



September 6, 2024

Via electronic mail

The Honorable Darlene Heep
Administrative Law Judge
Pennsylvania Public Utility Commission
801 Market Street, Suite 4063
Philadelphia, PA 19107

The Honorable Marta Guhl
Administrative Law Judge
Pennsylvania Public Utility Commission
801 Market Street, Suite 4063
Philadelphia, PA 19107

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

Dear Judge Heep and Judge Guhl:

Enclosed please find the **Main Brief of the Coalition for Affordable Utility Service and Energy Efficiency in Pennsylvania** in the above referenced proceeding.

Copies are being served upon all parties and Your Honors, as indicated on the attached Certificate of Service.

If you have any questions, do not hesitate to contact me.

Sincerely,

/s/ Charlotte Edelstein
Charlotte E. Edelstein, Esquire
Attorney ID No. 334505

Enclosures

Cc: PA PUC Secretary's Bureau
Parties of Record

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission

v.

PECO Energy Company - Gas

Docket No. R-2024-3046932

**MAIN BRIEF OF THE COALITION FOR AFFORDABLE UTILITY SERVICES AND
ENERGY EFFICIENCY IN PENNSYLVANIA**

COMMUNITY LEGAL SERVICES, INC

*Counsel for the Coalition for Affordable Utility Services and Energy Efficiency in
Pennsylvania*

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I. INTRODUCTION

The Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA), through counsel Community Legal Services (CLS), files this Main Brief asking the Commission to reject PECO Energy Company's (PECO) proposed Weather Normalization Adjustment mechanism (WNA). As set forth herein, PECO has not met its burden to show that the proposed WNA is just or reasonable, especially in light of the negative effects on affordability the WNA will have on low and moderate income consumers.

Rate mechanisms cannot be just and reasonable if they are not also affordable and accessible to all those in need of service. CAUSE-PA urges the Honorable Administrative Law Judges (ALJs) Darlene Heep and Marta Guhl and the Pennsylvania Public Utility Commission (Commission) to reject the WNA to ensure that low-income and economically vulnerable consumers are protected from rate unaffordability and corresponding inaccessibility of service.

A. Description of Company

PECO is a combined electric and natural gas utility that provides natural gas service in southeastern Pennsylvania.¹ PECO provides electric service to approximately 1.7 million customers and natural gas service to over half a million customers.²

¹ PECO St. 1 at 2-3.

² Id.

B. Procedural History

On March 28, 2024, PECO filed with the Commission PECO's proposed Tariff Gas – Pa. P.U.C. No. 6 to become effective May 27, 2024, requesting to increase rates by approximately \$111 million.³

On April 1, 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. On April 16, 2024, the Office of Small Business Advocate (OSBA) filed a complaint. On April 17, 2024, the International Brotherhood of Electrical Workers, Local 614 (IBEW) filed a Petition to Intervene. On April 23, 2024, Pennsylvania State Representative Christina Sappey filed a complaint. On April 23, 2024, PECO filed an Answer to the Complaint of OCA.

On April 25, 2024, the Commission suspended PECO's filing by operation of law until December 28, 2024, unless permitted by Commission order to become effective at an earlier date. On April 26, 2024, the Commission issued a Telephonic Prehearing Conference Notice, for a Prehearing Conference to be held on May 7, 2024. On April 29, 2024, CAUSE-PA 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 Users Group (PAIEUG) filed a complaint. On May 6, 2024, the National Railroad Passenger Corporation (Amtrak) and the Southeastern PA Transportation Authority (SEPTA) each filed a Petition to Intervene. PECO filed a revised suspension tariff voluntarily extending the suspension period until December 30, 2024.

³ PECO St. 1 at 5.

In June, the Commission held several Public Input Hearings regarding the proposed rate increase. At those public hearings, several PECO customers expressed concerns with the proposed WNA. Among the concerns raised at public input hearings were the “proposed WNA’s lack of transparency, the detriment to low-income customers of having an additional part of their bill that they cannot control,” and that “the WNA would be confusing and hard for PECO to explain.”⁴ As noted by the Office of Small Business Advocate, public input on WNA mechanisms across Pennsylvania has generally been negative.⁵

The Parties circulated direct testimony on June 17, 2024, rebuttal testimony on July 16, 2024, and surrebuttal testimony on August 2, 2024. On August 8, 2024 and August 12, 2024, ALJs Guhl and Heep conducted evidentiary hearings. Various parties identified and moved to admit evidence in the form of the pre-circulated written statements and exhibits. CAUSE-PA sponsored the expert testimony of Elizabeth R. Marx, Esq, which addressed, in relevant part, PECO’s proposed Weather Normalization Adjustment.⁶

On August 13, 2024, the ALJ’s issued a Briefing Order indicating the main briefs are due August 30, 2024 and reply briefs are due Thursday, September 12, 2024. This Order was modified on August 27, shifting the date for main briefs to September 6, 2024, and maintaining the reply brief deadline as September 12, 2024.

⁴ OCA St. 5 Supp. at 2.

⁵ OSBA St. 1 at 26.

⁶ CAUSE-PA St. 1 at 60-65; CAUSE-PA St. 1-SR at 3-10.

On August 30, 2024, PECO, the I&E, OCA, OSBA, CAUSE-PA, PAIEUG, SEPTA and Walmart (collectively, Joint Petitioners), filed a Joint Petition for a Non-Unanimous Partial Settlement resolving all issues except the WNA, which was reserved for litigation.⁷

C. Overview of PECO's Filing

On March 28, 2024, PECO filed with the Commission PECO's proposed Tariff Gas – Pa. P.U.C. No. 6 to become effective May 27, 2024, requesting to increase rates by approximately \$111 million.⁸ If PECO's rate request were to be approved in full, the average bill of a residential customer using 80 Ccf per month would increase by \$16.15 from \$97.98 to \$114.13 or by 16.5%.⁹ As a part of its rate request, PECO proposed a WNA that would adjust rates for the months of October through May based on the difference between actual weather (measured in actual heating degree days) and what the company considers to be normal weather (measured in normal heating degree days).¹⁰ In practice, this means that customer rates would adjust under the WNA between October and May to provide a discount to customers in colder than normal months, and add a surcharge for customers in warmer than normal months.¹¹

D. Overview of the Settlement

The parties engaged in discussions to negotiate a partial settlement of some of the issues raised in this rate case. The parties reached a non-unanimous partial settlement to resolve all issues among the Joint Petitioners, except the issue of PECO's proposed Weather Normalization Adjustment ("WNA"). PECO, I&E, the OCA, the OSBA, CAUSE-PA, PAIEUG, SEPTA, and

⁷ UPenn took a position of not opposing the Settlement, while IBEW did not join the Settlement and indicated it will be opposing the Settlement. Joint Petition for Non-Unanimous Partial Settlement of Rate Investigation at 1 n.1.

⁸ PECO St. 1 at 5.

⁹ Notice of Proposed Natural Gas Rate Changes.

¹⁰ PECO St. 3 at 69.

¹¹ PECO St. 3 at 68.

Walmart submitted a Joint Petition for Non-Unanimous Partial Settlement of Rate Investigation on August 30, 2024.

E. Burden of Proof

In rate cases filed pursuant to section 1308 of the Public Utility Code, such as the current case filed by PECO, for all proposals advanced by the public utility, the burden of proof is on the public utility to show that the proposed rate is just and reasonable.¹²

Public Utility Code § 315(a) (66 Pa.C.S. § 315(a)) states that that in any proceeding upon the motion of the Pennsylvania Public Utility Commission, involving any proposed or existing rate of any public utility, or in any proceedings upon complaint involving any proposed increase in rates, the burden of proof to show that the rate involved is just and reasonable shall be upon the public utility. The public utility must satisfy its burden of proof by a preponderance of the evidence, which means only that one party has presented evidence that is more convincing, by even the smallest amount, than the evidence presented by the other party.¹³

In this case, the Commission has ordered an investigation to “determine the lawfulness, justness, and reasonableness of the rates, rules, and regulations contained in the proposed PECO Tariff Gas-PA. P.U.C. No. 6.”¹⁴ As a result, the burden of proof is on PECO to show, by a preponderance of the evidence, that its proposed WNA is just and reasonable.

II. SUMMARY OF ARGUMENT

The Commission has a “duty to set ‘just and reasonable’ rates, reflecting a ‘balance of consumer and investor interests.’”¹⁵ In determining just and reasonable rates, the Commission has discretion to determine the proper balance between interests of ratepayers and utilities.¹⁶ Pursuant to Section 315 of the Public Utility Code, the burden of proving that a rate proposal is just and

¹² 66 Pa. C.S. §§ 315(a), 1308(a).

¹³ NRG Energy, Inc. v. Pa. PUC, 233 A.3d 936, 939 (Pa. Commw. Ct. 2020).

¹⁴ Suspension Order (Apr. 25, 2024).

¹⁵ Popowsky v. PUC, 665 A.2d 808, 811 (1995); 66 Pa. C.S. § 1301.

¹⁶ Id. citing Pa. PUC v. Philadelphia Electric Co., 561 A.2d 1224, 1226 (1989); Pa. PUC v. Pa. Gas & Water Co., 424 A.2d 1213, 1219 (1980), cert. denied, 454 U.S. 824 (1981).

reasonable rests on the public utility.¹⁷ In determining the justness and reasonableness of rates the “PUC is obliged to consider broad public interests in the rate-making process.”¹⁸ Thus, when considering whether rates are just, reasonable, and in the public interest, it is imperative that the Commission also consider the rules, regulations, programs, and practices affecting such rates.

Further, PECO’s proposed WNA is an alternative ratemaking mechanism, and must be considered in reference to the Commission’s policies regarding alternative ratemaking, codified as the Distribution Rates Policy Statement.¹⁹ That Policy Statement sets forth fourteen factors the Commission must consider when determining whether PECO’s proposed WNA is appropriate.

As discussed below, PECO’s proposed WNA will have a detrimental impact on low income customers and programs that assist low income customers, including PECO’s Customer Assistance Program, reduce incentives for energy efficiency, negatively impact rate stability, and confuse customers. Furthermore, PECO’s proposed WNA is not supported by cost causation principles. As a result, PECO has failed to meet its burden of proof to demonstrate that its proposed WNA is just, reasonable, or in the public interest.

III. WEATHER NORMALIZATION ADJUSTMENT

A. The Commission Should Reject PECO’s Proposed Weather Normalization Adjustment

Section 1301(a) of the Public Utility Code mandates that “every rate made, demanded, or received by any public utility...shall be just and reasonable, and in conformity with regulations or orders of the commission.”²⁰ PECO’s proposed WNA would frequently apply upward or downward adjustments to the bills of PECO’s Residential and Non-Residential customers from

¹⁷ 66 Pa. C.S. § 315.

¹⁸ Popowsky v. PUC, citing Pa. Elec. Co. v. Pa. PUC, 502 A.2d 130, 134 (1985).

¹⁹ 52 Pa. Code § 69.3302(a).

²⁰ 66 Pa. C.S. § 1301(a).

October through May.²¹ As proposed, the WNA is a rate rider in PECO’s tariff that would determine a dollar value to be added or subtracted from customer bills on an account-specific monthly basis.²² The WNA would adjust the amount billed to each customer based on the difference between the number of actual heating degree days (AHDD) and normal heating degree days (NHDD).²³ As defined by PECO, normal heating degree days are defined as heating degree days associated with “normal” weather during the billing period for the customer, based on a 30 year average.²⁴ In months with warmer than normal temperatures, customers are likely to use less gas and pay a smaller amount in volumetric charges. The inverse is true in colder than normal months.²⁵ As a result, PECO would charge customers a higher overall rate than they would get without the WNA during warmer than average months.²⁶

PECO’s WNA proposal is an alternative ratemaking mechanism, and must be considered in reference to the Commission’s policies regarding alternative ratemaking. Section 1330 of the Public Utility Code authorizes the Commission to review and approve utility proposals for alternative ratemaking mechanisms.²⁷ In 2019, the Commission adopted a Distribution Rates Policy Statement implementing Section 1330.²⁸ The Commission’s Policy Statement enumerates factors for evaluation of alternative ratemaking mechanisms.²⁹ The Policy Statement is intended to “promote the efficient use of electricity, natural gas and water through technologies and

²¹ PECO St. 3 at 69:2-7.

²² See Proposed Tariff at 84; PECO St. 3 at 69.

²³ Proposed Tariff at 84.

²⁴ Id. Note that PECO’s proposed tariff, as filed, references a 3-year average. PECO Witness Trzaska clarified in rebuttal testimony that this was a typographical error and should have stated “30-year average.” PECO St. 3-R at 15:5-7.

²⁵ PECO St. 3 at 67:18-22.

²⁶ Id. at 78:20-22.

²⁷ 66 Pa. C.S. § 1330.

²⁸ See 66 Pa. C.S. § 1330(d) (“No later than six months after the effective date of this subsection, the commission, by regulation or order, shall prescribe the specific procedures for the approval of an application to establish alternative rates.”).

²⁹ 52 Pa. Code §§ 69.3301-.3302.

information.”³⁰ It states that, “an alternative rate design methodology should reflect the sound application of cost of service principles, establish a rate structure that is just and reasonable, and consider customer impacts.”³¹ It sets forth fourteen factors to evaluate whether an alternative ratemaking mechanism is just and reasonable.³² These factors include: the effect on low income customers and customer assistance programs, the impact on efficiency and conservation programming, customer rate stability principles, whether the mechanism is understandable to customers, and alignment with cost causation principles.

PECO claims that the WNA would both provide PECO with greater certainty in earning distribution revenues and provide customers with more predictability in billing and protection from the impacts of high bills during winter months, October through May.³³ It cites similarities between its proposed WNA and the National Fuel Gas Distribution Company (NFG) WNA, Columbia Gas of Pennsylvania’s (Columbia) WNA rider, Philadelphia Gas Works’s (PGW) WNA clause, and UGI Gas Division’s WNA.³⁴ However, in practice, WNAs implemented in Pennsylvania service territories have shifted all risk of changing weather from the utility onto consumers.³⁵ In recent years, this has almost always resulted in higher charges for residential consumers because when temperatures are warmer than normal, a WNA results in a higher bill.³⁶

For the reasons set forth below, PECO’s proposed WNA will disproportionately harm low-income customers, negatively impact PECO’s customer assistance programs, and reduce

³⁰ Id.

³¹ Id.

³² 52 Pa. Code § 69.3302(a).

³³ PECO St. 3 at 66:15-20, and 69:7.

³⁴ Id. at 69:13-15.

³⁵ See CAUSE-PA St. 1 at 67 (citing Pa. PUC v. Columbia Gas of Pa., Inc., R-2020-3018835, Columbia St. 3 at 17-18 (Submitted Apr. 24, 2020); Pa. PUC v. Philadelphia Gas Works, R-2017-2586783, PGW Annual WNA Reporting (filed Dec. 31, 2019; June 9, 2021; Jan. 6, 2022)).

³⁶ CAUSE-PA St. 1 at 67:5-6.

incentives to employ energy efficiency measures. As designed, the WNA would confuse customers, and does not promote rate stability or align with cost causation principles. As a result, PECO's proposed WNA is neither just nor reasonable as an alternative ratemaking mechanism, and should not be approved by the Commission.

1. PECO's WNA Proposal is Unreasonable Because It Does Not Take Into Account the Effects of Climate Change

Because the WNA operates to charge customers more in warmer months from October through May, it is critical to examine whether, in the future, it is more likely that customers would experience warmer than normal temperatures or colder than normal temperatures. As detailed in testimony by CAUSE-PA witness Elizabeth Marx, because of rising temperatures due to climate change, temperatures in upcoming years are likely to be warmer than normal.³⁷ The Pennsylvania Department of Environmental Protection (DEP) has predicted that rising temperatures in Pennsylvania will “increase cooling energy use, and decrease heating energy use.”³⁸ In the coming years, Pennsylvania temperatures are therefore likely to continue to be warmer than normal. As OCA Witness Nelson explained, even PECO's own analysis shows that the number of HDDs during winter months are decreasing, and eight of the last ten years have been warmer than normal.³⁹ Under PECO's proposal, higher temperatures and a lower number of HDDs during winter months would result in a higher bill for residential customers. PECO, however, indicates that they did not take into account the impacts of climate change in developing the proposed WNA.⁴⁰ Rather, PECO's proposal includes a 30-year weather normal period, which shifts risk to

³⁷ CAUSE-PA St. 1-SR at 5-6.

³⁸ *Id.* (citing Pa. DEP, Pa. Climate Action Plan, at xi, fig. ES-1 (Sept. 2021)).

³⁹ OCA St. 6 at 12-13. As detailed by Mr. Nelson, the Company's own analysis showed that had the WNA been in effect over the last 10 years, the residential class would have been surcharged between \$94 and \$110 million dollars. *Id.* at 13.

⁴⁰ CAUSE-PA St. 1 at 67:6-9.

customers and will likely result in more revenue being collected by PECO than if a 10 or 20 year average had been used.⁴¹ PECO's witness explained in hearings that the Company used a 30 year weather normal period as opposed to a 10 year weather normal period because "[t]he Company's analysis determined that a ten year period is not appropriate due to the high volatility observed within that shorter dataset."⁴² He further noted that a shorter weather normal period "would result in lower sales projections."⁴³ On cross examination, he acknowledged that temperatures are increasing due to climate change.⁴⁴

PECO suggests that the proposed WNA would lower customer bills during unseasonably cold months and raise customer bills during unseasonably warm months.⁴⁵ PECO does not dispute that temperatures have been and will continue to be warmer than normal. As a result, unseasonably warm months will be far more common than unseasonably cold ones, regularly resulting in a higher bill for residential customers. These increased costs would disproportionately affect low-income households who are already struggling to pay for rising energy costs.

2. PECO'S Proposed WNA Has an Unjust and Unreasonable Impact on Dual Gas and Electric Customers.

The proposed WNA would be uniquely harmful, unjust and unreasonable for PECO's dual service customers that receive both gas and electric service from PECO. As discussed above, due to warming temperatures, the WNA is more likely to increase gas costs for customers. For dual service customers, these increased gas costs due to the WNA will contribute to

⁴¹ OCA St. 6-SR at 9, 11.

⁴² August 8th Hearing Transcript at 825:8-11.

⁴³ *Id.* at 825:22-23.

⁴⁴ See *Id.* at 828:23-25 ("[T]he temperature increase referring to climate change is more of a long-term issue . . ."); *Id.* at 829:20-830:3 (answering the question "would you agree that as a result of climate change, temperatures are increasing on average?" with "I would agree looking at history you could come to that conclusion . . .").

⁴⁵ PECO St. 3-R at 11-12.

unaffordability of energy that would jeopardize both gas and electric service. PECO witness Jaqueline F. Golden states in her rebuttal testimony that “PECO provides customers who receive electric and gas service with a total bill for their utility service,” and that “a customer in arrears is at risk for termination of both services.”⁴⁶ The increased cost that CAP and non-CAP customers would face with a WNA during warmer than normal months would contribute to economic instability, creating particularized harm among PECO’s low-income customers.⁴⁷ For dual gas and electric customers, the impact of a high gas bill during a warm winter month places the customer at risk of termination of both gas and electric service. These impacts are further compounded in shoulder months like April or May when unseasonably warm weather could lead customers to have an increased electric bill due to cooling needs in addition to a surcharge on their gas due to the WNA. PECO’s proposed WNA would therefore unjustly and unreasonably tie access to electric service to an alternative rate mechanism that has nothing to do with electric usage.

3. *PECO’s WNA Would Disproportionately Impact Low-Income Customers and Detrimentially Impact the Customer Assistance Program.*

The Commission’s final Policy Statement requires the Commission, when evaluating PECO’s proposed WNA, to consider “how the ratemaking mechanism and rate design impact low-income customers and support customer assistance programs.”⁴⁸ The record in this proceeding shows that PECO’s WNA would have a negative impact on residential customers, and specifically on low-income customers. In addition, implementation of the WNA would negatively impact PECO’s Customer Assistance Program (CAP) by increasing the cost of the program.

⁴⁶ PECO St. 10-R at 23:9-12.

⁴⁷ CAUSE-PA St. 1-SR at 7:1-6.

⁴⁸ 52 Pa. Code § 69.3302(a)(7).

As CAUSE-PA Witness Marx explains in direct testimony, PECO's proposed WNA prevents PECO residential customers from getting the benefit of savings they would have otherwise seen during increasingly warmer winters.⁴⁹ Ms. Marx also notes that low-income customers in particular "are disproportionately impacted by higher bills that could come with a WNA because a larger percentage of their income will need to be devoted to paying the increase."⁵⁰ This is true for CAP customers as well as non-CAP customers. Each month, PECO CAP customers are charged the lower of their actual bill or their applicable percentage of income payment amount.⁵¹ While the WNA would not increase a CAP customer's percentage of income amount, during an unseasonably warm month, a WNA surcharge would either increase the customer's actual bill amount, if lower than the percentage of income, or make it more likely that a customer would be charged at the percentage of income amount.⁵²

A WNA would also impact CAP by increasing the cost of the CAP program for non-CAP customers. WNA charges are assessed against a CAP customer's bill as if they were not enrolled in CAP and then the CAP discount is applied.⁵³ These CAP discounts, the difference between a customer's actual usage bill and that customer's percentage of income payment amount, are paid for by residential customers through the Universal Service Fund Charge. This means that non-CAP customers would be absorbing the WNA charges assessed against CAP customers' bills in the form of a larger CAP shortfall. The application of the WNA in warmer than normal months would mean

⁴⁹ CAUSE-PA St. 1 at 67:11-12.

⁵⁰ Id. at 67:16-68:1.

⁵¹ CAUSE-PA St. 1-SR at 7:8-10.

⁵² Id. at 7:10-14.

⁵³ OCA St. 4 at 85.

higher regular bills, and therefore a greater difference between actual cost and percentage of income bill that would need to be covered by the CAP shortfall.⁵⁴

Furthermore, many low-income customers are not enrolled in CAP.⁵⁵ One significant way low-income customers try to control their costs is by reducing their usage.⁵⁶ The WNA is not charged in relation to income and has a substantial component that is decoupled from usage.⁵⁷ Therefore, the increased cost that non-CAP customers would face with a WNA during warmer than normal months would exacerbate the economic instability of PECO's low-income customers and remove much of their ability to control their costs.⁵⁸

4. PECO's Proposed WNA Reduces Incentives to Employ Energy Efficiency Measures.

In reviewing PECO's proposed WNA, the Commission is required to consider "how the ratemaking mechanism and rate design impact customer incentives to employ efficiency measures."⁵⁹ CAUSE-PA submits that PECO's proposed WNA has a significant, negative impact on incentives to employ efficiency measures, both by creating confusion regarding the impact of energy efficiency investments (discussed below) and charging customers for gas they did not use.

The WNA calculates the monthly bill by generating Weather Normalized Billing Ccfs ("WNBC"), adding that amount to the Actual Monthly Ccfs ("AMC") and then multiplying that by the Distribution Charge, essentially adding artificial usage to the customer's bill.⁶⁰ When a

⁵⁴ *Id.* at 7:14-16.

⁵⁵ CAUSE-PA St. 1 at 67:15-16. In December 2023, for example, PECO gas had an estimated 56,138 low-income customers who were not enrolled in CAP. *Id.*

⁵⁶ CAUSE-PA St. 1-SR at 12:7-8.

⁵⁷ PECO St. 3 at 71-73.

⁵⁸ CAUSE-PA St. 1-SR at 7:1-6. Even before rate increases and the negative effects of a WNA, PECO Gas customers are already struggling to afford service. In 2023, PECO terminated gas to 20,767 households for nonpayment, and involuntarily terminated PECO's confirmed low-income customers at a rate of 20.9%. CAUSE-PA St. 1 at 17:11-14.

⁵⁹ 52 Pa. Code § 69.3302(a)(5).

⁶⁰ PECO St. 3 at 71.

customer invests in energy efficiency measures or participates in a usage reduction program, they expect that savings to be reflected on their monthly bills. However, when a customer is artificially charged for additional gas they did not actually use, it reduces the benefit of energy efficiency measures on that customer's monthly bills. The WNA thereby reduces that customer's incentive to employ energy efficiency measures or participate in a usage reduction program.

5. PECO's Proposed WNA Is Confusing and Opaque, and Therefore Not Understandable to Customers

The impacts of the proposed WNA on a customer's bill are not straightforward or predictable.⁶¹ Even if PECO were to educate customers on what the WNA is,⁶² knowledge that warmer winter weather may lead to higher bills still does not create understandable bill impacts. In fact, at the Public Input Hearings, multiple customers testified that the proposed WNA would be confusing and hard to explain.⁶³ As noted by OCA witness Nelson, PECO did not conduct any analysis on whether the WNA would be understandable to customers.⁶⁴

In her surrebuttal testimony, CAUSE-PA witness Marx explained that the proposed WNA would result in confusing and opaque charges, creating a scenario where customers cannot predict how much they will be charged based on usage.⁶⁵ An inability to predict how much they will be charged based on usage, Ms. Marx explained, would frustrate efforts to promote conservation and energy efficiency.⁶⁶

⁶¹ CAUSE-PA St. 1-SR at 5:4-9.

⁶² PECO St. 3 at 79:12-14.

⁶³ OCA St. 5-SD at 2: 13-15.

⁶⁴ OCA St. 6, Exhibit RN-4 at 7.

⁶⁵ CAUSE-PA St. SR-1 at 4:14-18.

⁶⁶ Id. PECO witness Michael J. Trzaska asserts in his rebuttal testimony that the WNA does not in fact disincentivize energy efficiency programs. PECO St. 3-R at 17:10-12. However, Mr. Trzaska provides no evidence or reasoning to support this conclusion.

Calculating a monthly bill under PECO's WNA requires using a set of complex equations, which includes a separate model to determine whether temperatures have been unusually hot or cold.⁶⁷ As discussed above, this model uses a 30 year average for "normal" weather, and does not take into account the effects of climate change on weather patterns going forward. Under this system, it would be impossible for a customer to predict their monthly bill. In fact, customers could see their bills rise despite lower usage and not have enough information to understand why their bills are rising, nor have any understanding how they could control their monthly bills.

6. PECO's Proposed WNA Violates Cost Causation Principles.

An alternative rate design methodology should reflect the sound application of cost of service principles.⁶⁸ The principle of cost causation "requires that the cost of supplying public utility services is allocated to those who cause the costs to be incurred."⁶⁹ In contrast, PECO asserts that its WNA is designed to allow the utility to collect its approved level of revenue regardless of weather variations.⁷⁰ When weather variations cause customers to use less gas, those customers would be levied a surcharge to make up for PECO's lost revenue due to the decreased usage.⁷¹ The proposed WNA therefore increases revenues when less gas is used, in effect allocating costs that were never incurred by PECO (i.e., the costs of gas that the customer did not need). Furthermore, the WNA revenue, to the extent related to a reduced need for winter heating associated with climate change, does not appear to be causally related to a recognized cost incurred by PECO. Consequently, PECO's WNA allocates costs to customers that either have not been incurred, or to

⁶⁷ CAUSE-PA St. 1-SR at 5.

⁶⁸ 52 Pa. Code § 69.3302(a)(1) (explaining that the Commission may consider "how the ratemaking mechanism and rate design align revenues with cost causation principles as to both fixed and variable costs").

⁶⁹ Pa. PUC v. PECO Energy Co., Docket No. R-2018-3000164, Final Order at 73 (entered Dec. 20, 2018), aff'd NRG Energy, Inc. v. Pa. PUC, 233 A.3d 936 (Pa. Commw. Ct. 2020).

⁷⁰ PECO St. 3 at 66:18-20.

⁷¹ CAUSE-PA St. 1 at 66:17-67:6.

the extent incurred, are driven by factors other than the provision of utility service, thus violating cost causation principles.

7. PECO's Proposed WNA Would Negatively Impact Customer Rate Stability

PECO witness Mr. Trzaska states that the proposed WNA would decrease volatility in customers' monthly costs.⁷² However, as OCA witness Mr. Nelson notes, PECO did not actually conduct any bill impact or stability analysis for customers.⁷³ The fact that customers' bills would change depending not on usage, but on weather, decreases the stability and predictability of bills. As one customer testified, discussing the difficulty of responding to unpredictable costs while living on a fixed income, "you never know what the weather is going to be."⁷⁴ Furthermore, as discussed above, the proposed WNA would negatively impact rate stability specifically for low-income CAP customers.⁷⁵ CAP customers pay either their actual bill or their applicable percentage of income, whichever is lower.⁷⁶ During a warm winter month, a CAP customer subject to the proposed WNA may find that their regular bill, which they expected to be low because of low usage, is suddenly high enough that they are now charged their percentage of income amount instead of a lower usage based amount.⁷⁷

In sum, PECO's WNA proposal is unreasonable in its failure to take into account the effects of climate change, and would have an unjust and unreasonable impact on dual gas and electric customers. The proposed WNA would also disproportionately detrimentally impact low-income customers, would detrimentally impact the Customer Assistance Program, and would reduce

⁷² PECO St. 3 at 77:9-10.

⁷³ OCA St. 6 at Exhibit RN-4:5.

⁷⁴ OCA Exhibit NAD-1-SD at 13.

⁷⁵ *Id.* at 67:16-68:1.

⁷⁶ CAUSE-PA St. 1-SR at 7:8-10.

⁷⁷ CAUSE-PA St. 1-SR at 7:10-16

incentives to employ energy efficiency measures. Finally, PECO's proposed WNA is not understandable to customers, and would violate cost causation principles and negatively impact customer rate stability. Therefore, CAUSE-PA respectfully urges the Commission to reject the proposed WNA.

IV. CUSTOMER SERVICE REPRESENTATIVE ISSUES

A. Adequacy of CSR Training on New Billing System

CAUSE-PA did not take a specific position on this issue.

B. Adequacy of Supervisor Support to CSRs

CAUSE-PA did not take a specific position on this issue.

C. CSR Overtime Requirements and Satisfaction

CAUSE-PA did not take a specific position on this issue.

V. IBEW PROPOSALS

A. Worker Safety and Safety Standards

CAUSE-PA did not take a specific position on this issue.

B. PECO's Vacancy Rate, Budgeting and Workforce Planning Process

CAUSE-PA did not take a specific position on this issue.

C. Construction Audits and Senior Contract Coordinators

CAUSE-PA did not take a specific position on this issue.

D. IBEW's Proposals for Additional Reporting Requirements

1. *Annual Workforce Planning Report*

CAUSE-PA did not take a specific position on this issue.

2. *Annual Capital and O&M Project Lists*

CAUSE-PA did not take a specific position on this issue.

3. *Annual Reconciliation of Rate Base and Operating Income*

CAUSE-PA did not take a specific position on this issue.

4. Schedule of Affiliate Transactions

CAUSE-PA did not take a specific position on this issue.

VI. CONCLUSION

Because of the negative impact on low-income customers and CAP, the disincentivizing of energy efficiency, the opaque billing, the violation of causation principles, and the unjust and unreasonable impact on dual electric and gas customers, CAUSE-PA respectfully urges the Commission to reject the proposed WNA.

APPENDIX A: Proposed Findings of Fact

1. As a part of its rate request, PECO proposed a Weather Normalization Adjustment that would adjust rates for the months of October through May based on the difference between actual weather (measured in actual heating degree days) and what the company considers to be normal weather (measured in normal heating degree days). PECO St. 3 at 69.
2. When temperatures are warmer than normal, a WNA results in a higher bill. CAUSE-PA St. 1 at 67:5-6.
3. Low-income customers are disproportionately impacted by higher bills that could come with a WNA because a larger percentage of their income will need to be devoted to paying the increase.” CAUSE-PA St. 1 at 67:16-68:1.
4. PECO’s CAP operates to provide participants with the lower of their actual bill or their applicable percentage of income. CAUSE-PA St. 1-SR at 7:8-10.
5. For a CAP customer, during an unseasonably warm month, a WNA surcharge would either increase the customer’s actual bill amount, if lower than the percentage of income, or make it more likely that a customer would be charged at the percentage of income amount. CAUSE-PA St. 1-SR at 7:10-14.
6. WNA charges would be assessed against a CAP customer’s bill as if they were not enrolled in CAP and then the CAP discount would be applied. OCA St. 4 at 85.
7. The application of the WNA in warmer than normal months would mean higher regular bills, and therefore a greater difference between actual cost and percentage of income bill that would need to be covered by CAP. CAUSE-PA St. 1-SR at 7:14-16.

8. In December 2023, PECO Gas had an estimated 56,138 low-income customers who were not enrolled in CAP. CAUSE-PA St. 1 at 67:15-16.
9. The WNA calculates the monthly bill by generating an artificial Weather Normalized Billing Ccfs (“WNBC”), adding that to the Actual Monthly Ccfs (“AMC”) and then multiplying that by the Distribution Charge, essentially adding artificial usage to the customer’s bill. PECO St. 3 at 71.
10. A customer’s inability to predict how much they will be charged based on usage would frustrate efforts to promote conservation and energy efficiency. CAUSE-PA St. SR-1 at 4:14-18.
11. PECO did not conduct any bill impact or stability analysis for customers related to the impact of the proposed WNA. OCA St. 6, Exhibit RN-4 at 5.
12. At the Public Input Hearings, multiple customers testified that the proposed WNA would be confusing and hard to explain. OCA St. 5 Supp. at 2:13-15.
13. Calculating a monthly bill under PECO’s WNA requires using a set of complex equations, which includes a separate model to determine whether temperatures have been unusually hot or cold. CAUSE-PA St. 1-SR at 5.
14. PECO provides customers who receive electric and gas service with a total bill for their utility service, such that a customer in arrears is at risk for termination of both services. PECO St. 10-R at 23:9-12.
15. Because of rising temperatures due to climate change, temperatures in upcoming years are likely to be warmer than normal. CAUSE-PA St. 1-SR at 5-6.

APPENDIX B: Proposed Conclusions of Law

1. In rate cases filed pursuant to section 1308 of the Public Utility Code, such as the current case filed by PECO, for all proposals advanced by the public utility, the burden of proof is on the public utility to show that the proposed rate is just and reasonable. 66 Pa.C.S. §§ 315(a), 1308(a).
2. The burden of proof is on PECO to show, by a preponderance of the evidence that its proposed WNA is just and reasonable. NRG Energy, Inc. v. Pa. PUC, 233 A.3d 936, 939 (Pa. Commw. Ct. 2020).
3. The Commission has a “duty to set ‘just and reasonable’ rates, reflecting a ‘balance of consumer and investor interests.’” Popowsky v. PUC, 665 A.2d 808, 811 (1995); 66 Pa. C.S. § 1301.
4. In determining just and reasonable rates, the Commission has discretion to determine the proper balance between interests of ratepayers and utilities. Popowsky v. PUC, 665 A.2d 808, 811 (1995) Pa. PUC v. Philadelphia Electric Co., 561 A.2d 1224, 1226 (1989); Pa. PUC v. Pa. Gas & Water Co., 424 A.2d 1213, 1219 (1980), cert. denied, 454 U.S. 824, (1981)).
5. In determining the justness and reasonableness of rates the “PUC is obliged to consider broad public interests in the rate-making process.” Popowsky v. PUC, citing Pa. Elec. Co. v. Pa. PUC, 502 A.2d 130, 134 (1985).
6. PECO’s WNA proposal is an alternative ratemaking mechanism and must be considered in reference to the Commission’s policies regarding alternative ratemaking. 66 Pa. C.S. § 1330.

7. The Commission's Policy Statement sets forth fourteen factors to evaluate whether an alternative ratemaking mechanism is just and reasonable, including the effect on low income customers and customer assistance programs, the impact on efficiency and conservation programming, customer rate stability principles, whether the mechanism is understandable to customers, and alignment with cost causation principles. 52 Pa. Code § 69.3302(a).
8. PECO's proposed WNA would unjustly and unreasonably tie access to electric service to an alternative rate mechanism that has nothing to do with electric usage. 66 Pa. C.S. §§ 315(a), 1308(a).
9. PECO has failed to meet its burden of proof to demonstrate that its proposed WNA is just, reasonable, and in the public interest. 66 Pa. C.S. §§ 315(a), 1308(a); NRG Energy, Inc. v. Pa. PUC, 233 A.3d 936, 939 (Pa. Commw. Ct. 2020).

APPENDIX C: Proposed Ordering of Paragraphs

It is hereby ORDERED that:

1. PECO's proposal for a Weather Normalization Adjustment is rejected.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission

R-2024-3046932

Office of Consumer Advocate
Office of Small Business Advocate
State Representative Christina Sappey
Alan McCarthy

C-2024-3048363
C-2024-3048456
C-2024-3048631
C-2024-3048497

v.

PECO Energy Company (Gas)

CERTIFICATE OF SERVICE

I hereby certify that I have this day served copies of **Main Brief of the Coalition for Affordable Utility Service and Energy Efficiency in Pennsylvania** upon the parties of record in the above captioned proceedings in accordance with the requirements of 52 Pa. Code § 1.54.

Via Email

Erin L. Gannon, Esquire
Barrett C. Sheridan, Esquire
Gina L. Miller, Esquire
Jacob D. Guthrie, Esquire
Office of Consumer Advocate
555 Walnut Street
Forum Place, 5th Floor
Harrisburg, PA 17101-1923
OCAGASPECO2024@paoca.org

Sharon E. Webb, Esquire
Steven C. Gray, Esquire
Rebecca Lyttle, Esquire
Office of Small Business Advocate
Forum Place
555 Walnut Street, 1stFloor
Harrisburg, Pennsylvania 17101
(717) 783-2525
swebb@pa.gov
sgray@pa.gov
relyttle@pa.gov

Carrie B. Wright, Esquire
Bureau of Investigation & Enforcement
400 North Street
Commonwealth Keystone Building
Harrisburg, PA 17120
carwright@pa.gov

Charles T. Joyce, Esquire
Samuel E. Shopp, Esquire
SPEAR WILDERMAN, P.C.
230 South Broad Street
Suite 1650
Philadelphia, PA 19102
ctjoyce@spearwilderman.com
sshopp@spearwilderman.com

Nicholas J. Enoch, Esquire
LUBIN & ENOCH, P.C.
349 North 4th Avenue
Phoenix, AZ 85003
nick@lubinandenoch.com

Jonathan Nase, Esquire
David P. Zambito, Esquire
Cozen O'Connor
17 North Second Street
Suite 1410
Harrisburg, PA 17101
jnase@cozen.com
dzambito@cozen.com

Alan Mccarthy
705 E. Barnard St.
West Chester, PA 19382
alanmccarthy25@hotmail.com

Derrick Price Williamson, Esquire
Barry A. Naum, Esquire
Steven W. Lee, Esquire
SPILMAN THOMAS & BATTLE, PLLC
1100 Bent Creek Boulevard, Suite 101
Mechanicsburg, PA 17050
dwilliamson@spilmanlaw.com
bnaum@spilmanlaw.com
slee@spilmanlaw.com

Anthony E. Gay, Esquire
Jack R. Garfinkle, Esquire
Brandon J. Pierce, Esquire
Adesola K. Adegbesan, Esquire
PECO Energy Company
2301 Market Street
Philadelphia, PA 19103
anthony.gay@exeloncorp.com
jack.garfinkle@exeloncorp.com
brandon.pierce@exeloncorp.com
adesola.adegbesan@exeloncorp.com

Kenneth M. Kulak, Esquire
Mark A. Lazaroff, Esquire
Brooke E. McGlenn, Esquire
Catherine G. Vasudevan, Esquire
Morgan, Lewis & Bockius LLP
2222 Market Street
Philadelphia, PA 19103
ken.kulak@morganlewis.com
mark.lazaroff@morganlewis.com
brooke.mcglenn@morganlewis.com
catherine.vasudevan@morganlewis.com

Charis Mincavage, Esquire
Adeolu A. Bakare, Esquire
Brigid Landy Khuri, Esquire
Mcnees Wallace & Nurick
100 Pine Street
PO Box 1166
Harrisburg, PA 17108
Cmincavage@mwn.com
abakare@mcneeslaw.com
bkhuri@mcneeslaw.com

Bernice I. Corman, Esquire
Bicky Corman Law, PLLC
1250 Connecticut Avenue, NW, Suite 700
Washington, DC 20036
bcorman@bickycormanlaw.com

Todd S. Stewart, Esq.
Hawke McKeon and Sniscak, LLP
100 North Tenth Street
Harrisburg, PA 17101
tsstewart@hmslegal.com

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/s/ Charlotte Edelstein
Charlotte E. Edelstein, Esq. (PA ID: 334505)
Counsel for CAUSE-PA
COMMUNITY LEGAL SERVICES, INC.
cedelstein@clsphila.org
(215) 227-4732