

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. - Gas Division  
Docket No. R-2024-3046932

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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Certificate of Service

CERTIFICATE OF SERVICE

Pennsylvania Public Utility Commission	:	
	:	
v.	:	Docket No. R-2024-3046932
	:	
PECO Energy Company - Gas 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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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 - Gas Division

**3. PUC DOCKET NUMBER**

R-2024-3046932

**4. TYPE OF UTILITY**

Natural Gas

**5. COMPLAINT**

- A. On March 28, 2024, PECO Energy Company - Gas Division (PECO Gas or the Company) filed PECO's Tariff Gas-Pa. P.U.C. No. 6 with the Pennsylvania Public Utility Commission (Commission) to become effective on May 27, 2024. The end of the 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 Gas-Pa. P.U.C. No. 6 would provide PECO Gas with an annual distribution revenue increase of increase of approximately \$111 million, or approximately 23.1%.
- C. PECO is a natural gas distribution company that serves approximately 552,000 retail customers and provides transportation service to 649 unique large commercial and industrial customers in a 1,900 square mile area in southeastern

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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.

Pennsylvania. The Company serves portions of Bucks, Chester, Delaware, Lancaster, and Montgomery Counties. Roughly 91% of PECO's retail customers are residential customers.

- D. The Company proposes to increase residential customer charges an additional \$5.13 per month, moving from \$14.25 to \$19.38 per month, a 36% increase. 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. According to its Notice of Proposed Gas Rate Changes, the Company estimates that the monthly bill of a residential customer using 80 Ccf of natural gas (one Ccf equals one hundred cubic feet) would increase by \$16.15 from \$97.98 to \$114.13 per month, or by 16.5%. The OCA contends the proposed rate increase is likely unjust and unreasonable.
- F. The proposed rate change noted above does not reflect the changes that would be experienced by all customers; rather, it only reflects the change for a residential customer using 80 Ccf per month. In the OCA's experience, the increase reflected above (and on the notices sent to customers) often underestimates the impact of the rate increase for many customers.
- G. For ratemaking purposes, PECO Gas proposes a significantly high return on equity of 11.15% (including a 15 basis point addition to reflect "exemplary" management performance) resulting in an overall rate of return of 8.08% 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.
- H. PECO Gas's filing also includes a request for approval of a Weather Normalization Adjustment (WNA) as an alternative ratemaking mechanism under 66 Pa. C.S. § 1330. As proposed, the WNA would provide PECO with the ability to collect additional revenues from residential and non-residential customers receiving service under GR and GC Rate Schedules. PECO proposes to include the WNA in monthly bills rendered from October through May. The WNA would be an additional charge on bills in months where actual daily temperatures are more than 1% warmer than the Company's benchmark for "normal" temperatures. The WNA would be a credit on bills in months where weather is more than 1% colder than normal. The amount of charge or credit on each customer's bill would be based on that customer's actual consumption history. PECO proposes that the WNA would be recalculated each billing cycle. The Company's proposal to establish a WNA warrants additional investigation, and the OCA will fully evaluate the proposed mechanism as part of this case. The OCA will review the

WNA proposal to determine if it meets all legal requirements and sound ratemaking principles.

- I. In its filing, PECO Gas estimates that the amount of Percentage of Income Payment Plan bill credits for customers projected to be enrolled in its customer assistance program as of December 31, 2025 will be approximately \$13.7 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 Gas proposes to change the offset factor applied to reconcilable Customer Assistance Program costs recovered through the USFC from 27% to 10.5%. The OCA will review these proposals to determine if they meet all legal requirements and sound ratemaking principles.
- J. PECO Gas is proposing to recover 76.1%, or approximately \$84.6 million of its total proposed \$111 million increase in base rates from residential 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.
- K. The OCA has significant concerns about the rate increase request filed by PECO Gas 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 and a WNA proposal that would transfer weather-related revenue risks to customers. The OCA will thoroughly review each of the Company's proposed allocation of increased costs to all customer classes to determine whether the proposals meet all legal requirements and sound ratemaking principles.
- L. The Commission should use the scheduled December 19, 2024 Public Meeting date to develop a procedural schedule in this matter. PECO Gas proposes to increase annual revenues by approximately \$111 million dollars. Its filing contains over 9,000 pages. Also PECO Energy Company filed a base rate case for its Electric 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.

- M. 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.
- N. In reaching a decision on whether to grant PECO Gas'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).
- O. A preliminary examination of PECO Gas'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 Gas 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.
- P. 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.
- Q. 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 Gas-Pa. P.U.C. No. 6, 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's Tariff Gas-Pa. P.U.C. No. 6;
- 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 Gas, 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 - Gas Division (PECO Gas or the Company) docketed at R-2024-3046932.

PECO Gas is a natural gas distribution company that serves approximately 552,000 retail customers in southeastern Pennsylvania, including portions of the following counties: Bucks, Chester, Delaware, Lancaster, Montgomery and York. The proposed tariff, if approved, would provide PECO Gas with an annual revenue increase of increase of \$111 million, or approximately 23.1%. If approved in its entirety, the Company's proposed tariffs would also provide an 11.15% return on common equity and an overall 8.08% return on rate base. PECO Gas estimates that the monthly bill of a residential customer using 80 Ccf of natural gas (one Ccf equals one hundred cubic feet) per month would increase by 16.5%, from \$97.98 to \$114.13, if its entire request is approved. This estimate includes the impact of PECO Gas's proposed \$5.13 (36%) increase to the residential monthly customer charge. The estimated impact of the proposed rate increase on residential customers does not account for the impact of PECO's request to include a Weather Normalization Adjustment (WNA) in monthly bills. If approved, the WNA could impact residential customer bills for nine months of each year (October through May).

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 Gas'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 Gas's current rates and rules, and the rates sought by the Company, may be unjustifiable and unlawful based upon information filed by PECO Gas in support of its claim.

\*4863-0468-7796