

COMMONWEALTH OF PENNSYLVANIA



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June 21, 2024

Via Electronic Mail Only

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 Nos. R-2024-3048767
C-2024-3049088

Dear Secretary Chiavetta:

Attached for electronic filing please find the Office of Consumer Advocate's Prehearing Memorandum in the above-referenced proceeding.

Copies have been served on the parties as indicated on the enclosed Certificate of Service.

Respectfully submitted

/s/Emily A. Farren
Emily A. Farren
Assistant Consumer Advocate
PA Attorney I.D. # 322910
EFarren@paoca.org

Enclosures

cc: The Honorable F. Joseph Brady (email only)
Certificate of Service

CERTIFICATE OF SERVICE

Pennsylvania Public Utility Commission :
v. : Docket Nos. R-2024-3048767
PECO Energy Company- Gas Division : C-2024-3049088

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 Prehearing Memorandum, 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 21st day of June 2024.

SERVICE BY E-MAIL ONLY

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Date: June 21, 2024

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission	:		
v.	:	Docket Nos.	R-2024-3048867
PECO Energy Company 1307(f) – Gas Division	:		C-2024-3049088

PREHEARING MEMORANDUM
OF THE OFFICE OF CONSUMER ADVOCATE

Before the Pennsylvania Public Utility Commission (Commission), pursuant to Section 333 of the Public Utility Code, 66 Pa. C.S. § 333, and in response to the June 13, 2024 Prehearing Conference Order issued by the Honorable Administrative Law Judge (ALJ) F. Joseph Brady in the above-captioned matter, the Office of Consumer Advocate (OCA) hereby submits this Prehearing Conference Memorandum.

I. PROCEDURAL HISTORY

On April 30, 2024, PECO Energy Company – Gas Division (PECO or Company) submitted its purchased gas cost (PGC) pre-filing pursuant to 52 Pa. Code §§ 53.64, 53.65. On May 31, 2024, the Company submitted its definitive filing including its annual PGC pro forma tariff supplement pursuant to 66 Pa.C.S. § 1307(f). The Commission assigned the proceeding to the Office of Administrative Law Judge (OALJ) and thereafter to ALJ Brady. On May 17, 2024, the OCA filed a Formal Complaint. On June 5, 2024, the OALJ issued a Notice scheduling a Call-In Telephonic Prehearing Conference for June 24, 2024. Additionally, on June 13, 2024, ALJ Brady issued a Prehearing Conference Order setting forth the parties’ obligations with respect to the Prehearing Conference and directing the parties to prepare and distribute prehearing memoranda by June 21, 2024.

II. ISSUES

The Consumer Advocate intends to ensure that PECO's proposed PGC rates are consistent with a least cost fuel procurement policy and do not result in rates or charges that are excessive, unjust or unreasonable, discriminatory or otherwise contrary to Commission regulations or policy.

The following list sets forth a more specific identification of the issues that OCA anticipates it will investigate and may raise, in addition those discussed above:

1. Reasonableness and prudence of historic purchased gas costs, and assessment of compliance with Commission Orders in prior 1307(f) cases;
2. Reasonableness and accuracy of estimating gas costs during the interim and prospective periods;
3. Reasonableness and prudence of the Company's gas supply mix, and price volatility risk management programs and policies;
4. Reasonableness and prudence of the Company's mix of demand entitlements, storage and local production;
5. Reasonableness and prudence of contracts with pipelines and suppliers, and in particular, long-term contracts that provide for special reservation charges, minimum take commitments, or other fixed contract requirements, especially in light of any other subsidies or unreasonable discrimination between customer classes;
6. Reasonableness and prudence of the Company's use of capacity release, off-system sales and interruptible sales;
7. Assessment of the value of the purchased gas cost incentive mechanisms as components of a least cost fuel procurement policy. These may include incentive mechanisms for off-systems sales and capacity release;

8. Reasonableness of sales volumes projections; and
9. Technical issues pertaining to the gas cost recovery mechanism, including computation of quarterly adjustments to purchased gas costs, treatment of supplier refunds, provision of carrying costs associated with gas in storage, interest on gas overcollections, and proper computation of the E-factor and migration riders.

The OCA anticipates that other issues may arise as its investigation into this matter continues. Therefore, the OCA specifically reserves the right to raise additional issues as this matter proceeds.

III. SERVICE ON THE OCA

The OCA will be represented in this matter by Deputy Consumer Advocate Melanie Joy El Atieh and Assistant Consumer Advocate Emily A. Farren. For the purposes of the Prehearing Conference, Emily A. Farren will be the lead/speaking attorney. Copies of all documents should be served on the OCA as follows:

Melanie Joy El Atieh, Deputy Consumer Advocate
Emily A. Farren, Assistant Consumer Advocate
E-Mail: OCA1307F2024@paoca.org

IV. WITNESSES

The OCA intends to present the direct, rebuttal, and surrebuttal testimony of its witness, as may be necessary. The OCA's witness will present testimony in written form and will attach various exhibits, documents, and explanatory information to assist in the preparation of the OCA's cases. In order to expedite the resolution of this matter, the OCA requests that copies of all interrogatories, testimony, and answers to interrogatories be emailed directly to the OCA's witness at the addresses below as well as counsel for the OCA.

Jerome D. Mierzwa
Exeter Associates, Inc.
10480 Little Patuxent Pkwy, Suite 300
Columbia, MD 21044-3575
jmierzwa@exeterassociates.com

The OCA specifically reserves the right to call additional witnesses, as necessary. At the time at which the OCA determines that additional witnesses are necessary for any portion of its case, the OCA will promptly notify ALJ Brady and all parties of record.

V. DISCOVERY

The OCA's proposed modifications to the Commission's discovery regulations are attached as Appendix A. The OCA believes that these modifications will assist the parties in clarifying and narrowing issues and developing a complete record for the Commission. Additionally, the OCA respectfully requests that, if adopted, the proposed modifications take effect on the date of the Prehearing Conference.

VI. PUBLIC INPUT HEARINGS

The OCA is not requesting a public input hearing at this time as it has not received any requests for public input hearings as of the time of the filing of this prehearing memorandum. Should such a request be received, the OCA will promptly advise ALJ Brady and the parties of the same.

VII. LITIGATION SCHEDULE

The OCA understands that the Company's proposed schedule, below, has been agreed upon by the OCA, I&E, OSBA, and PAIEUG:

Prehearing Conference	June 24, 2024
Parties' Direct Testimony	July 10, 2024
PECO's Rebuttal Testimony	July 17, 2024
Parties' Surrebuttal Testimony	July 24, 2024
Hearings: (PECO will be permitted to present brief oral rejoinder)	July 29-30, 2024
Close of the record:	July 30, 2024
Main Briefs:	August 2, 2024
Reply Briefs:	August 9, 2024
Recommended Decision	September 8, 2024

VIII. SETTLEMENT

The OCA will fully participate in settlement discussions with the parties at the appropriate time during this proceeding.

Respectfully Submitted,

/s/ Emily A. Farren
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Melanie Joy El Atieh
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Counsel for:
Patrick M. Cicero
Consumer Advocate

DATE: June 21, 2024

APPENDIX A
BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission	:	
v.	:	Docket Nos. R-2024-3048867
PECO Energy Company 1307(f) – Gas Division	:	C-2024-3049088

OCA PROPOSED DISCOVERY
RULE MODIFICATIONS

In conjunction with its proposed schedule, the OCA proposes the following modifications to the Commission’s procedural rules regarding discovery. The OCA requests that the Presiding Officer direct that the modifications will take effect when addressed during the on the record prehearing conference and apply to all future discovery requests served as of the day of the prehearing conference.

- 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 OCA proposes 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 five (5) 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.