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September 6, 2024

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-2024-3046932**

Dear Secretary Chiavetta:

Enclosed for filing is the public version of the **Joint Proposed Findings of Fact, Conclusions of Law and Ordering Paragraphs in Support of Joint Petition for Non-Unanimous Partial Settlement (“Settlement Appendix E”)** in the above-captioned proceeding. As evidenced by the Certificate of Service, copies are being served upon Administrative Law Judge Marta Guhl, Administrative Law Judge Darlene Heep, and all parties of record.

The confidential version of Settlement Appendix E will be uploaded to the Office of the Secretary’s Sharepoint site and a hard copy will be submitted directly to the Office of the Secretary.

If you have any questions, please contact me at 215.963.5384.

Very truly yours,



Kenneth M. Kulak

KMK/nt

Enclosures

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

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**PENNSYLVANIA PUBLIC
UTILITY COMMISSION**

v.

**PECO ENERGY COMPANY –
GAS DIVISION**

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DOCKET NO. R-2024-3046932

CERTIFICATE OF SERVICE

I hereby certify and affirm that I have this day served a copy of the **Joint Proposed Findings of Fact, Conclusions of Law and Ordering Paragraphs in Support of Joint Petition for Non-Unanimous Partial Settlement** on the following persons in the manner specified in accordance with the requirements of 52 Pa. Code § 1.54:

VIA ELECTRONIC MAIL

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Dated: September 6, 2024

Counsel for PECO Energy Company

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PENNSYLVANIA PUBLIC UTILITY COMMISSION	:	
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	:	
v.	:	DOCKET NO. R-2024-3046932
	:	
PECO ENERGY COMPANY - GAS DIVISION	:	

**JOINT PROPOSED FINDINGS OF FACT, CONCLUSIONS OF
LAW AND ORDERING PARAGRAPHS IN SUPPORT OF
JOINT PETITION FOR NON-UNANIMOUS PARTIAL SETTLEMENT**

PUBLIC VERSION

September 6, 2024

PROPOSED FINDINGS OF FACT

I. INTRODUCTION AND PROCEDURAL HISTORY

1. PECO Energy Company (“PECO” or “the Company”) is a Pennsylvania public utility that furnishes service to approximately 500,000 gas customers throughout a 1,900 square-mile area in southeastern Pennsylvania with a population of approximately 2.6 million people.

See PECO St. 1, p. 3.

2. On March 28, 2024, the Company initiated this rate case pursuant to 66 Pa.C.S. § 1308(d)¹ by filing Tariff Gas – Pa. P.U.C. No. 6 (“Tariff No. 6”) requesting an increase in its gas distribution rates effective May 27, 2024.

3. Accompanying Tariff No. 6, PECO filed supporting data for a historic test year (“HTY”) ended December 31, 2023, a future test year (“FTY”) ending December 31, 2024 and a fully projected future test year (“FPFTY”) ending December 31, 2025. PECO’s supporting information included the prepared direct testimony of ten initial witnesses and the various exhibits sponsored by those witnesses.

4. The Pennsylvania Public Utility Commission (“Commission” or “PUC”) initiated an investigation of the Company’s existing and proposed rates by Order entered April 25, 2024.

5. Pursuant to Section 1308(d), the Company’s rate request was suspended by operation of law to December 27, 2024. The case was then assigned to Administrative Law Judges Marta Guhl and Darlene Heep for purposes of conducting hearings and issuing a Recommended Decision.

¹ Hereafter all references to a “Section” are to the Pennsylvania Public Utility Code (“Code”), 66 Pa.C.S. §§ 101 *et seq.*, unless indicated otherwise.

6. In addition to Commission’s Bureau of Investigation and Enforcement (“I&E”), several parties participated actively in the proceeding: the Office of Consumer Advocate (“OCA”),² the Office of Small Business Advocate (“OSBA”), Alan McCarthy, Local 614 of the International Brotherhood of Electrical Workers, AFL-CIO (“Local 614”), the Philadelphia Area Industrial Energy Users Group (“PAIEUG”), the Southeastern Pennsylvania Transportation Authority (“SEPTA”), the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (“CAUSE-PA”), the Trustees of the University of Pennsylvania and the Hospital of the University of Pennsylvania (collectively, “UPenn”), and Walmart Inc. (“Walmart”).

7. A telephonic Prehearing Conference was held on May 7, 2024. Consistent with Commission practice, a schedule was adopted whereby all case-in-chief, rebuttal and surrebuttal testimony would be submitted in writing in advance of hearings and oral rejoinder could be offered at hearings. To effectuate this schedule, PECO agreed to request an extension of the suspension period until December 30, 2024. This agreement provided that at the time any compliance filing is made, the Company will be able to recoup through a surcharge the revenues lost at the approved rates for the period from the anticipated effective date of new rates (i.e., January 1, 2025) through the date the Commission makes those rates effective by approving the compliance filing. As memorialized in page 7 of the Prehearing Order issued by the ALJs on May 21, 2024, the parties agreed not to oppose PECO’s recovery of such revenue 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. A suspension tariff supplement reflecting the terms of the conditional extension of the suspension period was filed on May 28, 2024.

² On April 11, 2024, the OCA entered its appearance in this case. On the same date, the OCA filed a Formal Complaint and Public Statement in this case at Docket No. C-2024-3048363.

8. In accordance with the schedule established in the Prehearing Order , I&E, the OCA, the OSBA, Local 614, PAIEUG, SEPTA, CAUSE-PA and Walmart submitted a total of 16 written statements of direct testimony and accompanying exhibits on June 17, 2024. On July 16, 2024, PECO, I&E, the OCA, the OSBA, Local 614, PAIEUG and SEPTA submitted a total of 16 written statements of rebuttal testimony with accompanying exhibits. That same day, the OCA submitted supplemental direct testimony addressing issues raised at the public input hearings. On August 2, 2024, PECO, I&E, the OCA, the OSBA, Local 614, PAIEUG, and CAUSE-PA submitted a total of 16 written statements of surrebuttal testimony with accompanying exhibits. On August 6, 2024, PECO submitted an Oral Rejoinder Outline for six witnesses.

9. A total of seven public input hearings and two days of evidentiary hearings were held, generating 919 pages of transcript.

10. The parties engaged in discussions to negotiate a settlement of some or all of the issues raised in this rate case. On August 5, 2024 and August 23, 2024, the Joint Petitioners provided status reports to the ALJs to inform them of the progress of settlement discussions.

11. On August 23, 2024, the parties notified the ALJs that a non-unanimous partial settlement in principle had been reached to resolve all issues among the Joint Petitioners in this proceeding except for a single issue pertaining to PECO's proposed Weather Normalization Adjustment ("WNA") and the settling parties would submit a Joint Petition for Non-Unanimous Settlement and Statements in Support to memorialize their agreement.

12. On August 30, 2024, PECO, I&E, the OCA, the OSBA, CAUSE-PA, PAIEUG, SEPTA and Walmart submitted a Joint Petition for Non-Unanimous Partial Settlement of Rate

Investigation (“Settlement” or “Joint Petition”) and requested that the ALJs approve the Settlement without modification.

13. The Settlement was achieved only after a comprehensive investigation of PECO’s operations and finances, which included: (1) extensive discovery (PECO responded to approximately 778 interrogatories); (2) submission of written direct, rebuttal, and surrebuttal testimony covering a wide range of issues; (3) public input hearings; (4) an evidentiary hearing in which PECO witnesses presented oral rejoinder and witnesses for both the Company and I&E were cross-examined; and (5) negotiations among the Joint Petitioners as to the appropriate revenue level, rate structure, rate design, and other matters, as set forth in detail in the Joint Petition.

II. OVERVIEW OF THE COMPANY’S FILING AND OF THE SETTLEMENT

14. PECO last filed for an increase in gas base rates in March 2022. In its initial filing in this case, the Company proposed an increase in total gas operating revenues of \$111 million based on data for a fully projected future test year (“FPFTY”) ending December 31, 2025. PECO also requested PUC approval of a WNA as an alternative rate mechanism in accordance with Section 1330 of the Public Utility Code. *See* PECO St. 1, p. 5; PECO Exhibit MJT-1, Sch. A-1.

15. Between January 1, 2024 and December 31, 2025, the end of the FPFTY, PECO’s witnesses testified that PECO will have invested \$786 million in new and replacement gas utility plant. *See* PECO St. 1, p. 5; PECO St. 2, pp. 3-4.

16. On a pro forma basis, PECO projected its gas distribution operations to produce an overall return on invested capital of 5.82% and a return on common equity of 6.90% for the FPFTY. *See* PECO St. 2, p. 7; PECO Ex. MJT-1 Revised, Sch. A-1.

17. Under the terms of the Settlement, PECO will be entitled to charge gas distribution base rates (the “Settlement Rates”), effective for service rendered on and after January 1, 2025, designed to produce an annual increase in gas operating revenues of \$78 million, in addition to the Distribution System Improvement Charge (“DSIC”) revenue of \$18 million that will be rolled into base rates. The agreed increase is in lieu of the Company’s initially requested increase of \$111 million. The Joint Petitioners also agreed that, subject to the resolution of issues related to the Company’s proposed WNA, PECO shall be permitted to file the gas tariff provided in Appendix A of the Settlement. The principal substantive terms and conditions of the Settlement are set forth in Paragraph Nos. 13-52 of the Joint Petition, which address the issues raised by the other parties in this proceeding.

III. THE SETTLEMENT IS IN THE PUBLIC INTEREST

18. The Joint Petitioners agree that that the revenue level set forth in the Settlement is reasonable and in the public interest.

19. Under the Settlement Rates, the bill for a typical Residential customer that uses 80 centum cubic feet (“ccf”) per month will increase by \$12.25 per month, from \$97.98 to \$110.23 (or 12.5%),³ including purchased gas costs, taxes and other surcharges. By comparison, in the Company’s initial filing, the bill for a typical Residential customer that uses 80 ccf per month would increase by \$16.15 per month, from \$97.98 to \$114.13 (or 16.5%),⁴ including purchased gas costs, taxes, and other surcharges. Joint Petition, App. D.

² All calculations use riders in effect at March 1, 2024 and the Price-to-Compare from March 1, 2024, which assures that the rates are being compared on a consistent basis.

³ PECO Energy Company – General Base Rate Filing, Volume No. I - Customer Notice.

20. The Company will not file for another general rate increase under Section 1308(d) for its gas operations prior to March 16, 2026 which will provide customers base rate stability for a period of at least two years. Joint Petition, ¶ 15.

21. I&E proposed that the Company update PECO Exhibit MJT-2, Schedule C-2 by April 1, 2025, and PECO Exhibit MJT-1, Schedule C-2 by April 1, 2026 (collectively, the “I&E Requested Updates”), to include actual capital expenditures, plant additions, and retirements by month for 2024 and 2025, respectively. I&E St. 3, p. 6-7.

22. The Company agreed to provide the I&E Requested Updates. PECO St. 3-R, pp. 5-6; Joint Petition, ¶ 21.

23. The Joint Petitioners are in agreement that the Settlement Rates fairly and reasonably allocate the increase in gas distribution revenues among PECO’s customer rate classes. *See* Joint Petition, ¶¶ 16, App. B.

24. With respect to rate design, the Settlement Rates reflect the need to recover the customer component of total cost of service in the customer charge, while recognizing that increases in the customer charges can impact low-usage customers. Accordingly, the Settlement Rates provide for an increase in the Company’s residential customer charge, but in a lesser amount than the customer charge the Company originally proposed in its initial rate case filing. The Settlement Rates also reflect PECO’s original proposal to maintain a single General Service (“Rate GC”) monthly customer charge for 2025 and to implement differentiated customer charges for large and small Rate GC customers based on meter size on January 1, 2026. *See* Joint Petition, ¶ 17.

25. With respect to rate design for non-residential customers, PECO initially proposed to eliminate the Rate GC declining block volumetric charge but subsequently accepted

OSBA witness Mark D. Ewen’s recommended alternative to reduce the volumetric charge differential by 50% and reduce the overall bill impacts on larger Rate GC customers. *See* OSBA St. 1, pp. 20-21; PECO St. 7-R, p. 15. PECO also proposed to reduce its current Transportation Service – Interruptible (“TS-I”) and Transportation Service – Firm (“TS-F”) volumetric charge differentials for customers above and below annual volumes of 18 mmcf using a load ratio adjustment. PECO St. 7, pp. 13-15; *see also* OSBA St. 1, pp. 22-23. PAIEUG witness Billie S. LaConte opposed the Company’s modification to the rate differentials for its transportation classes (supported by the OSBA) and asserted that: (1) increasing the volumetric rate for large TS-F customers by 44% based on load factors rather than actual costs incurred to serve those customers would result in rate shock; and (2) large TS-I customers would receive a 12% increase in volumetric rates under PECO’s proposed phase-out of volumetric differentials, despite the fact that the class as a whole is significantly above cost and should receive a decrease. PAIEUG St. 1, p. 15-19.

26. Under the Settlement, the Joint Petitioners have agreed to declining block volumetric rates for Rate GC consistent with the recommendation made by the OSBA. In addition, the Settlement Rates reflect a compromise among PECO, the OSBA and PAIEUG on the rate design for transportation customers. The Company agreed to reduce the current volumetric rate differential for Rate TS-F from 2.1 to 2.0, instead of 1.49 as originally proposed. PECO also agreed to reduce the current volumetric rate differential for Rate TS-I no backup customers from 1.88 to 1.74, instead of 1.67 as originally proposed. *See* Joint Petition, ¶¶ 18-19, App. A

27. PECO proposed to modify the bad debt component of the offset factor applied to reconcilable Customer Assistance Program (“CAP”) costs recovered through the Company’s

Universal Services Fund Charge (“USFC”), but that proposal was opposed by the OCA. *See* PECO St. 10, pp. 3-7; PECO St. 10-R, pp. 24-25; PECO St. 3-R, pp. 25-27; PECO Ex. MJT-4; Tr. 822-24; OCA St. 4, pp. 104-09; OCA St. 4SR, pp. 6-9. Under the Settlement, PECO will maintain the existing 27% USFC offset factor (22% for bad debt and 5% for cash working capital). Joint Petition, ¶ 20.

28. Witnesses for the OCA and CAUSE-PA expressed concerns about affordability in response to PECO’s proposed base rate increase and made several recommendations to increase assistance to low-income customers. *See* OCA Sts. 4, pp. 12-37, 51-60 & 4SR, pp. 19-23; CAUSE-PA Sts. 1, pp. 10-22 & 1-SR, pp. 13-17. PECO witness Jacqueline F. Golden responded to those concerns and recommendations in her rebuttal testimony and at the evidentiary hearing. PECO St. 10-R, pp. 2-5; Tr. 883-86.

29. The Settlement includes various commitments to connect PECO customers in need with programs that can reduce their bill and enhance assistance to low-income customers, including: (1) extending the utilization of speech analytics to assist with quality monitoring of calls concerning universal service programs and other low-income customer issues; (2) using confirmation of low-income status in its billing system to establish a customer’s payment arrangement length of up to five years; (3) seeking Commission approval of additional language in PECO’s 10-Day Termination Notice about the availability of assistance programs that may stop disconnection of service for non-payment; (4) providing customers eligible for the Cold Weather Service with a CAP application and a Universal Services Program Information Sheet (one pager); and (5) upon application and approval for enrollment in CAP as a first time CAP customer, reconnecting non-CAP customers identified as confirmed low-income customers in

PECO's system prior to disconnection at a reduced restoration amount and enroll those customer in CAP upon reconnection. Joint Petition, ¶¶ 31-35.

30. Witnesses for the OCA and CAUSE-PA each made recommendations concerning PECO's CAP, including that PECO should: (1) participate in the Department of Human Services ("DHS") data sharing program; (2) perform routine Universal Services screening for new, moving and non-emergency calls, including a warm transfer process if necessary; (3) automatically enroll or recertify customers following receipt of a Low-Income Home Energy Assistance Program ("LIHEAP") grant; (4) make additional customer contacts during disconnection and reconnection related to CAP; and (5) provide "stand alone" noticing related to CAP. OCA St. 4, pp. 38-50; CAUSE-PA Sts. 1, pp. 22-30 & 1-SR, pp. 17-20. The Company presented testimony responding to the CAP-related proposals and concerns. *See* PECO St. 10-R, pp. 7-14; Tr. 886-87.

31. As described in detail in the Settlement, PECO has agreed to implement several measures to benefit CAP customers, including: (1) participation in the DHS data sharing program in a manner consistent with the Commission's June 13, 2024 data sharing order at Docket No. M-2023-3038944; (2) automatic recertification of current CAP customers using data provided by DHS and (3) a stakeholder collaborative to discuss how PECO could implement automatic enrollment of non-CAP LIHEAP grant recipients in CAP. Joint Petition, ¶¶ 25-26.

32. CAUSE-PA recommended several changes to PECO's Low Income Usage Reduction Program ("LIURP"), including: (1) increasing the annual budget by \$1.85 million; (2) revising the high usage eligibility threshold to account for usage on a per-square foot basis; (3) improving direct solicitation to high usage CAP customers; and (4) reporting to the Universal Services Advisory Committee ("USAC") about (i) barriers and solutions regarding tenant issues

and (ii) barriers and solutions regarding coordination with other home repair and weatherization programs. *See* CAUSE-PA St. 1, pp. 31-38; CAUSE-PA St. 1-SR, pp. 23-26. The Company submitted testimony responding to the LIURP-related proposals. *See* PECO St. 10-R, pp. 14-16.

33. Under the Settlement, PECO agreed to increase its annual LIURP budget by \$500,000 (from \$3.15 million to \$3.65 million). Joint Petition, ¶ 27.

34. CAUSE-PA made several recommendations related to PECO’s Matching Energy Assistance Program (“MEAF”), including that: (1) MEAF grant amounts be increased to \$1,000; (2) MEAF funds be distributed proportional to low-income populations in each county; and (3) PECO replace MEAF’s zero balance requirement with a requirement that a grant be sufficient to “resolve the crisis;” (4) PECO monitor the performance of each MEAF agency including requiring monthly reports from each agency; (5) PECO file monthly reports on the status and availability of MEAF; and (6) MEAF operations and oversight issues be referred to the Commission’s Bureau of Audits and I&E. CAUSE-PA St. 1, pp. 39-55; CAUSE-PA St. 1-SR, pp. 26-32. The Company submitted testimony responding to CAUSE-PA’s MEAF-related proposals. *See* PECO St. 10-R, pp. 17-18; Tr. 887-89.

35. Under the Settlement, PECO agreed to several changes to improve access to its MEAF program, including: (1) setting maximum grants at \$1,250 per account; (2) replacing the zero balance requirement with the amount stated on the termination notice or as otherwise agreed to by PECO; (3) additional MEAF reporting requirements at USAC meetings; (4) more oversight of MEAF agencies; and (5) expanded information regarding applying for MEAF on the Company’s website. *See* Joint Petition, ¶¶ 28-30.

36. OCA witness Nicolas A. DeMarco recognized recent improvements in PECO’s call center performance in terms of wait times and call abandonment rate, but recommended that

PECO conduct further analysis on how to improve first call resolution and investigate call handling issues that have not been resolved since the Commission’s Bureau of Audit’s “PECO Energy Company Management and Audits Report” issued in July 2022 at Docket No. D-2021-3023906 (“2022 Audit Report”). OCA St. 5, pp. 10-15; OCA St. 5-SR, pp. 10-12. PECO witness Golden explained that PECO is already focused on improving first contact resolution and drive customer satisfaction. PECO St. 10-R, pp. 33-34.

37. Under the Settlement, PECO agreed to investigate any material issues with call handling that were identified in the 2022 Audit Report which have not been resolved by the actions PECO agreed to take in its implementation plan for the audit report. PECO will file a report on its investigation within six months of the effective date of the new rates established in this proceeding. Joint Petition, ¶ 36.

38. CAUSE-PA made several recommendations concerning security deposits, including that PECO: (1) educate customers about the low-income security deposit exemption and income screen customers prior to assessing a security deposit; (2) within 30 days of a final order in this proceeding, review all prior security deposit collections from low-income customers, issue refunds and continue the monthly review moving forward; and (3) issue refunds directly to the customer, with an account credit used only if a customer provides explicit and informed consent. CAUSE-PA also raised concerns about an alleged racially disparate impact of PECO’s security deposit practices. *See* CAUSE-PA St. 1, pp. 60-65.

39. OCA made recommendations concerning security deposit and termination processes, including that: (1) PECO should conduct a root cause analysis to determine and address the cause of an alleged “disproportionate” level of disconnections in certain zip codes with relatively greater numbers of Black households; (2) PECO’s risk analysis methodology

underlying its disconnection of service and cash security deposits should be subject to a public review by the Bureau of Consumer Services and stakeholders; and (3) PECO's gas tariff be modified to state that its credit scoring methodology "does not directly, or have the effect of, discriminating based on a protected class as set forth in the federal Equal Credit Opportunity Act." *See* OCA St. 4, pp. 60-70.

40. The Company submitted testimony responding to the security deposit and termination-related proposals and concerns. *See* PECO St. 10-R, pp. 5-7, 24-26.

41. As described in detail in the Settlement, PECO has agreed to implement several measures related to security deposit and termination policies to address the concerns and proposals of other parties, including that: (1) PECO will, by April 1, 2025 and then moving forward on a quarterly basis, review all accounts where a security deposit was previously collected from a customer with verified income less than or equal to 250% of the Federal Poverty Level ("FPL") and if PECO determines it is holding a security deposit for a confirmed low-income customer (less than or equal to 150% FPL), refund that amount unless the customer has given explicit and informed consent for the deposit to be applied to the customer's account; (2) PECO will, by April 1, 2025, update its security deposit letter to include information about the low-income security deposit waiver; and (3) within 12 months from the date rates go into effect, PECO will conduct an assessment of the disconnection of service and cash security deposits issues raised by OCA witness Roger Colton in his Direct Testimony (OCA Statement No. 4, pp. 67-70) and CAUSE-PA witness Elizabeth Marx (CAUSE-PA Statement No. 1 pp. 60-65) and to meet with the OCA and CAUSE-PA to discuss PECO's efforts to ensure that Environmental Justice communities are not inadvertently disproportionately impacted by terminations of service or requests for security deposits. Joint Petition, ¶¶ 37-39.

42. CAUSE-PA made several recommendations related to language access, including that PECO should: (1) track the primary language of its customers as part of its customer information system; (2) send residential bills (or key portions thereof) and residential termination notices in English and Spanish to all households; and (3) include a tagline about interpretation service in five languages on residential customer bills and termination notices. *See* CAUSE-PA St. 1, pp. 55-60. The Company submitted testimony responding to the language access proposals and concerns. *See* PECO St. 10-R, pp. 23-24.

43. Under the Settlement, PECO agreed to: (1) continue its Limited English Proficiency stakeholder meetings as agreed to in the Joint Petition for Settlement at Docket No. R-2021-3024601 until the later of its next electric or gas base rate case filing; and (2) discuss, at the first of such meetings, issues for consideration in any proposal to: (a) add taglines to residential customer bills; and (b) send shutoff notices that are in both English and Spanish. Joint Petition, ¶ 40.

44. The OCA recommended that PECO eliminate any direct customer fees associated with different bill payment methods, work to negotiate lower third-party processing fees, and include any third-party processing fees in the Company's revenue requirement. OCA further recommended that PECO be required, in its next rate case, to propose the complete elimination of fees for bill payment using credit and debit cards and to present a full cost analysis. *See* OCA St. 5, pp. 20-21; OCA St. 5SR, pp. 14-16. The Company submitted testimony responding to OCA's comments and proposals concerning payment processing fees. *See* PECO St. 10-R, pp. 35-37.

45. Under the Settlement, PECO will undertake a good faith effort to negotiate lower payment processing fees with third-party vendors when it negotiates its next contract. In

addition, as described in detail in the Settlement, PECO has agreed to do the following in its next base rate filing: (1) provide, for the most recent 24 months available, the monthly number of residential payments by credit card and by debit card and the fee charged for each type of transaction; and (2) propose to eliminate all payment processing fees, or, provide detailed information supporting the Company’s decision to not make such a proposal. Joint Petition, ¶¶ 41-42.

46. [BEGIN CONFIDENTIAL] Redacted

[END CONFIDENTIAL]

⁵ See *Pa. P.U.C. v. PECO Energy Co. – Gas Div.*, Docket No. R-2020-3018929 (Opinion and Order entered June 22, 2021), p. 207 (“2020 Gas Rate Case Order”) (“[W]e find that Ms. Bozhko’s recommendation, that the DIMP categories be re-examined at this time, is reasonable. Specifically, any erroneous categories, such as the plastic corrosion category, should be eliminated from the DIMP. In addition, PECO should consider material type, age, environment, size, pressure, location, leak history, and other information to mitigate risks through pipeline replacement.”); *Pa. P.U.C. v. PECO Energy Co. – Gas Div.*, Docket No. R-2022-3031113 (Opinion and Order entered Oct. 27, 2022).

47. In response to I&E’s safety-related proposals, PECO agreed to: (1) improve the consistency and accuracy of leak reporting from the field, including PECO DIMP team quality audits of at least 10% of leak reports received from the field; (2) build a new Power BI dashboard and add more factors into the risk model; (3) continue identifying and locating inaccurate facilities; (4) include more information in its brochures including the color coding of facilities; (5) continue to keep track of post construction quality audits containing a failed observation; and (6) will continue investing in technologies that facilitate mapping improvements and removal of potentially hazardous pipeline components. In addition, PECO will schedule a meeting with Commission Pipeline Safety inspectors by August 10, 2025 to demonstrate how the above items were satisfied. *See* Joint Petition, ¶¶ 43-49.

48. In its initial filing, PECO proposed revisions to its natural gas energy efficiency and conservation (“EE&C”) program, including a \$350,000 increase to the overall budget from \$2.727 million per year to \$3.077 million per year. *See* PECO St. 9, pp. 12-19. I&E opposed the proposed increase to the natural gas EE&C program budget and PECO submitted testimony responding to I&E’s opposition. *See* I&E St. 1, pp. 31-34; I&E St. 1-SR, pp. 28-32; PECO St. 9-R, pp. 1-8. Under the Settlement, the Joint Petitioners agreed to PECO’s proposal to increase the overall natural gas EE&C budget to \$3.077 million per year. *See* Joint Petition, ¶ 50.

49. In its initial filing, PECO proposed to extend and modify its Neighborhood Gas Pilot Rider (“NGPR”). *See* PECO St. 9, pp. 19-24. No party opposed this proposal. Under the Settlement, the Joint Petitioners agreed to PECO’s proposed extended and modified NGPR. Joint Petition, ¶ 51.

50. In its initial filing, PECO proposed modifications to its Small Business Grant Program and Gas Customer Safety Program. *See* PECO St. 10, pp. 10-16. No party opposed

these proposals. Under the Settlement, the Joint Petitioners agreed to PECO's proposed modifications to the Small Business Grant Program and Gas Customer Safety Program. Joint Petition, ¶ 51.

51. The tariff changes originally proposed by the Company in PECO Exhibit JAB-2, which were not contested in this case, have also been reflected in Appendix A.

PROPOSED CONCLUSIONS OF LAW

1. PECO's rates must be just and reasonable and cannot result in unreasonable rate discrimination. 66 Pa.C.S. §§ 1301, 1304.

2. Pursuant to the just and reasonable standard, a utility may obtain "a rate that allows it to recover those expenses that are reasonably necessary to provide service to its customers[,] as well as a reasonable rate of return on its investment." *City of Lancaster Sewer Fund v. Pa. P.U.C.*, 793 A.2d 978, 982 (Pa. Commw. Ct. 2002).

3. While Section 315(a) provides that a utility has the burden to prove that proposed rates are just and reasonable, it "cannot reasonably be read to place the burden of proof on the utility with respect to an issue the utility did not include in its general rate case filing and which, frequently, the utility would oppose." *Pa. P.U.C. v. Columbia Gas of Pa., Inc.*, Docket No. R-2020-3018835A (Opinion and Order entered Feb. 19, 2021).

4. A party proposing an adjustment to a ratemaking claim bears the burden of presenting some evidence or analysis tending to demonstrate the reasonableness of the adjustment, and Section 332(a) establishes a burden of proof separate from that in Section 315 for those entities that propose a rule or order. *NRG Energy, Inc. v. Pa. P.U.C.*, 233 A.2d 936 (Pa. Commw. Ct. 2020).

5. PECO has sustained its burden of proving that it should be granted an increase in rates. 66 Pa.C.S. § 1308(d).

6. In order to approve a settlement, the Commission must determine that the proposed terms and conditions, viewed in the context of the settlement as a whole, are in the public interest. *See Pa. P.U.C. v. CS Water & Sewer Ass'n*, 74 Pa. P.U.C. 767, 771 (1991); *Pa. P.U.C. v. Philadelphia Elec. Co.*, 60 Pa. P.U.C. 1, 22 (1985).

7. The Commission has outlined the following general principles for assessing whether a settlement meets the public interest standard:

The purpose of this investigation is to establish distribution rates for PECO's customers that are "just and reasonable" pursuant to Section 1301 of the Code, 66 Pa. C.S. § 1301. A public utility seeking a general rate increase is entitled to an opportunity to earn a fair rate of return on the value of the property dedicated to public service. *Bluefield Water Works and Improvement Co. v. Public Service Comm'n of West Virginia*, 262 U.S. 679 (1923) (*Bluefield*).

In determining what constitutes a fair rate of return, the Commission is guided by the criteria set forth in *Bluefield, supra*, and *Federal Power Comm'n v. Hope Natural Gas Co.*, 320 U.S. 591 (1944). In *Bluefield* the United States Supreme Court stated:

A public utility is entitled to such rates as will permit it to earn a return on the value of the property which it employs for the convenience of the public equal to that generally being made at the same time and in the same general part of the country on investments in other business undertakings which are attended by corresponding risks and uncertainties; but it has no constitutional right to profits such as are realized or anticipated in highly profitable enterprises or speculative ventures. The return should be reasonably sufficient to assure confidence in the financial soundness of the utility and should be adequate, under efficient and economical management, to maintain and support its credit and enable it to raise the money necessary for the proper discharge of its public duties. A rate of return may be too high or too low by

changes affecting opportunities for investment, the money market and business conditions generally.⁶

8. The Commission’s policy and precedent embodied in its regulation at 52 Pa. Code § 5.231 and its Policy Statement on Settlements at 52 Pa. Code § 69.401 encourage parties to resolve contested proceedings by settlement.

9. In its Policy Statement, the Commission stated that “the results achieved from a negotiated settlement or stipulation, or both, in which the interested parties have had an opportunity to participate *are often preferable to those achieved at the conclusion of a fully litigated proceeding*” (emphasis added).

10. *Pa. P.U.C. v. PECO Energy Co.*, Docket No. R-2018-3000164 (Opinion and Order entered Dec. 20, 2018), p. 15, summarized the benefits of resolving contested rate cases by settlement:

Rate increase proceedings are expensive to litigate, and the reasonable cost of such litigation is an operating expense recovered in the rates approved by the Commission. Partial or full settlements allow the parties to avoid the substantial costs of preparing and serving testimony and the cross-examination of witnesses in lengthy hearings, the preparation and service of briefs, reply briefs, exceptions and replies to exceptions, together with the briefs and reply briefs necessitated by any appeal of the Commission’s decision, yielding significant expense savings for the company’s customers. For this and other sound reasons, settlements are encouraged by long-standing Commission policy.

11. The Commission has approved non-unanimous settlements as being just and reasonable and in the public interest and has not rejected or disfavored settlements because they are non-unanimous. *See Pa. P.U.C v. Pike Cty. Light and Power Co. – Elec.*, Docket No. R-

⁶ *Pa. P.U.C. v. PECO Energy Company – Elec. Div.*, Docket No. R-2015-2468981 (Opinion and Order entered Dec. 17, 2015), pp. 6-7; *see also Pa. P.U.C. v. Pa.-Am. Water Co.*, Docket No. R-2020-3019369 (Opinion and Order entered Feb. 25, 2021), pp. 11-14.

2020-3022135 (Recommended Decision issued May 5, 2021 and adopted without modification by Order entered June 23, 2021); *PAWC 2021, supra*.

12. The rates, terms and conditions of the Joint Petition are just, reasonable and in the public interest and satisfy all of the Commission’s criteria for approval of a settlement.

PROPOSED ORDERING PARAGRAPHS

IT IS ORDERED:

1. That the Joint Petition is granted and the Settlement is approved, without modification.

2. That PECO Energy Company – Gas Division shall not place into effect the rates, rules, and regulations contained in Tariff Gas– Pa. P.U.C. No. 6 regarding its cost recovery base rates for gas service revenues within its service territory.

3. That PECO is authorized to file a tariff or tariff supplement containing rates, rules and regulations, consistent with the findings herein, and Appendices attached to the Joint Petition for Non-Unanimous Partial Settlement, including the recoupment surcharge set forth in Appendix A, to produce an annual increase in gas distribution base rate operating revenues of \$78 million for service rendered on and after January 1, 2025. The \$78 million increase shall be in addition to base distribution rates after the roll-in to those rates of \$18 million in Distribution System Improvement Charge revenue, as shown in the Proof of Revenues in Appendix B.

4. That PECO’s tariffs and/or tariff supplements may be filed to become effective on at least one day’s notice after entry of the Commission’s Order approving the Settlement.

5. That the following formal complaints at the respective docket numbers be dismissed and marked closed by the Commission’s Secretary’s Bureau:

Complainant(s) _____ Docket Number

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

6. That upon Commission approval of the tariff or tariff supplement filed by PECO in compliance with the Commission's Opinion and Order, the investigation at Docket No. R-2024-3046932, be marked closed.