



**VIA ELECTRONIC FILING**

September 12, 2024

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
400 North Street, 2nd Floor  
Harrisburg, PA 17120

**Re: Docket No. R-2024-3046931, Pennsylvania Public Utility Commission v. PECO Energy Company – Electric Div.**

**Statement in Support of the Joint Petition For Non-Unanimous Settlement of Electrify America, LLC**

Dear Secretary Chiavetta,

Enclosed for filing in the above-referenced proceeding is Electrify America, LLC's Statement in Support of the Joint Petition for Non-Unanimous Settlement.

This document was filed electronically with the Commission on this date. Copies of this document have been served on this date to the parties to this proceeding in accordance with the attached Certificate of Service. Thank you for your attention to this matter.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'S. Bright', written over a horizontal line.

Stephen Bright, Esq.  
Admitted *Pro Hac Vice*  
Electrify America, LLC  
1950 Opportunity Way, Suite 1500  
Reston, Virginia 20190  
Phone: (781) 206-7979  
Steve.Bright@electrifyamerica.com



Philadelphia Energy Authority (“City/PEA”), and Walmart Inc. (“Walmart”) (collectively, the “Settlement Parties”) have agreed upon the terms embodied in the foregoing Settlement.

Electrify America submits this Statement in Support to further demonstrate that the Settlement is in the public interest and should be approved without modification.

## **I. BACKGROUND**

1. 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 Commission approval 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 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.

2. 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. The case was subsequently assigned to Administrative Law Judges Marta Guhl and Darlene Heep (“the ALJs”) for purposes of conducting hearings and issuing a Recommended Decision.

3. A telephonic Prehearing Conference was held on May 7, 2024. Consistent with Commission practice, a schedule was adopted whereby all case-in-chief, rebuttal and surrebuttal testimony would be submitted in writing in advance of hearings and oral rejoinder could be offered at hearings. Pursuant to this procedural schedule, Electrify America submitted the direct testimony of Rhiannon Davis and Jigar Shah on June 17, 2024. On August 2, 2024, Electrify America submitted the Surrebuttal Testimony of Jigar J. Shah. The focus of Electrify America’s

testimony was to address PECO's proposed modifications to its Electric Vehicle ("EV") Fast Charging Pilot Rider (the "EV-FC Rider"), and to propose additional modifications regarding the administration of the EV-FC Rider.

4. ALJs Guhl and Heep held evidentiary hearings on August 8, 2024 and August 12, 2024, with written testimony and exhibits of all parties admitted into evidence by a Joint Stipulation filed on August 14, 2024.

5. Several parties participated actively in the proceeding: I&E, the OCA, the OSBA, Alan McCarthy, Constellation Energy Generation, LLC and Constellation NewEnergy, Inc. ("Constellation"), City/PEA, EA, EVgo, Grays Ferry Cogeneration Partnership and Vicinity Energy Philadelphia, Inc. ("Grays Ferry/Vicinity"), Local 614 of the International Brotherhood of Electrical Workers, AFL-CIO ("Local 614"), Amtrak, PAIEUG, SEPTA, TURN/CAUSE-PA, UPENN, and Walmart.

6. In accordance with the Commission's policy encouraging negotiated settlement of contested proceedings, the Settlement Parties engaged in discussions to resolve the issues raised by the various parties. On August 5, 2024 and August 23, 2024, the Settlement Parties provided status reports to the ALJs to inform them of the progress of settlement discussions.

7. On August 23, 2024, the parties notified the ALJs that a non-unanimous settlement in principle had been reached to resolve all issues in this proceeding with all parties except for Local 614, and that the settling parties would submit a Joint Petition for Non-Unanimous Settlement and Statements in Support to memorialize their agreement.

8. On August 27, 2024, the ALJs approved a procedural schedule for the filing of the Settlement, Statements in Support, Main Briefs, and Reply Briefs to address the non-settling party issues.

9. On August 30, 2024, the parties filed with the Commission the Joint Petition for Non-Unanimous Settlement evidencing their agreement.

## II. STATEMENT OF SUPPORT

10. The Commission has a strong policy favoring settlements. As set forth in the Commission's regulations, "[t]he Commission encourages parties to seek negotiated settlements of contested proceedings in lieu of incurring the time, expense and uncertainty of litigation."<sup>1</sup> Moreover, the Commission's policy on settlement states that the results of a negotiated settlement "in which interested parties have had an opportunity to participate are often preferable to those achieved at the conclusion of a fully litigated proceeding."<sup>2</sup> Consistent with the Commission's policy, the Settlement Parties engaged in negotiations to settle the issues raised by the parties. These discussions produced the foregoing Settlement.

11. As stated in the September 6, 2024 Joint Proposed Findings of Fact, Conclusions of Law and Ordering Paragraphs in Support of Joint Petition for Non-Unanimous Settlement submitted in this proceeding, to approve a settlement the Commission must determine that the proposed terms and conditions of the settlement are in the public interest when viewed in the context of the settlement as a whole.<sup>3</sup> The Commission has defined the public interest as inclusive of ratepayers, shareholders, and the regulated community at large.<sup>4</sup> In reviewing whether to approve a proposed settlement, the Commission must determine whether the terms and conditions are in the interest of the public based on a preponderance of the evidence

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<sup>1</sup> 52 Pa. Code § 69.391; *see also* 52 Pa. Code § 5.231

<sup>2</sup> 52 Pa. Code § 69.401.

<sup>3</sup> *See Pa. P.U.C. v. CS Water & Sewer Ass'n*, 74 Pa. P.U.C. 767, 771 (1991); *Pa. P.U.C. v. Philadelphia Elec. Co.*, 60 Pa. P.U.C. 1, 22 (1985).

<sup>4</sup> *See id.* (citing *Pa. PUC v. Bell Atlantic Pennsylvania, Inc.*, Docket No. R-00953409 (Order entered Sept. 29, 1995)).

“showing a likelihood or probability of public benefits that need not be quantified or guaranteed.”<sup>5</sup>

12. The Settlement Parties contend that approval of the Settlement is in the public interest for the following reasons:

- a. The Settlement provides for an increase in annual net electric distribution revenues of \$354.0 million, in lieu of the \$464 million increase originally requested.
- b. The Settlement rates will reflect the allocation of the \$354 million increase in electric operating revenue to each rate class as set forth in the Settlement. These Settlement rates represent an increase in rates that is approximately 24% less than PECO’s overall requested increase.<sup>6</sup>
- c. PECO will not file for another general rate increase under Section 1308(d) of the Public Utility Code for its electric operations prior to March 16, 2026.
- d. The Settlement amicably and expeditiously resolves a number of important and potentially contentious issues. The administrative burden and costs to litigate these matters to conclusion would be significant.
- e. The Settlement Rates will allocate the agreed upon revenue requirement to each customer class in a manner that is just and reasonable in light of the rate structure/cost of service positions of all Settlement Parties.
- f. The Settlement Parties arrived at the Settlement terms after conducting

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<sup>5</sup> See *Commonwealth of Pa. et al. v. IDT Energy, Inc.*, Docket No. C-2014-2427657, at 35-37 (Tentative Order entered June 30, 2016) (quoting *Popowsky v. Pa. PUC*, 594 Pa. 583, 937 A.2d at 1040 (2007)).

<sup>6</sup> Settlement at ¶ 13.

discovery and engaging in in-depth discussions over several weeks. The Settlement terms and conditions constitute a carefully crafted package representing reasonable negotiated compromises on the issues addressed therein. Moreover, the Settlement reflects compromises on various positions presented without prejudice to any position any Settlement Party may have advanced so far in this proceeding. Thus, the Settlement is consistent with the Commission's rules and practices encouraging negotiated settlements,<sup>7</sup> and is supported by substantial record evidence.

13. The Settlement specifically satisfies the concerns of Electrify America as follows:

a. Through negotiation, the Settlement Parties were able to compromise on the following terms regarding PECO's proposed Electric Vehicle ("EV") Programs:

"PECO's proposed EV Charging Pilot extension and modification and Electric Vehicle Fast Charging ("EV-FC") Pilot Rider extension and modification are approved subject to the following modifications: (1) PECO's EV Charging Pilot and EV-FC Pilot Rider will extend through May 31, 2029; (2) the EV-FC Pilot Rider demand credit will be calculated as 30%, rather than 20%, of the measured demand; and (3) the Company agrees to work with stakeholders through its transportation electrification collaborative working group in calendar year 2027 to design and conduct an

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<sup>7</sup> See 52 Pa. Code §§ 5.231, 69.391, 69.401.

evaluation of the modified EV-FC Pilot Rider, determine whether a successor DC fast charging rate is warranted, and if warranted, design such a successor rate and propose it to be effective upon the expiration of the EV-FC Pilot Rider.”<sup>8</sup>

- b. While parties took various positions on PECO’s proposed EV programs over the course of this proceeding, the Settlement reflects a just and reasonable consensus position that is in the best interest of the Settlement Parties, PECO’s customers, and the public in general.
- c. Electrify America’s specific concerns with PECO’s EV-FC Rider are addressed by the proposed modifications to PECO’s EV programs set forth in the Settlement, and while the proposed modifications do not entirely align with Electrify America’s initial litigation position in this proceeding, the Settlement does represent a reasonable compromise of the interests of Electrify America and the Settlement Parties on these issues.

14. Electrify America supports the foregoing Settlement because it is in the public interest; however, in the event the ALJs or the Commission disapprove the Settlement or modify any terms or conditions herein, Electrify America will resume its litigation position, which differs from the terms of the Settlement.

15. As set forth above, Electrify America submits that the Settlement is in the public interest and adheres to Commission policies promoting negotiated settlements. The Settlement was achieved after numerous negotiations, resulting in terms are fair, just, reasonable,

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<sup>8</sup> Settlement at ¶ 53.

nondiscriminatory, lawful, in the public interest, and said terms are in compliance with the Commission's regulations regarding settlement. Approval of the Settlement will permit the Commission and Settling Parties to avoid incurring the additional time, expense, and uncertainty of further litigation in this proceeding.<sup>9</sup>

WHEREFORE, Electrify America, LLC respectfully requests that Administrative Law Judges Marta Guhl and Darlene D. Heep and the Pennsylvania Public Utility Commission approve the foregoing Joint Petition for Non-Unanimous Settlement in its entirety and without modification.

Respectfully Submitted,



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Stephen Bright, Esq.  
Admitted *Pro Hac Vice*  
Electrify America, LLC  
1950 Opportunity Way, Suite 1500  
Reston, Virginia 20190  
Phone: (781) 206-7979  
Steve.Bright@electrifyamerica.com

Dated : September 12, 2024

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<sup>9</sup> See 52 Pa. Code § 69.391.

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Pennsylvania Public Utility Commission** :  
: **Docket No. R-2024-3046931**  
v. :  
: **PECO Energy Company – Electric Division** :

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**CERTIFICATE OF SERVICE**

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I hereby certify and affirm that I have this day served a copy of the foregoing documents on the following persons in the manner specified in accordance with the requirements of 52 Pa. Code § 1.54:

Anthony E. Gay, Esq.  
Jack R. Garfinkle, Esq.  
Jennedy S. Johnson, Esq.  
Caroline Choi, Esq.  
PECO Energy Company  
2301 Market Street  
Philadelphia, PA 19103  
anthony.gay@exeloncorp.com  
jack.garfinkle@exeloncorp.com  
jennedy.johnson@exeloncorp.com  
caroline.choi@exelocorp.com  
(*Counsel for PECO Energy Co.*)

Kenneth M. Kulak, Esq.  
Mark A. Lazaroff, Esq.  
Brooke E. McGlinn, Esq.  
Catherine G. Vasudevan, Esq.  
Morgan Lewis & Bockius, LLP  
2222 Market Street  
Philadelphia, PA 19103  
ken.kulak@morganlewis.com  
mark.lazaroff@morganlewis.com  
brooke.mcglinn@morganlewis.com  
catherine.vasudevan@morganlewis.com  
(*Counsel for PECO Energy Co.*)

Sharon E. Webb, Esquire  
Steven C. Gray, Esquire  
Rebecca Lyttle, Esquire  
Office of Small Business Advocate  
Forum Place  
555 Walnut Street, 1<sup>st</sup> Floor  
Harrisburg, Pennsylvania 17101  
swebb@pa.gov  
sgray@pa.gov  
relyttle@pa.gov  
*Counsel for Office of Small Business Advocate (“OSBA”)*

Erin L. Gannon  
Barrett C. Sheridan  
Gina L. Miller  
Jacob D. Guthrie  
Consumer Advocate  
Office of Consumer Advocate  
Forum Place, 5<sup>th</sup> Floor  
555 Walnut Street  
Harrisburg, PA 17101-1923  
OCAELECPECO2024@paoca.org  
*Counsel for Office of Consumer Advocate (“OCA”)*

Carrie B. Wright, Esq.  
Pennsylvania Public Utility Commission  
Bureau of Investigation and Enforcement  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120  
carwright@pa.gov  
(*Counsel for Bureau of Investigation and Enforcement*)

David P. Zambito, Esq. (I.D. #80017)  
Jonathan P. Nase, Esq. (I.D. #44003)  
17 North Second Street, Suite 1410  
Harrisburg, PA 17101  
dzambito@cozen.com  
jnase@cozen.com  
(*Counsel for The Trustees of the University of Pennsylvania and The Hospital at the University of Pennsylvania*)

Bernice I. Corman  
Bicky Corman Law, PLLC  
1250 Connecticut Avenue, NW, Suite 700  
Washington, DC 20036  
Bcorman@bickycormanlaw.com  
(*Counsel for EVgo Services, LLC*)

Lindsey Stegall  
Katelyn Lee  
EVgo Services, LLC  
11835 W. Olympic Blvd. Suite 900E  
Los Angeles, CA 90064  
Lindsey.Stegall@evgo.com  
Katelyn.Lee@evgo.com

Charles T. Joyce  
Samuel E. Shopp  
SPEAR WILDERMAN, P.C.  
230 South Broad Street, Ste. 1650  
Philadelphia, PA 19102  
ctjoyce@spearwilderman.com  
sshopp@spearwilderman.com  
(*Counsel for IBEW Local 614*)

Vikram A. Patel, Esq.  
Charlotte E. Edelstein, Esq.

Joline R. Price, Esq.  
Robert W. Ballenger, Esq.  
1424 Chestnut Street  
Philadelphia, PA 19102  
vpatel@clsphila.org  
jprice@clsphila.org  
cedelsteinj@clsphila.org  
rballenger@clsphila.org  
(*Counsel for TURN and CAUSE-PA*)

Todd S. Stewart  
Hawke McKeon & Sniscak LLP  
100 North Tenth Street  
Harrisburg, PA 17101  
tsstewart@hmslegal.com  
Counsel for the  
*Southeastern Pennsylvania Transportation Authority ("SEPTA")*

Kenneth R. Stark  
McNees Wallace & Nurick LLC  
100 Pine Street  
Harrisburg, PA 17101  
kstark@mcneeslaw.com  
*Counsel for Amtrak*

Charis Mincavage  
Adeolu A. Bakare  
Brigid Landy Khuri  
Rebecca Kimmel  
McNees Wallace & Nurick LLC  
100 Pine Street  
Harrisburg, PA 17108-1166  
cmincavage@mcneeslaw.com  
abakare@mcneeslaw.com  
bkhuri@mcneeslaw.com  
rkimmel@mcneeslaw.com  
*Counsel for Philadelphia Area Industrial Energy Users Group ("PAIEUG")*

Alan M. Seltzer  
John F. Povilaitis  
Buchanan Ingersoll & Rooney  
PC 409 North Second Street,  
Suite 500  
Harrisburg, PA 17101  
alan.seltzer@bipc.com  
john.povilaitis@bipc.com  
*Counsel for Constellation Energy  
Generation, LLC and Constellation  
NewEnergy, Inc*

Nicholas J. Enoch  
Lubin & Enoch, P.C.  
349 North 4<sup>th</sup> Avenue  
Phoenix, AZ 85003-1505  
nick@lubinandenoch.com  
*Counsel for IBEW Local 614*

Laura Antinucci  
James Kellett  
Philadelphia Law Department  
1515 Arch Street, 16<sup>th</sup> Floor  
Philadelphia, PA 19102  
laura.antinucci@phila.gov  
james.kellett@phila.gov  
*Counsel for The City of Philadelphia and  
Philadelphia Energy Authority (“City and  
PEA”)*

Phillip D. Demanchick Jr.  
Hawke McKeon & Sniscak, LLP  
100 North 10<sup>th</sup> Street  
Harrisburg, PA 17101  
pddemanchick@hmslegal.com  
*Counsel for Grays Ferry Cogeneration  
Partnership and Vicinity Energy  
Philadelphia, Inc.*

C. Baird Brown  
eco(n)law, LLC  
230 South Broad Street, 17<sup>th</sup> Floor  
Philadelphia, PA 19102  
baird@eco-n-law.net  
*Counsel for PEA*

Alan McCarthy  
705 East Barnard Street  
West Chester, PA 19382  
alanmccarthy25@hotmail.com  
*Pro Se*

Robert A. Weishaar, Jr.  
McNees Wallace & Nurick  
LLC 1200 G Street, NW,  
Suite 800  
Washington, DC 20005  
bweishaar@mcneeslaw.com  
*Counsel for The National Railroad  
Passenger Corporation (“Amtrak”)*

Derrick Price Williamson  
Barry A. Naum  
Steven W. Lee  
Spilman Thomas & Battle, PLLC  
1100 Bent Creek Boulevard, Suite 101  
Mechanicsburg, PA 17050  
dwilliamson@spilmanlaw.com  
bnaum@spilmanlaw.com  
slee@spilmanlaw.com  
*Counsel for Walmart Inc.*



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Stephen Bright, Esq.  
Counsel for *Electrify America, LLC*

Dated: September 12, 2024