

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	R-2024-3046931
	:	
	:	
Office of Consumer Advocate	:	C-2024-3048362
Office of Small Business Advocate	:	C-2024-3048467
Alan McCarthy	:	C-2024-3048475
Philadelphia Area Industrial Energy Users Group	:	C-2024-3048671
	:	
v.	:	
	:	
PECO Energy Company (Electric)	:	

Pennsylvania Public Utility Commission	:	R-2024-3046932
	:	
	:	
Office of Consumer Advocate	:	C-2024-3048363
Office of Small Business Advocate	:	C-2024-3048456
State Representative Christina Sappey	:	C-2024-3048631
Alan McCarthy	:	C-2024-3048497
Philadelphia Area Industrial Energy Users Group	:	C-2024-3048881
	:	
v.	:	
	:	
PECO Energy Company (Gas)	:	

PREHEARING ORDER

This order sets forth the history of the case and addresses procedure and other subjects discussed during the Prehearing Conference held on May 7, 2024. Parties should read the Order in its entirety.

On March 28, 2024, PECO Energy Company (“PECO”), Utility Code 110550, filed with the Public Utility Commission (“Commission”) Tariff Electric Pa. P.U.C. No. 8 to

become effective May 27, 2024, containing proposed changes in rates, rules, and regulations calculated to produce approximately \$464 million (29.2%) based on data for a fully projected future test year ending December 31, 2025. PECO Energy is also proposing a one-time credit of \$64 million, resulting in a net electric increase of \$399 million (25.1%) in 2025.

As proposed, the total monthly bill for a residential customer using 700 kWh would increase by \$16.67 from \$135.85 to \$152.52 (12.3%) in 2025. In 2026, the total monthly bill for a residential customer would increase by an additional \$2.70.

PECO stated that the requested increase in its base rates is due to its need to earn a fair return on the substantial investments used and useful in PECO Energy's provision of safe and reliable electric service to customers, to support additional investments in utility infrastructure in accordance with PECO's Commission-approved infrastructure replacement program, to deploy new information technology to meet customer expectations and drive operational improvements and efficiencies, and to recover higher operating expenses necessary to provide electric utility service, including increased costs of labor, contracting, and materials.

Pursuant to 66 Pa. C.S. §1308(d), the Commission suspended the filing by operation of law until December 27, 2024, unless permitted by Commission Order to become effective at an earlier date. The Commission also pursuant to 52 Pa. Code §53.71 ordered PECO to file and post at the company to file tariff supplements to announce that the Original Tariff is suspended until the date stated in the Commission Order, December 27, 2024.

Also on March 28, 2024, at Docket Number R-2024-3046932, PECO, Utility Code 122300, filed Tariff Gas-Pa. P.U.C. No. 6 (Tariff No. 6) to become effective May 27, 2024, containing proposed changes in rates, rules, and regulations calculated to produce \$111 million (23.1%) in additional annual revenues, an increase in residential customer's bill using 80 Ccf of natural gas from \$97.98 to \$114.13/month (16.5 %).

PECO stated that the requested increase in its base rates is necessary to permit the Company to earn a fair return on the substantial investments used and useful in the Company's provision of safe and reliable gas service to customers, to support additional investments in utility infrastructure in accordance with the Company's Commission-approved infrastructure replacement program, to deploy new information technology to meet our customers' expectations and drive operational improvements and efficiencies and to recover higher operating expenses necessary to provide gas utility service, including increased costs of labor, contracting, and materials.

Pursuant to 66 Pa. C.S. §1308(d), the Commission suspended the filing by operation of law until December 27, 2024, unless permitted by Commission Order to become effective at an earlier date. The Commission also pursuant to 52 Pa. Code §53.71 ordered PECO to file and post at the company to file tariff supplements to announce that the Original Tariff is suspended until the date stated in the Commission Order, December 27, 2024.

R-2024-3046931 – Electric

Various individuals have filed Oppositions to the electric rate increase. On April 2, 2024, the Commission's Bureau of Investigation and Enforcement ("BIE") entered an appearance. On April 11, 2024, the Office of Consumer Advocate ("OCA") filed a complaint at Docket Number 3048362.

On April 12, 2024, the International Brotherhood of Electrical Workers, Local 614 ("IBEW"), filed a Petition to Intervene. On April 16, 2024, the Office of Small Business Advocate ("OSBA") filed a complaint, Docket Number 3048467. On April 16, 2024, Alan McCarthy filed a complaint at Docket Number 30484475.

On April 22, 2024, Trustees of the University of Pennsylvania and Hospital at the University of Pennsylvania ("UPenn") filed a Petition to Intervene. On April 23, 2024, PECO filed an Answer to the Complaint of OCA. On April 24, 2024, Pennsylvania Area Industrial Energy Users Group ("PAIEUG") filed a complaint at Docket Number 3048671.

On April 25, 2024, the Commission issued an Order suspending the filing until December 28, 2024. Also on April 25, 2024, PECO filed the tariff as required by the order of the Commission.

On April 26, 2024, a Telephonic Prehearing Conference Notice was issued, advising all parties that the conference would be held on May 7, 2024. Also on April 26, 2024, PECO advised that it will not file answers to the remaining Complaints in accordance with 52 Pa. Code § 5.61(d), which provides that for complaints which are docketed with Commission-instituted rate proceedings, an answer is not required, except as may be directed by the Commission or the presiding officer.

On April 29, 2024, The Tenant Union Representative Network (“TURN”) and the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (“CAUSE-PA”), through counsel Community Legal Services, Inc., filed a Petition to Intervene. A Prehearing Conference Order setting out the subjects to be discussed was issued on April 30, 2024.

A Petition to Intervene was filed by EVgo Services LLC on May 1, 2024. On May 2, 2024, Walmart, Inc. and Electrify America each filed a Petition to Intervene. On May 3, 2024, Energy Generation LLC and Constellation NewEnergy, Inc filed a Petition to Intervene. The City of Philadelphia and the Philadelphia Energy Authority filed a Petition to Intervene on May 3, 2024.

A Motion for Admission *Pro Hac Vice* was filed by Charles T. Joyce, Esq. on behalf of Nicolas J. Enoch, Esq. to represent IBEW.

On May 7, 2024, Amtrak aka National Railroad Passenger Corp. (“Amtrak”) and the Southeastern PA Transportation Authority (“SEPTA”) each filed a Petition to Intervene.

Various individuals have filed Oppositions to the gas rate increase. On April 1, 2024, the Commission’s Bureau of Investigation and Enforcement (“BIE”) entered an appearance. Also on April 11, 2024, the Office of Consumer Advocate (“OCA”) filed a complaint at Docket Number 3048363. On April 16, 2024, the Office of Small Business Advocate (“OSBA”) filed a complaint, Docket Number 3048456. On April 17, 2024, the International Brotherhood of Electrical Workers, Local 614 (“IBEW”), filed a Petition to Intervene. On April 17, 2024, Alan McCarthy filed a complaint at Docket Number 3048497.

On April 23, 2024, Pennsylvania State Representative Christina D. Sappey filed a complaint at Docket Number 3048631. On April 23, 2024, PECO filed an Answer to the Complaint of OCA.

On April 25, 2024, the Commission issued an Order suspending the filing until December 28, 2024. Also on April 25, 2024, PECO filed the tariff as required by the order of the Commission.

On April 26, 2024, a Telephonic Prehearing Conference Notice was issued, advising all parties that the conference would be held on May 7, 2024. Also on April 26, 2024, PECO advised that it will not file answers to the remaining Complaints in accordance with 52 Pa. Code § 5.61(d), which provides that for complaints which are docketed with Commission-instituted rate proceedings, an answer is not required, except as may be directed by the Commission or the presiding officer.

On April 29, 2024, The Tenant Union Representative Network (“TURN”) and the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (“CAUSE-PA”), through counsel Community Legal Services, Inc., filed a Petition to Intervene. A Prehearing Conference Order setting out the subjects to be discussed was issued on April 30, 2024.

On May 2, 2024, Walmart, Inc. filed a Petition to Intervene. On May 5, 2024, Pennsylvania Area Industrial Energy Users Group (“PAIEUG”) filed a complaint at Docket Number 3048881.

A Motion for Admission *Pro Hac Vice* was filed by Charles T. Joyce, Esq. on behalf of Nicolas J. Enoch, Esq. to represent IBEW.

On May 6, 2024, Amtrak aka National Railroad Passenger Corp. (“Amtrak”) and the Southeastern PA Transportation Authority (“SEPTA”) each filed a Petition to Intervene.

Prehearing Conference

All parties represented by counsel filed Prehearing Conference Memorandums. The Prehearing Conference was held as scheduled on May 7, 2024. Participating were:

PECO	Kenneth M. Kulak, Esq.; Brandon J. Pierce, Esq.
OCA	Erin L. Gannon, Esq.; Gina Miller, Esq.; Barret Sheridan, Esq.
BIE	Carrie B. Wright, Esq.
OSBA	Steven Gray, Esq.; Sharon E. Webb, Esq.
PAIEUG	Adeolu A. Bakare, Esq.; Charis Mincavage, Esq.
TURN & CAUSE-PA	Charlotte E. Edelstein, Esq., Vikram S. Patel, Esq.
IBEW	Nicolas J. Enoch, Esq.
Walmart	Stephen W. Lee, Esq.
Electrify America	William A. Lesser, Esq., Stephen Bright, Esq.
UPenn	Jonathan Nase, Esq.
EVgo	Bernice L. Corman, Esq.
City of Philadelphia	Laura Antinucci, Esq.
Constellation	Alan M. Seltzer, Esq.
SEPTA	Todd S. Stewart, Esq.
Amtrak	Robert A. Weishaar, Esq.

Also present was Katlyn Lee, an EVgo representative

Following the Prehearing Conference, PECO met with OCA, and discussed with other parties, voluntarily extending the suspension period of these cases. To effectuate this schedule, PECO agreed to file revised suspension tariffs voluntarily extending the suspension period until December 30, 2024, provided that PECO will, *if approved by the Commission*, be able to recoup through a surcharge revenue lost at the approved rates for the period from the anticipated effective date of new rates (January 1, 2025) through the date the Commission makes those rates effective by approving PECO's compliance filing.

All parties have agreed to (or do not oppose) this procedure and PECO's right to recover such revenues through a surcharge over a five-month period, provided that no surcharge will be implemented if the Commission approves PECO's compliance filings on or before January 1, 2025. PECO shall file revised electric and gas suspension tariffs incorporating this extension and agreement no later than five calendar days after the entry of this Order.

Parties should note that the recovery of surcharges is subject to the approval of the Commission.

A Protective Order was issued on May 10, 2023.

The procedures and schedule for this matter were discussed with the parties during the conference.

IT IS ORDERED:

1. That pursuant to 52 Pa. Code §§ 5.32 and 5.61, complaints filed in the instant matter are considered docketed with the proceeding at R-2024-3046931(electric) and need not be consolidated with the Commission's investigation or answered by Respondent. The following Complaints have been filed:

Office of Consumer Advocate	:	C-2024-3048362
Office of Small Business Advocate	:	C-2024-3048467
Alan McCarthy	:	C-2024-3048475

Philadelphia Area Industrial Energy Users Group : C-2024-3048671

2. That pursuant to 52 Pa. Code §§ 5.32 and 5.61, complaints filed in the instant matter are considered docketed with the proceeding at R-2024-3046932(gas) and need not be consolidated with the Commission’s investigation or answered by Respondent. The following Complaints have been filed:

Office of Consumer Advocate	:	C-2024-3048363
Office of Small Business Advocate	:	C-2024-3048456
State Representative Christina Sappey	:	C-2024-3048631
Alan McCarthy	:	C-2024-3048497
Philadelphia Area Industrial Energy Users Group	:	C-2024-3048881

3. That the Petitions to Intervene at Docket Number R-2024-3046931 filed by IBEW Local 614, Trustee of the University of Pennsylvania and Hospital at the University of Pennsylvania, TURN and CAUSE-PA, EVgo, Walmart, Inc., Electrify America, Energy Generation LLC and Constellation NewEnergy, Inc., City of Philadelphia and Philadelphia Energy Authority, SEPTA and Amtrak are granted.

4. That the Petitions to Intervene at Docket Number R-2024-3046932 filed by IBEW Local 614, TURN and CAUSE-PA, Walmart, Inc., and SEPTA are granted.

5. That the Motion for *Pro Hac Vice* filed by Charles T. Joyce, Esq. on behalf of Nicolas J. Enoch, Esq. to represent IBEW, is granted.

6. That parties to be officially served are listed on the attached service list and any changes, corrections or additions are to be directed to Athena Devillar, Legal Assistant, at sdevillar@pa.gov.

7. That any Complaints filed by customers and other parties that are not yet docketed shall be addressed as filed and PECO shall inform the Administrative Law Judges of any complaints filed that pertain to this proceeding.

8. That parties may arrange service among themselves as they agree. Pursuant to 52 Pa. Code § 5.154(c), the parties are permitted without further order to limit the service of documents to parties who indicate that they do not wish to be served with such documents. **Parties should review the Prehearing Memoranda and seek to comply with the Service of Documents requests therein.**

9. That parties may serve documents electronically by 4:30 p.m. to meet any required due date, unless otherwise stated, with hard copy to follow by regular first-class mail.

10. That pursuant to 52 Pa. Code § 5.342(d), the Commission's regulations relating to discovery are modified as proposed by OCA, with amendments by PECO, and which are not opposed, as follows:

- a. Answers to written interrogatories and requests for document production, entry for inspection, or other purposes shall be served in-hand within ten (10) calendar days of service.
- b. Objections to interrogatories and/or requests for production shall be communicated orally to the propounding party within three (3) calendar days of service of the interrogatories; unresolved objections shall be served in writing to the propounding party within five (5) calendar days of service of the interrogatories and/or requests for production.
- c. Motions to dismiss objections and/or direct the answering of interrogatories and/or requests for production shall be filed within three (3) calendar days of service of written objections.
- d. Answers to motions to dismiss objections and/or answering of interrogatories and/or requests for production shall be filed within three (3) calendar days of service of such motions.
- e. Requests for admissions will be deemed admitted unless answered within ten (10) calendar days or objected to within five (5) calendar days of service.

- f. Answers to on-the-record data requests shall be served in-hand within five (5) calendar days of the requests.
- g. Any discovery or discovery-related pleadings (such as objections, motions, and answers to same) served after served after 4:30 p.m. Monday through Thursday or after 1:30 p.m. on a Friday or the day before a holiday will be deemed to have been served on the next business day for purposes of calculating the due date for any responsive filing.

After rebuttal is served, the parties propose that the deadlines should be reduced as follows:

- a. Answers to interrogatories and responses to requests for document production, entry for inspection, or other purposes shall be served within eight (8) calendar days of service of the interrogatories or requests for production.
- b. Objections to interrogatories and/or requests for production shall be communicated orally to the propounding party within two (2) calendar days of service; unresolved objections shall be served on the propounding party in writing within three (3) calendar days of service of the interrogatories and/or requests for production.
- c. Motions to dismiss objections and/or direct the answering of interrogatories and/or requests for production shall be filed within two (2) calendar days of service of written objections.
- d. Answers to motions to dismiss objections and/or direct the answering of interrogatories and/or requests for production shall be filed within two (2) calendar days of service of such motions.
- e. Requests for admission shall be deemed admitted unless answered or objected to within three (3) calendar days of service.
- f. Discovery requests and discovery related pleadings (such as objections, motions, and answers to same) served after 4:30 p.m. Monday through Thursday or after 1:30 p.m. on a Friday or the day preceding a holiday shall be deemed to have been served on the next business day.

10. The parties are reminded that 52 Pa. Code § 1.35(c)(1) provides that a signature on a document filed with the Commission constitutes a certificate by the individual that the document is “well grounded in fact and is warranted by existing law” and is not “interposed for an improper purpose, such as to harass or cause unnecessary delay or needless increase in the cost of litigation,” and that violations are subject to the sanctions listed in 52 Pa. Code § 1.35(c)(2).

11. The parties are directed to cooperate and exchange information on an informal basis. The parties are encouraged to resolve discovery issues among themselves; motions to compel should be filed only after such efforts have failed. All motions to compel must contain a certification of counsel of the informal discovery undertaken and their efforts to resolve their discovery disputes informally. In addition, the parties are urged to use alternative means of discovery such as discovery conferences or depositions. There are limitations on discovery and sanctions for abuse of the discovery process. 52 Pa. Code §§ 5.361, 5.371-5.372.

12. That PECO shall file tariff supplements to its gas and electric tariff filings, which suspend the effective date of those filings until December 30, 2024, within five (5) calendar days of the date of this Order.

13. That the following schedule is adopted¹:

Event	Date(s)
Public Input Hearings for PECO Electric <u>and</u> PECO Gas: 6 hearings (mix of day and evening times, 4 in-person hearings in service territories and 2 telephonic)	June 6, 10, 12, 13
Other Parties' Direct Testimony	June 17, 2024
Opposing Party Supplemental Direct Testimony Regarding Public Input Hearings	14 days after transcripts from last day of Public Input Hearings are received
Rebuttal Testimony (all parties and all issues)	July 16, 2024 (by noon)
Surrebuttal Testimony (all parties and all issues)	August 2, 2024
Rejoinder Outline	August 6, 2024 (by noon)
Evidentiary Hearings	August 7-8 and August 12-13, 2024
Main Briefs	August 30, 2024
Reply Briefs	September 12, 2024

¹ Testimony shall not be filed with the Commission at the time of service, but parties may file a certificate of service.

14. That all parties are to provide copies of hearing exhibits to all other parties and to both hearing officers **no later than noon on August 6, 2024**.

15. That the hearings will be held telephonically.

16. That the parties comply with the Commission's requirements for the preparation and service of written testimony. 52 Pa. Code § 5.412. These include, but are not limited to, the requirement that written testimony must be accompanied by all exhibits to which it relates. Written testimony shall be marked with numerical, sequential statement numbers. Oral direct, rebuttal or surrebuttal testimony or witnesses not identified in a party's prehearing memorandum shall not be permitted, except by permission for good cause.

17. That the parties shall comply with the provisions of 52 Pa. Code § 5.243(e) which prohibit the introduction of evidence during rebuttal which should have been included in the party's case-in-chief or which substantially varies from the party's case-in-chief, unless the party is introducing evidence in support of a proposed settlement.

18. That the parties shall stipulate to any matters they reasonably can to expedite this proceeding, lessen the burden of time and expenses in litigation on all parties and conserve precious administrative hearing resources. 52 Pa. Code §§ 5.232 and 5.234. All stipulations entered into by the parties shall be reduced to writing, signed by the parties to be bound thereby, and moved into the record during the hearings in this case. An exception to this requirement may occur when circumstances of time and expediency warrant. If so, an oral presentation of a stipulation is permissible, if it is followed by a reduction to writing as herein directed.

19. That the evidentiary hearings in this matter constitute formal legal proceedings and will be conducted in accordance with the Commission's Rules of Administrative Practice and Procedure, as well as the rules of evidence as applied to administrative hearings.

20. That parties serving pre-served testimony in proceedings pending before the Commission pursuant to 52 Pa. Code § 5.412(f) shall be required, within thirty (30) days after the final hearing in an adjudicatory proceeding to either eFile with or provide to the Secretary's Bureau a Compact Disc (CD) containing all testimony furnished to the court reporter during the proceeding, consistent with the Commission's Implementation Order, dated January 10, 2013, at Docket No. M-2012-2331973.

21. Motions with respect to objections to written testimony must be presented in writing no later than three days prior to the date the witness sponsoring the testimony is scheduled to testify. Answers to such motions may be filed within three days or sooner if circumstances warrant. Oral motions other than for good cause will not be accepted.

22. That the parties must comply with 52 Pa. Code §§5.501, *et seq.*, regarding the preparation and filing of briefs. Service can be made electronically by no later than 4:30 p.m. on the dates listed, with a hard copy received in hand on the next business day. Parties are directed to e-mail to the undersigned a copy of as-filed briefs in ADOBE or other compatible PDF format in addition to a WORD-formatted document. The format of the briefs served electronically on the parties may be as requested by the parties.

23. Rate tables submitted by the parties **MUST** be in a uniform format consistent with the Commission's Bureau of Technical Utility Services template tables. **Rate Case Tables** will be electronically provided to the parties. These Tables **must** be used by PECO and all active parties in this proceeding. A party's failure to follow these instructions in the smallest detail may result in non-consideration of that party's position, regardless of where the record may support it or the position of any other party to this proceeding.

24. That the parties are to confer among themselves in an attempt to resolve all or some of the issues associated with these Complaints. The parties are reminded it is the Commission's policy to encourage settlements. 52 Pa. Code § 5.231(a). The parties are strongly urged to seriously explore this possibility. A joint settlement petition executed by representatives of all parties to be bound thereby, together with statements in support of

settlement by all signatory parties, must be filed with the Secretary for the Commission and served on the undersigned.

25. That any provision of this prehearing order may be modified upon motion and good cause shown by any party in interest in accordance with 52 Pa. Code § 5.223(a).

Date: May 21, 2024

_____/s/
Marta Guhl
Administrative Law Judge

_____/s/
Darlene Heep
Administrative Law Judge

R-2024-3046931, R-2024-3046932 - PA PUBLIC UTILITY COMMISSION v. PECO ENERGY COMPANY – ELECTRIC and GAS

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