Act (65 P.S. § 67.708(b)(11)) until such time as the information is found to be non-proprietary.

14. Any public reference to Proprietary Information by a party or its Reviewing Representatives shall be to the title or exhibit reference in sufficient detail to permit persons with access to the Proprietary Information to understand fully the reference and not more. The Proprietary Information shall remain a part of the record, to the extent admitted, for all purposes of administrative or judicial review.

15. Part of any record of this proceeding containing Proprietary Information, including but not limited to all exhibits, writings, testimony, cross examination, argument, and responses to discovery, and including reference thereto as mentioned in paragraph 14 above, shall be sealed for all purposes, including administrative and judicial review, unless such Proprietary Information is released from the restrictions of this Protective Order, either through the agreement of the parties to this proceeding or pursuant to an order of the Commission.

16. The parties shall retain the right to question or challenge the confidential or proprietary nature of Proprietary Information and to question or challenge the admissibility of Proprietary Information. If a party challenges the designation of a document or information as proprietary, the party providing the information retains the burden of demonstrating that the designation is appropriate.

17. The parties shall retain the right to object to the production of Proprietary Information on any proper ground, and to refuse to produce Proprietary Information pending the adjudication of the objection.

18. Within 30 days after a Commission final order is entered in the above-captioned proceeding, or in the event of appeals, within thirty days after appeals are finally decided, the receiving party, upon request, shall either destroy or return to the parties all copies of all documents and other materials not entered into the record, including notes, which contain any Proprietary Information. In its request, a providing party may specify whether such materials should be destroyed or returned. In the event that the materials are destroyed instead of returned, the receiving party shall certify in writing to the providing party that the Proprietary Information has been destroyed. In the event that the materials are returned instead of destroyed, the receiving party shall certify in writing to the providing party that no copies of materials containing the Proprietary Information have been retained.

Date: _____, 2022

F. Joseph Brady
Administrative Law Judge

APPENDIX A

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PENNSYLVANIA PUBLIC UTILITY COMMISSION	:	
	:	
v.	:	Docket No. R-2022-3031113
PECO ENERGY COMPANY – GAS DIVISION	:	
	:	
	:	

NON-DISCLOSURE CERTIFICATE

TO WHOM IT MAY CONCERN:

The undersigned is the _____ of _____
(the receiving party).

The undersigned has read and understands the Protective Order deals with the treatment of Proprietary Information. The undersigned agrees to be bound by, and comply with, the terms and conditions of said Order, which are incorporated herein by reference.

SIGNATURE

PRINT NAME

ADDRESS

EMPLOYER

DATE: _____

EXHIBIT D

Proposed Rate Case Schedule

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PENNSYLVANIA PUBLIC UTILITY COMMISSION	:	
	:	
v.	:	Docket No. R-2022-3031113
PECO ENERGY COMPANY –	:	
GAS DIVISION	:	
	:	

PROPOSED SCHEDULE

Rate Case Filing	March 31, 2022
Prehearing Conference	April 27, 2022
Public Input Hearings*	June 1, 2022
Non-Company Direct Testimony	June 22, 2022
Rebuttal Testimony	July 21, 2022
Surrebuttal Testimony	August 4, 2022
Oral Rejoinder Outline	August 11, 2022
Oral Rejoinder Testimony and Hearings	August 11-12, 2022
Record Closes	August 12, 2022
Main Briefs	September 2, 2022
Reply Briefs	September 19, 2022

*In light of continuing concerns regarding COVID-19, PECO proposes that the public input hearings in this case be held telephonically at 1 p.m. and 6 p.m. on June 1, 2022, as agreed to by the parties.