

COMMONWEALTH OF PENNSYLVANIA



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April 11, 2024

**Via Electronic Filing**

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

Re: Pennsylvania Public Utility Commission  
v.  
PECO Energy Co. - Electric Division  
Docket No. R-2024-3046931

Dear Secretary Chiavetta:

Attached for electronic filing please find the Office of Consumer Advocate's Formal Complaint and Public Statement in this matter.

Copies have been served as shown on the attached Certificate of Service.

Respectfully submitted,

A handwritten signature in blue ink that reads "Eric L. Gannon".

Senior Assistant Consumer Advocate  
PA Attorney I.D. # 83487  
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Enclosures:

cc: Office of Administrative Law Judge (email only)  
Paul Diskin, TUS (email only: [pdiskin@pa.gov](mailto:pdiskin@pa.gov))  
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Office of Special Assistants (email only: [ra-OSA@pa.gov](mailto:ra-OSA@pa.gov))  
Certificate of Service

CERTIFICATE OF SERVICE

Pennsylvania Public Utility Commission	:	
	:	
v.	:	Docket No. R-2024-3046931
	:	
PECO Energy Company - Electric Division	:	

I hereby certify that I have this day filed electronically on the Commission’s electronic filing system and 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 11<sup>th</sup> day of April 2024.

SERVICE BY E-MAIL ONLY

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Harrisburg, PA 17101-1923  
717-783-5048

Dated: April 11, 2024

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Formal Complaint to Proposed Rate Increase**

**1. COMPLAINANT INFORMATION**

Patrick M. Cicero, Consumer Advocate  
555 Walnut Street, 5<sup>th</sup> Floor, Forum Place  
Harrisburg, PA 17101-1923  
Dauphin County  
Phone: 717-783-5048

**2. UTILITY NAME (RESPONDENT)**

PECO Energy Company - Electric Division

**3. PUC DOCKET NUMBER**

R-2024-3046931

**4. TYPE OF UTILITY SERVICE**

Electric

**5. COMPLAINT**

- A. On March 28, 2024, PECO Energy Company - Electric Division (PECO Electric or the Company) filed PECO's Tariff Electric-Pa. P.U.C. No. 8 with the Pennsylvania Public Utility Commission (Commission) to become effective on May 27, 2024. The end of suspension period is December 27, 2024.<sup>1</sup> The Company utilizes a Fully Projected Future Test Year ending December 31, 2025.
- B. If approved, the Company's Tariff Electric-Pa. P.U.C. No. 8 would provide PECO Electric with an annual distribution revenue increase of approximately \$464 million, or approximately 29.2%. As discussed below, PECO is also proposing an offset of \$64 million during 2025.

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<sup>1</sup> For general rate increases filed pursuant to 66 Pa. C.S. § 1308(d), the full suspension period is nine months (seven months plus sixty days). *See* 66 Pa. C.S. §§ 1308(a), (d); 52 Pa. Code § 53.31. If the Commission does not enter a final rate determination at the expiration of the full suspension period, the proposed general rate increase shall go into effect at the end of such period, subject to potential refund. *See* 66 Pa. C.S. §§ 1308(d), 1312.

- C. PECO is an electric distribution company that serves approximately 1.7 million residential, residential heating, general service, primary distribution, high tension, electric propulsion and lighting customers in southeastern Pennsylvania, including the City of Philadelphia and in portions of the following counties: Philadelphia, Bucks, Chester, Delaware, Montgomery and York. Roughly 90% of PECO's customers are residential and 10% are Commercial and Industrial.
- D. The Company proposes to increase residential and residential heating customer charges by 36%, from \$10.50 to \$14.28 per month. This would increase the fixed and irreducible portion of customer bills by a greater percentage than the proposed overall revenue increase for the class. The OCA contends the proposed rate increase is likely unjust and unreasonable.
- E. The Company estimates that the total monthly bill of a residential customer using 700 kWh per month would increase by \$19.37 from \$135.85 to \$155.22 (14.3%) if its entire request is approved. The OCA contends the proposed rate increase is likely unjust and unreasonable.
- F. PECO Electric is also proposing that, for the first year that new rates are in effect (2025), there will be a credit applied to bills. Because of that credit, the Company's notices to customers show that the actual increase for the same residential customer using 700 kWh would be \$16.67 per month (12.3%) during 2025. There would be no credit during 2026, so for bills starting in 2026, the same residential customer would see an additional increase of \$2.70 per month (1.8%).
- G. The proposed rate changes noted above do not reflect the changes that would be experienced by all customers; rather, they only reflect changes for a residential customer using 700 kWh per month. In the OCA's experience, the increases reflected above (and on the notices sent to customers) often underestimate the impact of the rate increase for many customers.
- H. For ratemaking purposes, PECO Electric proposes a significantly high return on equity of 10.95% (including a 15 basis point addition to reflect "superior management performance) resulting in an overall rate of return of 7.98% in conjunction with an equity-rich capital structure of 53.40% equity and 46.60% debt. The proposed rate of return is excessive and, if accepted, would result in rates that are unjust and unreasonable in violation of Chapter 13 of the Pennsylvania Public Utility Code, 66 Pa. C.S. § 1301, et seq., sound ratemaking principles, and public policy. The proposed capital structure is also likely to be found to be excessive. The OCA will examine both and recommend appropriate adjustments.
- I. PECO Electric is also proposing changes to its Electric Vehicle (EV) Pilot Program, including proposals (1) to extend its pilot incentive programs for EV charging (EV Charging Pilot) and (2) to extend and modify its EV Fast Charging Pilot Rider (EV-FC Rider). Regarding the EV Charging Pilot, PECO seeks to extend the duration of its pilot for an additional five years, to increase and

reconfigure its budget, to modify rebate amounts, and extend data requirements. Relative to the EV-FC Rider, PECO seeks to extend the duration of the pilot for an additional five years, to change eligibility, to modify demand credit, and to modify minimum demand. The OCA will evaluate the justness and reasonableness of PECO's proposed EV programming modifications and their impact on customers.

J. As stated above, PECO Electric is proposing that a \$64 million credit will apply to bills in 2025. This credit is made up of two separate surcharge (surcredit) mechanisms.

1. Incremental COVID-19 Uncollectible Surcharge (ICUS): The ICUS is a new Section 1307 adjustment mechanism that would reduce the amount collected from customers during 2025 by approximately \$48 million. Because PECO Electric based its level of uncollectible expense claimed in proposed rates on an average for the 2021-2023 period (which included an incremental \$48 million amortized over three years), the Company is proposing the ICUS as a way to ensure that PECO Electric does not double-recover the \$48 million.
2. Fiber Affiliate Revenue Surcharge (FARS): The FARS is another new Section 1307 adjustment mechanism that would reduce the amount collected from customers during 2025 by approximately \$16 million. In November 2021, during a Commission Management Audit, PECO identified unbilled intercompany charges for leasing a portion of its fiber network to its former affiliates. PECO collected those charges in 2021 and now proposes to refund those amounts (with interest) to customers.

Together, the \$48 million from the ICUS and \$16 million from the FARS would be a \$64 million offset to the Company's proposed increase of \$464 million. The surcharges (surcredits) would cease after 2025, except that the Company may propose additional ICUS and FARS adjustments to bills to eliminate any over/under credit balance that remains after the 2025 refund period. The Company's proposals to calculate rates, allocate credits, and to reconcile the ICUS and FARS annually warrant additional investigation and the OCA will fully evaluate both proposed mechanisms as part of this case.

K. PECO Electric is proposing changes to its Economic Development Rider (EDR), which provides for discounts in the Variable Distribution Charge (VDC) of up to 15% to eligible customers served on Rates GS, PD, or HT. PECO is proposing to expand the availability of the EDR for both new and existing customers who:

1. Add an additional 100 megawatts or more of new load and at least 10 new jobs in the Company's service area.

2. Add hydrogen production capabilities to their facilities (as proposed, the credit equivalent to 15% would apply only to the portion of the customer's VDC related to the hydrogen production equipment capacity).

The OCA will review these proposals to determine if they meet all legal requirements and sound ratemaking principles.

- L. PECO Electric is requesting that the Commission grant it permission to defer and record any amounts above or below its base rate allowance for storm damage expense to a Storm Reserve Account. As described by PECO Electric, the differences between the storm expenses included in the Company's rates and its actual storm expenses would be tracked and recorded in deferral accounts that would be credited to, or recovered from, customers in a subsequent base rate case by means of an appropriate amortization. The OCA will review this proposal to determine if it meets all legal requirements and sound ratemaking principles.
- M. In its filing, PECO Electric estimates that the amount of Percentage of Income Payment Plan (PIPP) bill credits for customers projected to be enrolled in its customer assistance program as of December 31, 2025 will be approximately \$145.2 million. The Company proposes to update its base rate recovery to reflect this amount and to annually reconcile any over/under collections through its existing Universal Service Fund Charge (USFC). Additionally, PECO Electric proposes to change the offset factor applied to reconcilable CAP costs recovered through the USFC from 27% to 10.5%. The OCA will review this proposal to determine if it meets all legal requirements and sound ratemaking principles.
- N. PECO Electric is proposing to recover 49%, or approximately \$227.5 million of its total proposed \$464 million increase, from residential customers, and proposing to recover approximately 14.8%, or \$69 million of its total \$464 million, from residential heating customers. In total, PECO Electric is proposing to recover approximately 63.8% of its total proposed increase from residential and residential heating customers. The OCA will review the Company's proposed allocation of increased costs to all customer classes to determine whether the proposal meets all legal requirements and sound ratemaking principles.
- O. The OCA has significant concerns about the rate increase request filed by PECO Electric including the amount sought, requested return on equity and 15 basis point management adder, the capital structure, certain proposed tariff changes and the residential customer fixed charges. In totality, as well as in their various parts, the Company's proposals seek to shift risk away from the Company and on to its customers in ways that include but are not limited to a proposed return on equity that exceeds reasonable bounds. The OCA will thoroughly review each of PECO Electric's proposed allocations of increased costs to all customer classes to determine whether the proposals meet all legal requirements and sound ratemaking principles.

- P. The Commission should use the scheduled December 19, 2024 Public Meeting date to develop a procedural schedule in this matter. PECO Electric proposes to increase annual revenues by almost *half a billion* dollars. Its filing contains over 9,000 pages. Also PECO Energy Company filed a base rate case for its Gas operations on March 28, 2024, with the same proposed effective date for new rates. The Company was in control of its preparation of these materials and the timing of its initial filings. In contrast, the intervenors and complainants in this matter, including the OCA, are on the receiving end of this massive amount of data and information and need sufficient time to review and understand such information to develop positions and recommendations in order to be meaningfully heard before the Commission. The last scheduled Public Meeting date prior to the end of the suspension period is December 19, 2024, and the one prior to that is December 5, 2024. However, use of the December 5, 2024 Public Meeting would compress the procedural schedule by two weeks, causing prejudice to all non-Company litigants. Using the December 19, 2024 Public Meeting date would provide Commission staff eight calendar days to prepare and enter the rewrite order following that Public Meeting and prior to the end of the suspension period, to the extent that is even necessary. Hence, the Commission should direct the Office of Administrative Law Judge (OALJ) to use the scheduled December 19, 2024 Public Meeting date as the deadline for a final Commission determination in this matter and for purposes of developing a litigation schedule in this matter.
- Q. The Consumer Advocate is empowered to represent the interests of consumers before the Pennsylvania Public Utility Commission, pursuant to Act 161 of the General Assembly, as amended, 71 P.S. §§ 309-1, et seq.
- R. In reaching a decision on whether to grant PECO Electric’s rate increase as well as its various rule and tariff changes, the Public Utility Commission must give “due consideration to the interests of consumers.” 71 Pa. Stat. Ann. §309-5(2).
- S. A preliminary examination of PECO Electric’s rate increase requests, proposed accounting treatment, proposed allocation of costs among customer classes, and proposed rate design requests indicates that the Company’s proposed charges, increases and changes in rates, rules, and regulations contained within the request are or are likely to be unjust, unreasonable, and in violation of law. In addition, these proposals will likely allow PECO Electric an opportunity to recover an excessive rate of return on its utility property investment, in violation of the Public Utility Code; will or may discriminate against certain customers or compensate PECO for providing inadequate service to some or all of its customers. They may also be contrary to the provisions of prior Commission-approved settlements and orders; and otherwise, may be contrary to sound ratemaking principles and public policy.
- T. The Company’s existing rates, rules and regulations may not be just and reasonable or otherwise proper under the Public Utility Code and applicable ratemaking principles. 66 Pa. C.S. § 1301, et seq.

- U. The Consumer Advocate files this Complaint to ensure that the Commission will fully and fairly adjudicate issues pertaining to whether the Company's existing and proposed rates—and any and all rate policy changes—are just, reasonable, and are not unduly discriminatory or otherwise unlawful.

## **6. RELIEF**

The Consumer Advocate respectfully requests that the Public Utility Commission take the following actions:

- A. Suspend and investigate the operation of PECO's Tariff Electric-Pa. P.U.C. No. 8, pursuant to Section 1308(d) of the Public Utility Code, 66 Pa. C.S. § 1308(d);
- B. Direct the Office of Administrative Law Judge to use the December 19, 2024 Public Meeting as the deadline for a final Commission determination in this matter and for purposes of setting a deadline for a Recommended Decision and developing a litigation schedule in this matter;
- C. Consolidate all complaints filed against proposed PECO Tariff Electric-Pa. P.U.C. No. 8;
- D. Ensure that the Company has provided appropriate and adequate notice in accordance with the Public Utility Code and the Commission's Regulations;
- E. Hold full evidentiary hearings examining the reasonableness of the Company's current rates and its proposed increases in rates;
- F. After providing the public with adequate notice and as early in the proceeding as possible, hold in-person public input hearings in the Company's service territories, as well as by telephone or virtually, in order to provide customers with an opportunity to be heard on the record;
- G. Deny any rates, charges or changes contained in the proposal which would result in unjust and unreasonable rates, or cannot be fully justified by PECO Electric, or which otherwise are contrary to the Public Utility Code, sound ratemaking principles, and public policy; and
- H. Grant such other relief that the Commission may deem appropriate.

**7. LEGAL REPRESENTATION**

Erin L. Gannon, Senior Consumer Advocate, PA Bar No. 83487  
Barrett C. Sheridan, Assistant Consumer Advocate, PA Bar No. 61138  
Gina L. Miller, Assistant Consumer Advocate, PA Bar No. 313863  
Jacob Guthrie, Assistant Consumer Advocate, PA Bar No. 334367

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**8. VERIFICATION AND SIGNATURE**

***Verification:***

*I, Patrick M. Cicero, 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/ Patrick M. Cicero  
**Signature**

April 11, 2024  
**Date**

**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. Section 309-2, as enacted July 9, 1976, authorizes the Consumer Advocate to represent the interest of consumers before the Pennsylvania Public Utility Commission (Commission). In accordance with Act 161, and for the following reasons, the Consumer Advocate determined to file a Formal Complaint and participate in proceedings before the Commission involving the proposed rate increase requested by PECO Energy Company - Electric Division (PECO Electric or the Company) docketed at R-2024-3046931.

PECO Electric is an electric distribution company that serves approximately 1.7 million residential, residential heating, general service, primary distribution, high tension, electric propulsion and lighting customers in southeastern Pennsylvania, including the City of Philadelphia and in portions of the following counties: Philadelphia, Bucks, Chester, Delaware, Montgomery and York. The proposed tariff, if approved, would provide PECO Electric with an annual revenue increase of increase of \$464 million, or approximately 29.2%. If approved in its entirety, the Company's proposed tariff would also provide a 10.95% return on common equity and an overall 7.98% return on rate base. PECO Electric estimates that the monthly bill of a residential customer using 700 kWh per month would increase by \$19.37 from \$135.85 to \$155.22 (14.3%) if its entire request is approved. According to PECO Electric's Notice of Proposed Electric Rate Changes, due to the proposed bill credits in 2025, the monthly bill for the same residential customer using 700 kWh per month would increase by \$16.67 or 12.3% (from \$135.85 to \$152.52). In 2026, after expiration of the bill credits, PECO estimates that the monthly bill for the same residential customer would increase by an additional \$2.70 or 1.8% (from \$152.52 to \$155.22).

The Consumer Advocate submits that many of the proposals contained in the Company's filing are unreasonable or otherwise contrary to law and violate sound public policy. The Consumer Advocate will represent the interests of PECO Electric's ratepayers before the Commission and seek to ensure the Company is permitted to implement only a level of rates that is fully justified, just and reasonable, not unduly discriminatory, and otherwise in accordance with sound ratemaking principles and the Public Utility Code, PUC regulations and orders, and case law. The Consumer Advocate submits that PECO Electric's current rates and the rates sought by the Company may be unjustifiable and unlawful based upon information filed by PECO Electric in support of its claim.

\*4887-9558-9811