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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 – Electric Division  
Docket No. R-2024-3046931**

Dear Secretary Chiavetta:

Enclosed for filing is the **Main Brief of PECO Energy Company** (“Main Brief”), in the above-captioned proceeding. As evidenced by the Certificate of Service, copies of the Main Brief are being served upon Administrative Law Judge Marta Guhl, Administrative Law Judge Darlene Heep, and all parties of record.

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

Very truly yours,



Kenneth M. Kulak

KMK/tp  
Enclosures

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

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**PENNSYLVANIA PUBLIC  
UTILITY COMMISSION**

v.

**PECO ENERGY COMPANY –  
ELECTRIC DIVISION**

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**DOCKET NO. R-2024-3046931**

**CERTIFICATE OF SERVICE**

I hereby certify and affirm that I have this day served a copy of the **Main Brief of PECO Energy Company** on the following persons in the manner specified in accordance with the requirements of 52 Pa. Code § 1.54:

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**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**PENNSYLVANIA PUBLIC UTILITY  
COMMISSION**

v.

**PECO ENERGY COMPANY –  
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**DOCKET NO. R-2024-3046931**

**MAIN BRIEF OF  
PECO ENERGY COMPANY**

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## I. INTRODUCTION

### A. Description of Company

PECO Energy Company (“PECO” or “the Company”) is a public utility as defined in 66 Pa.C.S. § 102.<sup>1</sup> The Company serves approximately 1.7 million electric customers throughout its certificated service area, which is located throughout a 2,100 square-mile area in southeastern Pennsylvania. The Company’s electric service territory comprises all or portions of Bucks, Chester, Delaware, Montgomery, Philadelphia, and York Counties and includes a total population served of approximately 4.1 million people. PECO is a subsidiary of Exelon Corporation (“Exelon”).<sup>2</sup>

### B. Procedural History

On March 28, 2024, PECO initiated this rate case by filing with the Commission Tariff Electric – Pa. P.U.C. No. 8 (“Tariff No. 8”) requesting approval by the Pennsylvania Public Utility Commission (the “Commission” or “PUC”) of an increase in total operating revenues to become effective May 27, 2024. The requested increase in PECO’s initial filing equaled \$464 million based on data for a fully projected future test year (“FPFTY”) ending December 31, 2025. PECO also proposed one-time surcharge credits totaling \$64 million, resulting in a net electric rate increase of \$399 million in 2025.<sup>3</sup>

On April 25, 2024, the Commission instituted a formal investigation of PECO’s existing and proposed rates and the Company’s proposed tariff was suspended by operation of law until December 28, 2024. On May 28, 2024, PECO filed a suspension tariff supplement reflecting a

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

<sup>2</sup> See PECO St. 1, pp. 3-5; PECO St. 2, pp. 22-23.

<sup>3</sup> PECO St. 1, p. 5; PECO Exhibit MJT-1, Sch. A-1.

conditional extension of the suspension period to December 30, 2024 that would allow the Company to recoup revenues lost during 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 PECO's compliance filing in these proceedings.

Following discovery, testimony, evidentiary hearings and extensive negotiations, PECO, the Commission's Bureau of Investigation and Enforcement ("I&E"), the Office of Consumer Advocate ("OCA"), the Office of Small Business Advocate ("OSBA"), the National Railroad Passenger Corporation ("Amtrak"), Electrify America, LLC ("EA"), EVgo Services LLC ("EVgo"), the Philadelphia Area Industrial Energy Users Group ("PAIEUG"), the Southeastern Pennsylvania Transportation Authority ("SEPTA"), the Tenant Union Representative Network and the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania ("TURN/CAUSE-PA"), and Walmart Inc. ("Walmart") (collectively, the "Joint Petitioners") entered into a Joint Petition for Non-Unanimous Settlement of Rate Investigation ("Joint Petition"). The Joint Petition, filed on August 30, 2024, has a detailed procedural history, which is incorporated herein by reference. If the settlement embodied in the Joint Petition ("Settlement") is approved without modification, it will resolve all issues in this rate case among all parties except for Local 614 of the International Brotherhood of Electrical Workers, AFL-CIO ("IBEW" or the "Union").

### **C. Overview of PECO's Filing**

The principal reason for this rate request is PECO's substantial investment in new and replacement electric utility plant to maintain and enhance the safety and reliability of PECO's electric distribution system with a focus on storm hardening and resilience. As the Company's witnesses testified, PECO will invest approximately \$3.5 billion in new and replacement electric utility plant between January 2023 and December 2025. At the same time, materials and

contracting costs have escalated as a result of general inflationary trends and high interest rates. While PECO has been making substantial investments in new and replacement electric plant to maintain and enhance service to customers, its overall load growth is expected to remain nearly flat due in part to the Company's aggressive pursuit of energy efficiency and conservation through Commission-approved programs implemented in compliance with Pennsylvania's Act 129 of 2008 ("Act 129").<sup>4</sup>

Due in large part to the Company's substantial investment in utility plant, PECO's electric operations are projected to produce an overall return on invested capital of only 4.44% for the FPFTY. More importantly, the indicated return on common equity under presented rates is anticipated to be only 4.33%, which is far less than required to provide the Company with a reasonable opportunity to attract capital.<sup>5</sup>

#### **D. Overview of the Settlement**

The Settlement provides an annual increase in PECO's electric distribution revenues of approximately \$354 million to become effective as of January 1, 2025, in addition to the Distribution System Improvement Charge revenue of \$64.3 million that will be rolled into base rates. The \$354 million increase excludes a one-time surcharge credit totaling approximately \$64 million in 2025 for (i) the incremental COVID-19-related bad debt that the Company recovered through current rates and (ii) revenue received for past use of PECO's fiber network. Significantly, if the Joint Petition is approved, PECO will not file for another electric distribution base rate increase prior to March 16, 2026.<sup>6</sup>

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<sup>4</sup> PECO St. 1, pp. 5-6; PECO St. 2, pp. 3-8.

<sup>5</sup> See PECO St. 2, p. 7; PECO Ex. MJT-1 Revised, Sch. A-1.

<sup>6</sup> See Joint Petition, ¶¶ 13-15.

The Settlement also includes significant enhancements to augment PECO’s low-income customer assistance programs, address customer service and consumer protection issues raised in these proceedings, refine the Company’s electric vehicle programs, and provide assistance to clean energy and energy efficiency programs in the Company’s service territory.<sup>7</sup> The Joint Petitioners were also able to agree on the customer class allocation of the revenue increase under the rates shown in the electric tariff provided as Appendix A and the proof of revenues set forth in Appendix B to the Joint Petition.<sup>8</sup> Furthermore, the Joint Petitioners agreed that the Settlement was just, reasonable, supported by substantial evidence and in the public interest.<sup>9</sup>

**E. Burden of Proof**

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.”<sup>10</sup> 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,<sup>11</sup> and Section 332(a) establishes a burden of proof separate from that in Section 315 for those entities that propose a rule or order. Rejecting evidence contrary to a public utility’s position is not an impermissible shifting of the evidentiary burden.<sup>12</sup>

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<sup>7</sup> See *id.*, ¶¶ 25-62.

<sup>8</sup> *Id.*, ¶ 16.

<sup>9</sup> *Id.*, ¶¶ 64-65.

<sup>10</sup> *Pa. Pub. Util. Comm’n v. UGI Utils., Inc. – Elec. Div.*, R-2017-2640058 (Order entered Oct. 4, 2018), p. 7.

<sup>11</sup> *NRG Energy, Inc. v. Pub. Util. Comm’n*, 233 A.2d 936 (Pa. Commw. Ct. 2020), p. 23.

<sup>12</sup> *U.S. Steel Corp. v. Pub. Util. Comm’n*, 456 A.2d 686 (Pa. Commw. Ct. 1983).

## II. SUMMARY OF ARGUMENT

In its initial filing, PECO proposed an electric base rate increase of \$464 million. Under the terms of the Settlement, if approved, PECO would: (1) increase its base rates by approximately \$354 million and (2) agree to a base rate stay-out that will provide customers base rate stability for a period of at least two years. The record evidence supports the increase provided in the Settlement that is about \$100 million less than PECO's original request. As set forth in the Joint Petition, the settling parties agree that the Settlement rates are just and reasonable and substantiated by the evidence in this case.

As previously noted, IBEW is the only party that opposes the Settlement. In Sections III and IV, PECO addresses IBEW's various proposals relating to PECO's customer service representatives ("CSRs"), allegations regarding PECO's vacancy rate and proposed changes to PECO's workforce planning, and requests that PECO provide a variety of additional reports for IBEW and others. PECO's witnesses discussed each of IBEW's requests in detail in their testimony and at hearings, and none of IBEW's proposals have merit. For example, the Company already provides extensive training to its CSRs (and their supervisors), and feedback from the CSRs themselves regarding this training has been quite positive. Similarly, IBEW's argument that PECO should provide reports similar to its affiliate, Baltimore Gas and Electric ("BGE"), regarding annual capital and operations and maintenance ("O&M") project lists along with reconciliations of rate base and operating income ignores the fact that those reports were required as part of the Maryland Public Service Commission's approval of a multi-year rate plan for BGE – an alternative ratemaking structure that PECO has not proposed. The Commission should therefore reject each of IBEW's proposals and approve the Settlement supported by the Joint Petitioners.

### III. CUSTOMER SERVICE REPRESENTATIVE ISSUES

In February 2024, PECO transitioned to a new customer care and billing software system known as “CC&B.” In this proceeding, IBEW witness Lawrence Anastasi made various allegations regarding the manner in which the CSRs were trained to use the CC&B system and proposed several recommendations based on his allegations. As PECO witness Jaqueline F. Golden testified, none of Mr. Anastasi’s recommendations are appropriate in light of the extensive CC&B training CSRs actually received and the steps PECO has taken during and following CC&B implementation to ensure that CSRs are able to perform well and are satisfied in their positions.

#### A. Adequacy of CSR Training on New Billing System

According to IBEW witness Anastasi, PECO’s CSRs were not given adequate training and time to practice use of the new software and that they are facing “great stress and pressure” because of PECO’s new billing system. Mr. Anastasi further claims that “additional training is necessary” to “support CSRs in their role of servicing customers.”<sup>13</sup> However, Mr. Anastasi’s assertions were entirely refuted by the testimony of PECO witness Golden, who detailed the extensive CSR training PECO provided consistent with industry best practices. After noting that PECO hired 200 additional CSRs in August and September of 2023 (which Mr. Anastasi applauded), Ms. Golden explained the extensive training the CSRs received on PECO’s CC&B system:

The first phase of training, “Set the Foundation”, began in February 2022 and concluded in October 2022. This phase introduced CSRs to core CC&B concepts like the V-Model and included thirty-two (32) video demonstrations and training materials which are accessible to CSRs via the project’s New Horizons Resource Hub.

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<sup>13</sup> IBEW St. 1-R, pp. 13-14.

The second phase of the training, “Make it Real,” began in February 2023 and concluded in July 2023. This phase of training consisted of twenty-six (26) courses, focused on core processes that CSRs would need to follow in CC&B. Notably, approximately three hundred seventy-five (375) job aids were created to accompany these twenty-six (26) courses, all of which are accessible to CSRs via the project’s New Horizons Resource Hub. In addition, answers to questions CSRs asked in Make It Real were posted on the New Horizons Resource Hub.

The third phase of the training, “Practice and Prepare,” began in September 2023 and concluded in January 2024. This phase of training consisted of practice labs and refresher training on key topics. Many of these topics were solicited from CSRs themselves. Notably, one hundred percent (100%) of the CSRs completed this Practice and Prepare phase of the training.<sup>14</sup>

As Ms. Golden also testified, PECO’s training program received positive feedback from the CSRs.<sup>15</sup>

## **B. Adequacy of Supervisor Support to CSRs**

As with his CSR allegations, Mr. Anastasi asserts that PECO should increase its training of supervisors with respect to certain billing matters. However, as Ms. Golden testified, PECO is in the process of implementing additional CC&B training for front-line supervisors and “coaches,” which will be completed by the end of 2024.<sup>16</sup> And as Ms. Golden also explained, PECO arranged for “coaches” to be trained at the same time as the CSRs, and those coaches will provide support to CSRs in real time when they are addressing challenging questions.<sup>17</sup>

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<sup>14</sup> PECO St. 10-SR, pp. 4-5.

<sup>15</sup> *Id.*, p. 5.

<sup>16</sup> *Id.*, p. 6.

<sup>17</sup> *Id.*

### **C. CSR Overtime Requirements and Satisfaction**

In his testimony, Mr. Anastasi also contends that the CC&B rollout caused “great stress and pressure on CSRs” and unplanned “mandatory overtime.”<sup>18</sup> But as Ms. Golden explained, a CSR’s job responsibilities include mandatory overtime when required to assist customers.<sup>19</sup> And while the Company recognizes the challenges the CSRs faced during the CC&B rollout, the CSRs have quickly built proficiency with CC&B and have returned to a nearly fully-remote work environment.<sup>20</sup> In short, there is no additional action necessary in light of the completion of the CC&B rollout, the Company’s ongoing training programs, and the success of CSRs in PECO’s new billing environment.

## **IV. IBEW PROPOSALS**

### **A. Worker Safety and Safety Standards**

IBEW witness Anastasi asserts that because PECO uses a mix of in-house and subcontracted labor to perform maintenance and system improvements, the Company should be required to implement a screening process when reviewing contractor bids to promote and protect workplace safety.<sup>21</sup> Specifically, he requests that the screening process should include elements relating to compliance with prevailing wage requirements, insurance, safety training, and participation in apprenticeship and training programs approved by the U.S. Department of Labor.<sup>22</sup> He also requests that the same screening process and contractual provisions apply in PECO contracts relating to electric vehicle infrastructure.<sup>23</sup>

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<sup>18</sup> IBEW St. 1-R, p. 14.

<sup>19</sup> PECO St. 10-SR, pp. 5-6.

<sup>20</sup> *Id.*, p. 6.

<sup>21</sup> IBEW St. 1, p. 13.

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*, pp. 14-15.

The Union’s request is unnecessary as PECO already employs a rigorous review process to vet the qualifications for each responsive contractor proposal. And, once a contractor is selected, the PECO agreements “include extensive terms and conditions that impose requirements in virtually all the areas identified by Mr. Anastasi, including explicit provisions requiring contractors to provide qualified employees and to document those qualifications when required.”<sup>24</sup> In addition, PECO’s contractors often use union labor; and the unions have their own processes to certify qualified employees. As PECO witness Nicole LeVine explained, while the Company does not have “specific requirements that our contractors use apprenticeship and training programs approved by the U.S. Department of Labor or provide additional information on ‘qualitative’ factors ‘affecting the long-term viability of Pennsylvania communities’ or other asserted ‘best value’ employment metrics,”<sup>25</sup> such requirements are not “necessary or appropriate to ensure that our contractors are performing required work on PECO’s distribution system at a competitive price for customers.”<sup>26</sup> For these reasons, the Commission should deny the Union’s request that the Company be required to implement its recommended screening process as unnecessary.

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

IBEW witness Anastasi agrees that PECO should “be afforded rate relief sufficient to allow it to proactively ramp up its hiring in skilled classifications” so that the Company will have the right number of trained employees in place as retirements occur.<sup>27</sup> According to Mr.

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<sup>24</sup> PECO St. 1-R, p. 12.

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*, p. 13.

<sup>27</sup> IBEW St. 1, p. 11.

Anastasi, this will allow PECO “to continue to provide safe and reliable service.”<sup>28</sup> Nonetheless, Mr. Anastasi, relying on an order issued by the Arizona Corporation Commission (“ACC”),<sup>29</sup> requests that the Company be required to publicly file an annual workforce planning report to ensure that PECO is making appropriate hiring decisions.

In rebuttal, Mr. Anastasi states that he would support PECO’s 2% vacancy factor “if PECO demonstrated it was implementing new methods for recruitment that would justify predicting a change in its vacancy factors.”<sup>30</sup> Specifically, he requests that PECO (1) “recruit more heavily from trade and vocational schools, whose students have already expressed a vested interest in pursuing careers as electricians”<sup>31</sup> and (2) adopt “Lead” positions among bargaining unit classifications and offer career advancement and technology advancement trainings.<sup>32</sup>

The Company’s 2% vacancy rate accounts for the fact that there always will be a certain level of predictable vacancies. PECO witness Marissa Humphrey explains that OCA witness John Defever inappropriately derived his proposed 4.4% vacancy rate by averaging actual vacancies over 2019 through 2023 since it would be “unreasonable to use a simple five-year average of actual vacancies when the Company’s ability to hire and retain workers was significantly impacted in and around 2020-2022 by the COVID-19 pandemic.”<sup>33</sup> Moreover, a 2% vacancy rate is consistent with the 1.4% vacancy rate through the first quarter of 2024.<sup>34</sup>

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<sup>28</sup> *Id.*

<sup>29</sup> *Id.*, pp. 11-12.

<sup>30</sup> IBEW St. 1-R, p. 6.

<sup>31</sup> *Id.*

<sup>32</sup> *Id.*, pp. 6-7.

<sup>33</sup> PECO St. 2-R, p. 2.

<sup>34</sup> *Id.*

Mr. Anastasi's request for a change to PECO's hiring and recruitment practices should be rejected. PECO witness LeVine testified that the Company offers competitive wage and benefit packages for its employees and that the 2% vacancy rate demonstrates that PECO's current hiring and retention practices are clearly effective.<sup>35</sup> She also noted that PECO and the Union have negotiated several collective bargaining agreements that reflect mutual agreement on wages and benefits. Mr. Anastasi himself also stated that PECO and the Union have a "mature and stable" relationship and have successfully negotiated new collective bargaining agreements that are "the product of good-faith bargaining, characterized by give-and-take exchanges, proposals, [and] counter-proposals."<sup>36</sup>

Furthermore, PECO is already engaged in expanded hiring of bargaining unit employees. PECO witness Humphrey explained that there is a plan in place to increase projected head count from 2,215 full-time equivalent employees ("FTEs") to 2,340 FTEs by December 31, 2024, and 2,373 FTEs by December 31, 2025, including employees in PECO's field operations department ("Field Ops").<sup>37</sup> This hiring will primarily be accomplished by the schools PECO runs each year, as Ms. Humphrey explained:

The Company's Field Operations schools are held multiple times each year (with the exception of 2020 due to the COVID-19 pandemic). The Company generally holds three Electric Operations Schools on an annual basis: an Energy Technician School, an Aerial Line Mechanic Apprentice School, and an Underground Line Mechanic Apprentice School. The Company also holds schools for substations and testing as needed. Each of these has been scheduled for the FTY (one has already been held), and the Company will hold three schools during the FPFTY. The Company has regularly met its hiring projections from its schools. The scheduled schools in the FTY and FPFTY are expected to

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<sup>35</sup> PECO St. 1-R, p. 2.

<sup>36</sup> IBEW St. 1, pp. 4-5.

<sup>37</sup> See PECO St. 2-R, p. 3.

result in over 110 graduates (i.e., FTEs) hired into the Company's Field Ops by the end of the FPFTY.

Each school and its hiring goals are planned based upon current vacancies and forecasted attrition to enable the Company to maintain its required workforce. The schedule and hiring goals of these schools are also planned to align with the Company's Field Ops hiring plan and Electric Operations work plan, which are fundamental to ensuring continued safe and reliable operations, and which also support the Company's Pennsylvania Public Utility Commission ("Commission")-approved long-term infrastructure improvement plan ("LTIIP"). The Company needs to plan years in advance to ensure that it has enough fully trained and experienced employees, some of whom require more than three years of training to implement the Company's work plan and maintain a safe working environment.<sup>38</sup>

In response to Mr. Anastasi's request that PECO recruit more heavily from trade and vocational schools, PECO witness LeVine testified:

In terms of recruitment, PECO has expanded our outreach for craft positions through our workforce development programs. PECO is actively working to fill internal apprenticeship programs for electric classifications through a number of initiatives, including the following:

- Conducting Infrastructure Academies
- Implementing the Helper Pre-Apprenticeship Program
- Hosting the Junior Infrastructure Academy
- Collaborating with community-based workforce development organizations like OIC Philadelphia, CAAP, Orleans Tech, and Williamson College of the Trades.<sup>39</sup>

And, in response to his request to adopt "Lead" positions, Ms. LeVine testified:

Mr. Anastasi recommends that PECO adopt "Lead" positions so that experienced employees can phase out of physically-demanding operations and show the younger workforce that PECO offers internal opportunities for career advancement. In response, I note that PECO's Helper Pre-Apprenticeship Program has been successful in providing "feeder" roles into other bargaining unit positions. Internal advancement to positions such as Foreman, Master Tech, and Supervisor, as well as office positions such as

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<sup>38</sup> *Id.*, at pp. 2-3.

<sup>39</sup> PECO St. 1-SR, p. 2.

Project Construction Manager, Designer, Design Construction Consultant, Operator and Dispatcher roles are also available to many craft position employees. Field experience provides an excellent background for these roles. Additionally, PECO has maintained a low turnover rate which is proof of strong retention and also indicative of a reasonable overall total benefits package provided to IBEW employees.

PECO strongly believes in the importance of having craft employees involved in PECO training programs. In line with Mr. Anastasi's recommendation, PECO currently offers training focused on career development, technical improvement, and advancements in new technology. To that end, the Company and IBEW recently negotiated and reached agreement establishing a pilot program for a training "Subject Matter Expert" position. This position partners with the training organization to help review and develop PECO's curriculum for training our craft positions. PECO hosts Training Council meetings, that bargaining unit leadership participate in, where training offerings are reviewed and discussed. This collaborative process ensures PECO employees are well-trained and prepared for the latest technology. In addition, PECO currently partners with IBEW for the Company's various craft training schools. Through this partnership, IBEW provides members to work as cadre during the school, which provides an opportunity for experienced workers to share their experiences with newly-hired candidates. Furthermore, the training of IBEW members who are PECO employees is subject to, and is fully outlined in, the collective bargaining agreement agreed to by IBEW and the Company. Any proposals to change certain provisions governed by that collective bargaining agreement should be handled between the parties in the context of future negotiations of that agreement.<sup>40</sup>

Mr. Anastasi also expresses concern that the Company's budget process and hiring plan is ineffective because PECO does not budget by job classification.<sup>41</sup> While the Company's operational plan includes a total "headcount" of the number of personnel required to execute the plan and is an input into the Company's financial budget, the headcount budget reflects various payroll levels of the Company's employees, not the Company's numerous individual job

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<sup>40</sup> PECO St. 1-SR, pp. 2-4.

<sup>41</sup> IBEW St. 1-SR, p. 4.

classifications. As Ms. LeVine explained, Mr. Anastasi is essentially making an “apples to oranges comparison” and arguing for a level of granularity that not necessary.<sup>42</sup> This does not mean, however, that the Company does not engage in detailed workforce planning. For example, as Ms. LeVine explained:

[H]eadcount is included in the budget, but not at a granular job classification level. However, the financial budget is not what governs hiring. Rather, each department, like Electric Operations, has an approved headcount that identifies which roles need to be filled and is managed closely by the department head, in coordination with HR and Recruiting. Our Operations vice presidents have monthly meetings with their teams to review the status of every open position in Operations and have effectively managed to an average 2% vacancy rate.<sup>43</sup>

Finally, Mr. Anastasi also “encourages” the Company to use internal labor for its vegetation management teams, claiming it would be more cost-effective and provide greater oversight for PECO.<sup>44</sup> In response, Ms. LeVine explained that “PECO is not a utility line clearance, tree care, or arborist company,” and that it would be “inefficient, burdensome, and counter to industry practice” if PECO were to implement a large-scale utility line clearance operation.<sup>45</sup> Moreover, Ms. LeVine underscored that Mr. Anastasi’s contentions that PECO needed help to oversee the vegetation management program were simply wrong, as the Company “employs certified arborists and utility arborists who oversee the utility line clearance contractor and assess the scope, quality and safety of the work being performed,” as well as a third-party vendor to provide another layer of quality control.<sup>46</sup>

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<sup>42</sup> Hearing Tr., 621:1-622:6.

<sup>43</sup> Hearing Tr. 621:10-21.

<sup>44</sup> IBEW St. 1-R, p. 12.

<sup>45</sup> PECO St. 1-SR, p. 4.

<sup>46</sup> *Id.*, p. 5.

Mr. Anastasi has not provided any specific evidence in this proceeding to support a finding that PECO faces “challenges” in its workforce planning, nor has he provided any specific evidence to support a finding that there is a current or future lack of availability of skilled workers to maintain the Company’s historical average vacancy rate of 2%. The Commission has long recognized that it does not function as a utility “super board of directors,” and a utility is entitled to manage its own affairs consistent with the public interest and the limited powers of the Commission.<sup>47</sup> Accordingly, the Commission should reject Mr. Anastasi’s claims regarding PECO’s vacancy rate as well as IBEW’s proposals for additional monitoring of PECO’s workforce planning processes.

**C. IBEW’s Proposals For Additional Reporting Requirements**

**1. Annual Workforce Planning Report**

For all of the reasons set forth in Section IV.B above, the Company should not be required to adopt a workforce planning report such as the one provided by Mr. Anastasi at Exhibit IBEW-4. After adjusting for COVID-19 impacts, historically, the Company has maintained an average vacancy rate of 2% and does not anticipate any difficulty reaching the projected headcounts for the FTY and the FPFTY as described by PECO witnesses Humphrey and LeVine. The Field Ops positions will be filled through Company “schools” being held in October 2024 and October 2025 and the CSR and administrative positions will be filled through standard recruiting efforts. Mr. Anastasi has not presented any legitimate reason why the Company should be required to expend additional resources and time to compile a report that

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<sup>47</sup> See, e.g., Opinion and Order, *Pub. Util. Comm’n v. Columbia Water Co.*, R-2008-2045157 (June 10, 2009), p. 39 (“The Commission, as a creation of the General Assembly, has only the powers and authority granted to it by the General Assembly. The General Assembly did not grant the Commission the authority to act as a super board of directors for a public utility. Determining the employment practices and compensation of its directors, officers and employees is within the managerial discretion of a public utility.”).

will serve no meaningful purpose and involve business planning that should remain within the Company's managerial discretion.<sup>48</sup>

In addition, it is clear from even a cursory review of IBEW-4 that the ACC required Arizona Public Service Company to file that report due to specific workforce challenges. That is clearly not the case in this proceeding, as PECO is not facing workforce challenges and fully anticipates meeting its hiring goals in the FPFTY. The Commission should therefore reject IBEW's request to require PECO to file an annual workforce planning report.

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

Mr. Anastasi requests that the Commission require PECO to file a report similar to the one identified as Exhibit IBEW-2, which was filed on February 12, 2024, by BGE with the Public Service Commission of Maryland ("Maryland PSC") providing a list of projects with schedules, by project, capital and O&M contingencies identified as remaining in BGE's multi-year plan budget. However, this report is not necessary or appropriate given the differences in this case and the recent BGE rate case, as well as the annual capital expenditure reporting that currently is provided to the Commission.

First, in the BGE case, the utility sought and obtained Maryland PSC approval to implement a multi-year rate plan, which requires an annual reconciliation of forecasted and actual capital and O&M expenditures for Maryland PSC approval. That is not the case here. PECO does not have, nor is it seeking approval of, multi-year rates. Thus, an annual reconciliation report such as Exhibit IBEW-2 is entirely unnecessary. Moreover, under the Settlement, PECO will report to the Commission's Bureau of Technical Services on its actual

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<sup>48</sup> PECO St. 1-R, p. 11.

capital expenditures, plant additions, and retirements in the FTY and FPFTY.<sup>49</sup> And, during the next rate case, the Company's actual expenditures will also be subject to review.

Second, it is unnecessary for the Commission to require PECO to provide an annual filing like Exhibit IBEW-2 because the Company already is required to file an annual asset optimization plan ("AAOP"), which provides information regarding capital project expenditures and capital work that it completed compared with the LTIP.<sup>50</sup> The AAOP also provides forecasts for capital spending and workplans for future LTIP years. In short, requiring additional reporting would be duplicative and a waste of both the Commission's and PECO's resources.

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

Mr. Anastasi also requests that the Commission require PECO to file an annual report similar to the one identified as Exhibit IBEW-3, which was filed by BGE on April 1, 2024 with the Maryland PSC providing a reconciliation of BGE's actual distribution rate base and operating income over a specified period compared to the amounts approved by the Maryland PSC in BGE's prior rate case, and BGE's actual capital expenditures and O&M expenses in a capital workplan that was filed separately with the Maryland PSC (e.g., Exhibit IBEW-2). Again, unlike the BGE case, PECO does not have, nor is it seeking approval of, multi-year rates. Thus, an annual reconciliation report similar to Exhibit IBEW-3 is entirely unnecessary. Moreover, and as noted above, PECO will report to the Commission's Bureau of Technical Services on its actual capital expenditures, plant additions, and retirements in the FTY and

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<sup>49</sup> Joint Petition ¶ 19; PECO St. 3-R, p. 22.

<sup>50</sup> 52 Pa. Code § 121.6.

FPFTY,<sup>51</sup> and the Company's actual expenditures be subject to review during the Company's next base rate case.

#### **4. Schedule of Affiliate Transactions**

The Company should also not be required to file an annual report similar to the one provided by Mr. Anastasi at Exhibit IBEW-1. First, Exhibit IBEW-1 is a report by Delmarva Power & Light Company ("DPL") that was filed with the Delaware Public Service Commission ("DE PSC") providing a summary schedule of affiliate transactions between DPL and Exelon and its subsidiaries for the year ended 2023. The interactions between DPL and its unregulated affiliates are governed by the Cost Allocation Manual and Code of Conduct approved by the DE PSC in Order No. 5469 in PSC Docket No. 99-582.<sup>52</sup> Notably, the Delaware Code of Conduct requires DPL among other things, to report to the DE PSC, on an annual basis, all affiliated companies, contracts entered into with affiliated companies, transactions undertaken with affiliates without written contract, and data regarding affiliate transaction costs.<sup>53</sup> In short, IBEW is recommending that the Commission require PECO to comply with regulatory requirements related to affiliate transactions and costs in a different jurisdiction.<sup>54</sup>

Second, and more importantly, PECO's affiliate agreements are subject to Commission review and approval<sup>55</sup> and PECO's affiliate transactions are periodically audited by the

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<sup>51</sup> Joint Petition ¶ 19; PECO St. 3-R, p. 22.

<sup>52</sup> *See In the Matter of the Application of Delmarva Power & Light Co., d/b/a Conectiv Power Delivery, For Approval of a Cost Acctg. Manual and a Code of Conduct*, Docket No. 99-582, 2000 WL 1035896 (Del.P.S.C.), 202 P.U.R. 4<sup>th</sup> 53 (Order No. 5469 June 20, 2000).

<sup>53</sup> *See id.* at 73.

<sup>54</sup> *See, In the Matter of the Application of Delmarva Power & Light Co., d/b/a Conectiv Power Delivery, for Approval of a Cost Acct. Manual and a Code of Conduct*, Order No. 5469, Docket No. 99-582, 202 P.U.R. 4<sup>th</sup> 53 (June 20, 2000).

<sup>55</sup> 66 Pa.C.S. § 2102.

Commission pursuant to Section 516.<sup>56</sup> These transactions are also subject to review in PECO's base rate cases. If the Commission believes that annual reporting regarding affiliate transactions, similar to those required in Delaware, is necessary, that obligation should be established through a generic, statewide proceeding and be applicable to all utilities.

#### **D. Electric Vehicle-Related Certification**

IBEW witness Anastasi requests that the Commission order PECO to require any subcontractor or employee who is working on electric vehicle ("EV") charging stations to be certified by the Electric Vehicle Infrastructure Training Program ("EVITP").<sup>57</sup> According to Mr. Anastasi, EVITP has been endorsed by the Biden Administration for projects related to the National Electric Vehicle Infrastructure ("NEVI") Formula Program, and the Pennsylvania Department of Transportation has also endorsed EVITP (or its equivalent) for NEVI Formula Projects.<sup>58</sup>

In response, PECO witness LeVine explained:

PECO does not install EV charging infrastructure that will be used by customers. Any customer-facing EV charging infrastructure in PECO's service territory is currently installed and maintained by the customer, and not by employees, contractors, or subcontractors of PECO.<sup>59</sup>

As such, the Commission should reject Mr. Anastasi's proposal because there is no need for PECO to adopt the EVITP training program because PECO does not install EV charging stations for its customers.

#### **V. PUBLIC COMMENT ON THE SETTLEMENT**

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<sup>56</sup> See, e.g., Management and Operations Audit of PECO Energy Company, Docket No. D-2021-3023906 (issued July 2022).

<sup>57</sup> IBEW St. 1, p. 17.

<sup>58</sup> *Id.*, p. 15.

<sup>59</sup> PECO St. 1-R, p. 13.

No customer that is a party to this proceeding provided any comments on the Settlement.

## **VI. CONCLUSION**

For the reasons set forth above, the Commission's Investigation at Docket No. R-2024-3046931 should be terminated, the various Complaints consolidated therewith should be dismissed, IBEW's proposals and recommendations should be denied, and the proposed rates, terms, and conditions under the Joint Petition for Non-Unanimous Settlement filed on August 30, 2024 should be permitted to become effective without modification.

Respectfully submitted,



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Dated: September 6, 2024

*Counsel for PECO Energy Company*

## **APPENDIX A**

### **PECO ENERGY COMPANY'S PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDERING PARAGRAPHS ON NON-SETTLING PARTY ISSUES**

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**PENNSYLVANIA PUBLIC UTILITY  
COMMISSION** :  
:  
:  
v. : **DOCKET NO. R-2024-3046931**  
:  
**PECO ENERGY COMPANY -** :  
**ELECTRIC DIVISION** :

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**PROPOSED FINDINGS OF FACT, CONCLUSIONS OF  
LAW AND ORDERING PARAGRAPHS ON RESERVED ISSUES AND NON-  
SETTLING PARTY ISSUES**

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**September 6, 2024**

## **PROPOSED FINDINGS OF FACT**

### **I. CUSTOMER SERVICE REPRESENTATIVE ISSUES**

#### **A. Adequacy of CSR Training on New Billing System**

1. In February 2024, PECO Energy Company (“PECO” or the “Company”) transitioned to a new customer care and billing software system known as “CC&B.” Hearing Tr. 764; IBEW St. 1-R, p. 13.

2. PECO witness Jacqueline F. Golden’s rebuttal testimony details the extensive training PECO provided consistent with industry best practices and the positive feedback received from the customer service representatives (“CSRs”) after the CC&B training was delivered. PECO St. 10-SR, pp. 4-5.

3. The CSRs have achieved proficiency with the new billing system and most CSRs were able to return to a nearly fully remote work environment as of the end of June 2024. PECO St. 10-SR, p. 6.

#### **B. Adequacy of Supervisor Support to CSRs**

4. PECO is already in the process of implementing the recommendation of Local 614 of the International Brotherhood of Electrical Workers, AFL-CIO (“IBEW” or the “Union”) to provide additional training to supervisors and arranged for training of “coaches” to provide support to CSRs in real time when they are addressing challenging questions. PECO St. 10-SR, p. 6.

#### **C. CSR Overtime Requirements and Satisfaction**

5. The Company acknowledges that the CSRs faced challenges during the CC&B rollout but explained that a CSR’s job responsibilities include mandatory overtime when required to assist customers. PECO St. 10-SR, p. 5-6.

6. No additional action is required in light of the completion of the CC&B rollout, the Company's ongoing training programs, and the success of the CSRs in PECO's new billing environment. PECO St. 10-SR, pp. 2-7.

## **II. IBEW PROPOSALS**

### **A. Worker Safety and Safety Standards**

7. PECO employs a rigorous process to vet the qualifications for its contractors and once a contractor is selected, PECO's agreements "include extensive terms and conditions that impose requirements in virtually all areas identified by Mr. Anastasi, excluding provisions requiring contractors to provide qualified employee and to document those qualification when required." PECO St. 1-R, p. 12.

8. PECO contractors often use union labor, the unions have their own processes to certify qualified employees, and PECO's contractor requirements ensure that its contractors are performing required work on PECO's distribution system at a competitive price for customers. PECO St. 1-R, p. 13.

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

9. IBEW agrees that PECO should be "afforded rate relief sufficient to allow it to proactively ramp up its hiring in skilled classifications" to have the right number of trained employees in place when retirements occur and requests that the Company be required to submit an annual workforce planning report to provide transparency with respect to the Company's hiring needs and efforts to fulfill such needs. IBEW St. 1, p. 11.

10. IBEW supports PECO's 2% vacancy factor "if PECO demonstrated it was implementing new methods for recruitment that would justify predicting a change in its vacancy factors." IBEW St. 1-R, p. 6.

11. The Company's 2% vacancy rate is appropriate and accounts for the fact that there always will be a certain level of predictable vacancies and is consistent with the Company's actual 1.4% vacancy rate through the first quarter of 2024. *See* PECO St. 2-R, p 2.

12. The Company offers competitive wage and benefit packages for its employees and the 2% vacancy rate demonstrates that PECO's hiring practices are clearly effective. PECO, St. 1-SR, p. 2.

13. The Company and the Union have successfully negotiated several collective bargaining agreements that reflect mutual agreement on wages and benefits, which the Union agrees "are the product of good-faith bargaining, characterized by give-and-take exchanges, proposals, [and] counter-proposals." *IBEW St. 1*, pp. 4-5.

14. PECO has a detailed plan in place to achieve its targets for full time equivalent employees ("FTEs") for the future test year ("FTY") and the fully projected future test year ("FPFTY") using the schools that PECO will run in October 2024 and October 2025. *PECO St. 2-R*, pp. 3.

15. PECO recruits heavily from trade and vocational schools. *PECO St. 1-SR*, p. 2.

16. PECO already has programs in place that allow experienced employees to train, mentor and transition work over-time to a younger workforce, as well as support the development of craft position employees. *PECO St. 1-SR*, pp. 2-4.

17. PECO does not budget by job classification. While the Company's operational plan includes a total headcount of the number of personnel required to execute the plan and is an input into the Company's financial budget, the headcount budget reflects various payroll levels of the Company's employees, not the Company's numerous individual job classifications. *Hearing Tr. 778:2-20*.

18. The IBEW is making an “apple to oranges comparison” and arguing for a level of granularity that not necessary. Hearing Tr. 621:1-5.

19. The Company already has in place a detailed hiring plan as explained by PECO witness LeVine. *See* Hearing Tr. 620:20-25.

### **C. IBEW’s Proposals for Additional Reporting Requirements**

#### **1. Annual Workforce Planning Report**

20. Exhibit IBEW-4 is a required “Workforce Planning Compliance Report” filed by Arizona Public Service Company (“APS”). The Arizona Corporation Commission (“ACC”) required this report due to workforce challenges facing APS. Exhibit IBEW-4

21. The Company expects to fill headcount projections for FTY and FPFTY through schools being held in October 2024 and October 2025, and CSR and administrative positions will be filled through standard recruiting efforts. PECO St. 2-R, pp. 2-3.

22. Business planning should remain within the Company’s managerial discretion. PECO St. 1-R, p. 11.

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

23. Exhibit IBEW-2 is a February 12, 2024, filing by Baltimore Gas and Electric Company (“BGE”) with the Public Service Commission of Maryland (“Maryland PSC”) providing a list of projects with schedules, by project, capital and operations and maintenance (“O&M”) contingencies identified as remaining in BGE’s multi-year plan budget. Hearing Tr. 622:19-25.

24. BGE received approval from the Maryland PSC to implement a multi-year rate plan, which requires the annual reconciliation of forecasted and actual capital and O&M expenditures. Hearing Tr. 623:21-25.

25. PECO does not have, nor is it seeking approval of, multi-year rates. Hearing Tr. 624: 8-11.

26. PECO will report to the Pennsylvania Public Utility Commission's ("Commission's") Bureau of Technical Services on its actual capital expenditures, plant additions, and retirements in the FTY and FPFTY. Hearing Tr. 624: 15-19.

27. PECO is already required to file an annual asset optimization plan detailing capital project expenditures and capital work that it has completed compared with its Long-Term Infrastructure Improvement Plan. Hearing Tr. 624:22-25.

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

28. Exhibit IBEW-3 is an April 1, 2024 filing with the Maryland PSC that provides a reconciliation of BGE's actual distribution rate base and operating income over a specified period compared to the amounts approved by the Maryland PSC in BGE's prior rate case, and BGE's actual capital expenditures and O&M expenses in a capital workplan that was filed separately with the Maryland PSC (e.g., Exhibit IBEW-2). Hearing Tr. 623:7-18.

29. BGE received approval from the Maryland PSC to implement a multi-year rate plan, which requires the annual reconciliation of forecasted and actual capital and O&M expenditures. Hearing Tr. 623:21-25.

30. PECO does not have, nor is it seeking approval of, multi-year rates. Hearing Tr. 624: 8-11.

31. PECO will report to the Commission's Bureau of Technical Services on its actual capital expenditures, plant additions, and retirements in the FTY and FPFTY. Hearing Tr. 624:15-19.

32. During the next rate case, the Company's actual expenditures will also be subject to review. Hearing Tr. 624: 19-21.

#### **4. Schedule of Affiliate Transactions**

33. Exhibit IBEW-1 is a report by Delmarva Power & Light Company (“DPL”) that was filed with the Delaware Public Service Commission (“DE PSC”) providing a summary schedule of affiliate transactions between DPL and Exelon Corporation and its subsidiaries for the year ended 2023. Hearing Tr. 11-17.

34. IBEW is recommending that the Commission require PECO to comply with regulatory requirements related to affiliate transactions and costs in a different jurisdiction, even though PECO’s transactions are periodically audited by the Commission. Hearing Tr. 626: 2-7.

#### **D. Electric Vehicle-Related Certification**

35. PECO does not install electric vehicle (“EV”) charging infrastructure that will be used by customers. Any EV charging installed in PECO’s service territory is currently installed and maintained by the customer, not PECO or its employees or contractors. PECO St. 1-R, p. 13.

### **III. PROPOSED CONCLUSIONS OF LAW**

1. The Commission has recognized that it does not function as a utility “super board of directors,” and a utility is entitled to manage its own affairs consistent with the public interest and the limited powers of the Commission. *See, e.g., Pa. Pub. Util. Comm’n v. Columbia Water Co.*, Docket No. R-2008-2045157 (Order entered June 10, 2009).

2. 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).

3. 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).

4. IBEW's recommendations with respect to training CSRs and supervisors are not appropriate and not supported by the record in this proceeding considering the extensive training on CC&B that both CSRs and their supervisors (and coaches) received and the steps that PECO has taken during and following CC&B implementation to ensure that CSRs and their supervisors are able to perform well and are satisfied with their positions.

5. IBEW has not provided any evidence in this proceeding to support a finding that the Company has not met safety metrics for its employees.

6. IBEW has not provided any specific evidence in this proceeding to support a finding that PECO faces challenges in its workforce planning.

7. The evidence in this proceeding supports and validates the Company's proposed 2% vacancy rate.

8. IBEW has not provided any specific evidence in this proceeding to support a finding that there is a current or future lack of availability of skilled workers to maintain the Company's historical 2% average vacancy rate.

9. IBEW's recommendation to file an annual report consistent with regulatory requirements in other jurisdictions such as the one at Exhibit IBEW-4 is not necessary or supported by the record in this proceeding.

10. IBEW's recommendation to file annual report consistent with regulatory requirements in other jurisdictions such as the one at Exhibit IBEW-2 is not necessary or supported by the record in this proceeding.

11. IBEW's recommendation to file annual report consistent with regulatory requirements in other jurisdictions such as the one at Exhibit IBEW-3 is not necessary or supported by the record.

12. The interactions between DPL and its unregulated affiliates are governed by the Cost Allocation Manual and Code of Conduct approved by the DE PSC in Order No. 5469 in PSC Docket No. 99-582. *See In the Matter of the Application of Delmarva Power & Light Co., d/b/a Conectiv Power Delivery, For Approval of a Cost Acctg. Manual and a Code of Conduct*, Docket No. 99-582, 2000 WL 1035896 (Del.P.S.C.), 202 P.U.R. 4<sup>th</sup> 53 (Order No. 5469 June 20, 2000).

13. The Delaware Code of Conduct requires DPL among other things, to report to the DE PSC, on an annual basis, all affiliated companies, contracts entered into with affiliated companies, transactions undertaken with affiliates without written contract, and data regarding affiliate transaction costs. *Id.*, p. 73.

14. Affiliate agreements are subject to Commission review and approval pursuant to 66 Pa.C.S. § 2102.

15. Affiliate transactions are subject to Commission review in audits pursuant to 66 Pa.C.S. § 516.

16. IBEW's recommendation to require any PECO contractor, subcontractor or employee to who is working on EV charging stations to be certified by the Electric Vehicle

Infrastructure Training Program is unnecessary as PECO does not install EV charging infrastructure that will be used by its customers.

**PROPOSED ORDERING PARAGRAPHS**

**IT IS ORDERED:**

1. IBEW's recommendations and proposals are rejected.