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September 12, 2024

## **VIA eFILING**

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120

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

Dear Secretary Chiavetta:

Enclosed for filing is the public version of the **Statement Of PECO Energy Company In Support Of The Joint Petition For Non-Unanimous Partial Settlement Of Rate Investigation (“Statement In Support”)** in the above-captioned proceeding. As evidenced by the Certificate of Service, copies are being served upon Administrative Law Judge Marta Guhl, Administrative Law Judge Darlene Heep, and all parties of record.

The confidential version of the Statement In Support will be uploaded to the Office of the Secretary’s Sharepoint site and a hard copy will be submitted directly to the Office of the Secretary.

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

Very truly yours,



Kenneth M. Kulak

KMK/nt

Enclosures

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

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**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**PENNSYLVANIA PUBLIC  
UTILITY COMMISSION**

v.

**PECO ENERGY COMPANY –  
GAS DIVISION**

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**DOCKET NO. R-2024-3046932**

**CERTIFICATE OF SERVICE**

I hereby certify and affirm that I have this day served a copy of the **Statement Of PECO Energy Company In Support Of The Joint Petition For Non-Unanimous Partial Settlement Of Rate Investigation** on the following persons in the manner specified in accordance with the requirements of 52 Pa. Code § 1.54:

**VIA ELECTRONIC MAIL**

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Dated: September 12, 2024

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**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

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**STATEMENT OF PECO ENERGY COMPANY  
IN SUPPORT OF THE  
JOINT PETITION FOR NON-UNANIMOUS PARTIAL SETTLEMENT OF RATE  
INVESTIGATION**

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**PUBLIC VERSION**

**September 12, 2024**

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**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

<b>PENNSYLVANIA PUBLIC UTILITY COMMISSION</b>	:	
	:	
v.	:	<b>DOCKET NO. R-2024-3046932</b>
	:	
<b>PECO ENERGY COMPANY – GAS DIVISION</b>	:	

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**STATEMENT OF PECO ENERGY COMPANY  
IN SUPPORT OF THE  
JOINT PETITION FOR NON-UNANIMOUS PARTIAL SETTLEMENT OF RATE  
INVESTIGATION**

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**TO THE HONORABLE ADMINISTRATIVE LAW JUDGE MARTA GUHL AND  
ADMINISTRATIVE LAW JUDGE DARLENE HEEP:**

**I. INTRODUCTION AND OVERVIEW**

PECO Energy Company (“PECO” or the “Company”) submits this Statement in Support of the Joint Petition for Non-Unanimous Partial Settlement of Rate Investigation (“Joint Petition” or “Settlement”) entered into by and among PECO and the following Joint Petitioners:<sup>1</sup>

The Pennsylvania Public Utility Commission (“Commission”)  
Bureau of Investigation and Enforcement (“I&E”);

Office of Consumer Advocate (“OCA”);

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<sup>1</sup> The Trustees of the University of Pennsylvania and The Hospital at the University of Pennsylvania, which are parties to this proceeding, have authorized the Joint Petitioners to represent that they do not oppose the Settlement. Local 614 of the International Brotherhood of Electrical Workers, AFL-CIO did not join this Joint Petition and has indicated that it opposes the Settlement. The Administrative Law Judges informed Formal Complainants State Representative Christina Sappey Alan McCarthy and of the Settlement by letter dated September 5, 2024, and, to date, Representative Sappey and Mr. McCarthy have not submitted comments regarding the Settlement.

Office of Small Business Advocate (“OSBA”);

The Philadelphia Area Industrial Energy Users Group  
 (“PAIEUG”);

The Southeastern Pennsylvania Transportation Authority;

The Coalition for Affordable Utility Services and Energy  
 Efficiency in Pennsylvania (“CAUSE-PA”); and

Walmart Inc.

If the settlement set forth in the Joint Petition (“Settlement”) is approved, it will resolve all issues in this proceeding among the Joint Petitioners except for a single issue related to PECO’s proposed Weather Normalization Adjustment (“WNA”). This issue has been reserved from the Settlement for briefing.

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

The Settlement has been achieved among parties representing a wide array of stakeholder interests, including residential, commercial and industrial customers, and organizations representing the interests of low-income customers. The fact that the Settlement was reached among parties displaying the diverse interests of the Joint Petitioners is, in itself, strong evidence that the Settlement is reasonable and in the public interest. In fact, the Settlement reflects a carefully balanced compromise of the interests of all the Joint Petitioners based on their thorough

and detailed consideration of the evidence adduced in this case, all of which was entered into the record at the evidentiary hearings conducted on August 8 and 12, 2024 and by the Joint Stipulation for Admission of Testimony and Exhibits filed on August 14, 2024.

Significantly, three of the signatories – I&E, the OCA, and the OSBA – are charged with specific legal obligations to carefully scrutinize all aspects of a utility’s request to increase rates. I&E, which has the broadest mandate, functions as an independent prosecutorial bureau within the Commission and, as such, is charged with representing the public interest in utility rate proceedings.<sup>2</sup> The OCA has a statutory obligation to protect the interests of residential consumers of public utility service,<sup>3</sup> and the OSBA represents the interests of small businesses.<sup>4</sup> As evidenced by their active and extensive participation in all aspects of this case, these statutory parties have conscientiously and rigorously discharged their statutory obligations. The statutory parties joining in and fully supporting the Settlement is strong evidence that the Settlement’s terms and conditions are just, reasonable, and in the public interest.<sup>5</sup>

Moreover, as explained hereafter, the Company presented a compelling case for rate relief. This is evidenced by, among other factors, the fact that the Company’s base rates have not increased since January 1, 2023 and PECO will have invested approximately \$786 million in

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<sup>2</sup> See *Implementation of Act 129 of 2008 Organization of Bureaus and Offices*, Docket No. M-2008-2071852 (Final Order entered Aug. 11, 2011), p. 5 (“BI&E will serve as the prosecutory bureau for purposes of representing the public interest in ratemaking and service matters . . .”).

<sup>3</sup> See 71 Pa.C.S. §§ 309-1 et seq.

<sup>4</sup> See 73 P.S. §§ 399.41 et seq.

<sup>5</sup> See *Pa. P.U.C. v. T.W. Phillips Gas & Oil Co.*, Docket Nos. R-2010-2167797 et al., 2010 Pa. PUC LEXIS 1598 at \*80-85 (Recommended Decision issued Oct. 5, 2010) (relying upon the support of I&E’s predecessor, the Office of Trial Staff, the OCA and the OSBA as evidence that the settlement in that case was reasonable and in the public interest). The Recommended Decision was expressly approved and adopted by the Commission in its Final Order entered Nov. 4, 2010 at the above-referenced dockets. *Accord* Opinion and Order, *Pa. P.U.C. Aqua Pa., Inc.*, Docket Nos. R-2018-300355 et al., p. 55 (citing *T.W. Phillips* and explaining that “[w]hen each of the statutory advocates fully support a settlement, it is a good indicator that the terms and conditions of the settlement are just and reasonable”).

new and replacement gas utility plant between January 2024 and December 2025 while experiencing rising labor and materials costs due to inflation and interest rates. PECO St. 1, pp. 5-6; PECO St. 2, pp. 3-7.

The Company's need for rate relief and the reasonableness of the increase in revenues set forth in the Settlement are addressed further in Section II below. Section II also discusses the other terms of the Settlement and explains why they are reasonable in light of the evidence presented in this case and are in the public interest. Section III is a summation of the reasons why the Settlement as a whole is in the public interest.

**A. Overview of the Company's Filing and the Settlement**

PECO last filed for an increase in gas base rates in March 2022. PECO initiated this rate case on March 28, 2024 by filing Tariff Gas – Pa. P.U.C. No. 6 requesting an increase in its total annual operating revenues to become effective May 27, 2024. The requested increase in PECO's initial filing equaled approximately \$111 million, based on data for a fully projected future test year ("FPFTY") ending December 31, 2025. On April 25, 2024, the Commission instituted an investigation of PECO's existing and proposed rates and, as a result, the Company's proposed tariff was suspended by operation of law until December 27, 2024, which was subsequently conditionally extended by the Company to December 30, 2024.

Various issues pertaining to the level of revenues to which PECO is entitled were the subject of extensive discovery and were addressed at length in the parties' direct, rebuttal, surrebuttal and rejoinder testimony. Revenue requirement was also the subject of intensive negotiations, which produced an agreement among the Joint Petitioners that PECO has established its need for an increase in total gas distribution revenues of \$78 million as of the end of the statutory suspension period in this case, in addition to the Distribution System

Improvement Charge (“DSIC”) revenue of \$18 million that will be rolled into base rates. The agreed increase is in lieu of the Company’s initially requested increase of \$111 million. As part of the Settlement, PECO also agreed that if the Joint Petition is approved, the Company will not file for another gas distribution base rate increase prior to March 16, 2026. *See* Joint Petition, ¶¶ 13-15.

Witnesses for the OCA and CAUSE-PA recommended several modifications to PECO’s universal service programs and expressed certain concerns regarding customer service and consumer protections. The Settlement includes extensive commitments from the Company to enhance assistance to low-income customers and address residential customer service issues raised in this case. *See* Joint Petition, ¶¶ 25-42.

Various other specific issues that were raised by other parties’ testimony have been resolved by the compromises on all sides that resulted in the agreed upon increase in gas distribution revenues of \$78 million. There are certain terms that reflect the Joint Petitioners’ agreement on specific issues, which are typically addressed in settlements, such as, for example, the equity return rate to be used in calculating the Company’s DSIC and the “baseline” of FPFTY plant additions that must be exceeded before the Company may reinstitute its DSIC. *See* Joint Petition, ¶¶ 22-24. In addition, the Joint Petitioners have resolved all rate structure and rate design issues by collaboratively developing the gas distribution base rates, as set forth in the gas tariff provided in Appendix A (the “Settlement Rates”). The Joint Petitioners are in full agreement that the Settlement Rates fairly and reasonably allocate the increase in gas distribution revenues among PECO’s customer rate classes. *See* Joint Petition, ¶¶ 16-20.

A total of seven public input hearings were held in this case. *See* Joint Petition, ¶ 5. The Company believes that, given its size (PECO provides service to over 500,000 gas customers),<sup>6</sup> there were few service-related issues raised at the public input hearings.

As previously indicated, the specific terms of the Settlement are discussed in more detail in Section II below.

**B. The Settlement Is Consistent With Commission Policy, Practice and Precedent Concerning Settlements**

It is the Commission’s long-standing policy, practice, and precedent, embodied in its regulation at 52 Pa. Code § 5.231 and its Policy Statement on Settlements at 52 Pa. Code § 69.401, to strongly encourage parties to resolve contested proceedings through settlement. Indeed, in its Policy Statement, the Commission stated that “the results achieved from a negotiated settlement or stipulation, or both, in which the interested parties have had an opportunity to participate are often preferable to those achieved at the conclusion of a fully litigated proceeding.”<sup>7</sup> There are many reasons why settlements can produce better outcomes and do a better job of promoting the public interest than full litigation, which have been repeatedly affirmed in decisions approving proposed settlements. Those reasons were aptly summarized in the Commission’s approval of a settlement of PECO’s 2018 electric rate case:

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

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<sup>6</sup> PECO St. 1, p. 3.

<sup>7</sup> 52 Pa. Code § 69.401.

the company's customers. For this and other sound reasons, settlements are encouraged by long-standing Commission policy.<sup>8</sup>

Settlements also promote the public interest in another important way. In settlements, parties can, through compromise and agreement, craft innovative and creative solutions that the Commission may not be in a position to develop and impose unilaterally. That is certainly the case with the Settlement achieved by the Joint Petitioners in this proceeding, as explained in Section II below.

**C. Settlements That Do Not Stipulate or Identify the Specific Components Underlying a Settled Revenue Increase Have Been Consistently Approved and Strongly Endorsed by the Commission as Promoting the Public Interest**

As the Joint Petition makes clear (*see* Paragraphs 11 and 57-58), the Joint Petitioners acknowledge that, subject to the limited exceptions set forth in the Joint Petition, they have not sought, nor would they be able, to agree upon the specific ratemaking adjustments that support their respective decisions to enter into the Settlement. Nonetheless, as the Joint Petitioners explain in their respective Statements in Support, they are in full agreement that the Settlement achieves the following goals:

- Resolves a number of contested issues by means of interrelated compromises in a manner that produces an overall outcome well within the range of reasonable outcomes supported by the record evidence;
- Appropriately and fairly balances (1) the interests of customers in receiving safe, adequate and reliable service at just and reasonable rates and (2) the interests of

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<sup>8</sup> *Pa. P.U.C. v. PECO Energy Co.*, Docket No. R-2018-3000164 (Opinion and Order entered Dec. 20, 2018) (“PECO 2018 Rate Case Order”), p. 15; *see also Pa. P.U.C. v. Columbia Gas of Pa., Inc.*, Docket No. R-2021-3024296 (Opinion and Order entered Dec. 16, 2021), p. 9 (“Rate cases, in general, are expensive to litigate and the reasonable costs of such litigation is an operating expense recovered in the rates approved by the Commission. This means that a settlement, which allows the parties to avoid or minimize the substantial costs of litigation, may yield potential savings for the Company’s customers.”).

the Company and its shareholders in having a reasonable opportunity – through continued prudent and efficient management – to earn a fair return on their investment in property dedicated to the public service, which will support further investment in additional needed plant and equipment;

- Produces a fair result for all parties;
- Contains significant enhancements to the Company’s universal service programs and various commitments regarding customer service, consumer protection measures and gas safety; and
- Therefore, for all the foregoing reasons, is in the public interest.

As explained above, the Joint Petition embodies a so-called “black box” settlement because the Joint Petitioners have neither agreed upon, nor identified, their individual assessments of the various subsidiary components of the overall revenue requirement upon which they settled. The Joint Petitioners’ approach facilitates settlements by allowing parties to agree to an overall settled outcome that all parties find reasonable without abandoning or reversing their litigation positions on issues they deem important and thereby compromising their ability to present their arguments in other proceedings where settlement may not be possible.<sup>9</sup>

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<sup>9</sup> See 52 Pa. Code § 5.231; 52 Pa. Code § 69.401. The Commission has approved black box settlements of base rate increases for many large utilities, including the settlement of PECO’s 2018 electric rate case discussed previously. See also *Pa. P.U.C. v. Pa.-Am. Water Co.*, Docket Nos. R-2022-3031672 and R-2022-3031673 (Order entered Dec. 8, 2022) (approving a black box settlement providing for a base rate increase of \$138 million); *Pa. P.U.C. v. PECO Energy Co. – Gas Div.*, Docket No. R-2022-3031113 (Order entered Oct. 27, 2022) (approving a black box settlement providing for a base rate increase of \$132 million); *Pa. P.U.C. v. Duquesne Light Co.*, Docket No. R-2021-3024750 (Opinion and Order entered Dec. 16, 2021) (approving a black box settlement providing for a base rate increase of \$74.2 million); *Pa. P.U.C. v. PECO Energy Co. – Elec. Div.*, Docket No. R-2021- 3024601 (Order entered Nov. 18, 2021) (approving a black box settlement providing for a base rate increase of \$132 million); *Pa. P.U.C. v. Pa.-Am. Water Co.*, Docket Nos. R-2020-3019369 and R-2020-3019371 (Opinion and Order entered Feb. 25, 2021) (“PAWC 2020 Rate Case Order”) (approving a black box settlement providing for a base rate increase of \$70.5 million); *Pa. P.U.C. v. Phila. Gas Works*, Docket No. R-2020-3017206 (Opinion and Order entered Nov. 19, 2020) (approving a black box settlement providing for a base rate increase of \$35 million); *Pa. P.U.C. v. UGI Utils., Inc. - Gas Div.*, Docket No. R-2020-3015162 (Opinion and Order entered Oct. 8, 2020) (approving a black box settlement for a base rate increase of \$20 million); *Pa. P.U.C. v. UGI Utils., Inc. - Gas Div.*, Docket No. R-2018-3006814 (Opinion

Thus, the net result is reasonable and acceptable to all, so long as the parties are not forced to reveal their positions and strategies or the compromises they made to reach the settled outcome.

The Joint Petitioners' approach to delineating the terms of the Settlement in the Joint Petition, namely, a "black box" subject to limited but appropriate exceptions, has been consistently and repeatedly found to be in the public interest and approved by the Commission. In the Recommended Decision recommending approval of the black box settlement in PECO's 2022 gas rate case, for example, Administrative Law Judge F. Joseph Brady explained:

The Commission has noted that "Black box" settlements are an important aspect in the process of delivering timely and cost effective regulation. A black box settlement is a means to reach agreement on a rate increase in a case where the issues raised are varied and complex. To delineate and specify each component of the rate increase to the issues would be difficult, time-consuming, expensive and costly to the consumers as a rate case expense. To curtail any delineation is to save time, expense and costs of the parties and the ratepayers. The Commission has in the past found such black box settlements to be reasonable and in the public interest. The instant case is consistent with Commission precedent.<sup>10</sup>

Similarly, in the Peoples TWP LLC's 2013 base rate case,<sup>11</sup> the Commission approved a settlement and stated the following in response to a complainant's specific objection to the black box nature of the settlement:

We have historically permitted the use of "black box" settlements as a means of promoting settlement among the parties in contentious base rate proceedings. Settlement of rate cases saves a significant amount of time and expense for customers, companies, and the Commission and often results in alternatives that may not

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and Order entered Oct. 4, 2019) (approving a black box settlement for a base rate increase of \$30 million); *Pa. P.U.C. v. Duquesne Light Co.*, Docket No. R-2018-3000124 (Opinion and Order entered Dec. 20, 2018) (approving a black box settlement providing for a base rate increase of \$40.5 million).

<sup>10</sup> *Pa. P.U.C. v. PECO Energy Co. – Gas Div.*, Docket No. R-2022-3031113 (Recommended Decision issued Oct. 11, 2022), pp. 18-19 (citations omitted).

<sup>11</sup> *Pa. P.U.C. v. Peoples TWP LLC*, Docket No. R-2013-2355886 (Opinion and Order entered Dec. 19, 2013), pp. 27-28 (citations omitted).

have been realized during the litigation process. Determining a company's revenue requirement is a calculation involving many complex and interrelated adjustments that affect expenses, depreciation, rate base, taxes and the company's cost of capital. Reaching an agreement between various parties on each component of a rate increase can be difficult and impractical in many cases. For these reasons, we support the use of a "black box" settlement in this proceeding and, accordingly, deny this Exception.<sup>12</sup>

As evidenced by the authorities discussed above, the Commission fully endorses the concept of black box settlements, such as the Settlement achieved in this case.

#### **D. General Standard for Approval of Settlements**

It is well established that, to approve a settlement, the Commission must determine that the proposed terms and conditions, viewed in the context of the settlement as a whole, are in the public interest.<sup>13</sup> In Section II, below, each of the principal terms of the Settlement is discussed in light of the record evidence and the parties' positions. As explained therein, the final resolution achieved by each of those terms is consistent with, and promotes, the public interest.

### **II. SPECIFIC SETTLEMENT TERMS<sup>14</sup>**

#### **A. Revenue Requirement (Joint Petition, Paragraphs 13-14)**

As previously explained, following detailed discovery, the submission of multiple rounds of testimony, and extensive negotiations, the Joint Petitioners agreed to the Settlement embodied in the Joint Petition. Under the terms of the Settlement, PECO will be entitled to charge gas distribution base rates, designed to produce an annual increase in gas distribution base rate

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<sup>12</sup> *Id.* at 28.

<sup>13</sup> *See Pa. P.U.C. v. CS Water & Sewer Assoc.*, 74 Pa. P.U.C. 767, 771 (1991); *Pa. P.U.C. v. Phila. Elec. Co.*, 60 Pa. P.U.C. 1, 22 (1985).

<sup>14</sup> Section II of this Statement in Support contains a general description of the terms and conditions of the Settlement set forth in the Joint Petition. While every effort has been made to try to ensure that the descriptions are accurate, if any inconsistency exists or is perceived between the Statement in Support and the terms and conditions of the Joint Petition, the Joint Petition shall take precedence and shall control.

operating revenues of \$78 million for service rendered on and after January 1, 2025. The \$78 million increase is in addition to base distribution rates after the roll-in to those rates of approximately \$18 million in DSIC revenue and reflects adjustments for unbundled operating costs recovered through PECO's Gas Procurement Charge and Merchant Function Charge. *See* Joint Petition, ¶¶ 13-14.

Under the Settlement Rates, the bill for a typical Residential customer using 80 centum cubic feet ("ccf") per month will increase by \$12.25 per month, from \$97.98 to \$110.23 (or 12.5%).<sup>15</sup> *See* Joint Petition, Appendix D. By comparison, in the Company's initial filing, the bill for a typical Residential customer using 80 ccf per month would have increased \$16.15 per month, from \$97.98 to \$114.13 (or 16.5%). The increases originally proposed, and those that would result from the Settlement Rates, are set forth for the other major customer classes in Appendix D to the Joint Petition.

Significantly, since the Company's current base rates became effective on January 1, 2023, PECO has continued to make substantial investments in its gas distribution system to ensure that customers can continue to receive safe and reliable service. PECO will invest approximately \$786 million in new and replacement gas utility plant in 2024 and 2025. At the same time, materials and contracting costs have escalated as a result of general inflationary trends and high interest rates. PECO St. 2, pp. 3-7.

The factors discussed above, namely, increased investment and rising financial costs, have compromised the Company's ability to earn a fair return on its investment absent rate relief. On a pro forma basis, PECO's gas distribution operations are projected to produce an overall

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<sup>15</sup> All rate effect calculations use riders in effect as of March 1, 2024 and the Price-to-Compare from March 1, 2024, which assures that the rates are being compared on a consistent basis.

return on invested capital of 5.82%, and a return on common equity of only 6.90%, during the twelve months ending December 31, 2025. PECO St. 2, p. 7; PECO Ex. MJT-1 Revised, Sch. A-1. Those return levels are clearly inadequate, as PECO witness Paul R. Moul points out in his direct testimony (PECO St. 5). Absent rate relief, PECO's financial results would deteriorate even further in 2026 and thereafter and could jeopardize PECO's ability to appropriately invest in the infrastructure needed to maintain and improve its safety, reliability, and customer service levels. It is particularly important for PECO to maintain and possibly improve its credit ratings because the gas distribution function is extremely capital intensive. As previously explained, PECO projects that it will need to invest approximately \$786 million in gas distribution plant over the next two years (2024-2025). Accordingly, it is important that PECO obtain the increased revenues that the Settlement will provide.

In light of the standards consistently applied by this Commission, the revenue requirement provisions of the Settlement are reasonable and in the public interest. The Commission has outlined the following general principles for assessing whether a settlement meets the public interest standard:

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

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

A public utility is entitled to such rates as will permit it to earn a return on the value of the property which it employs for the convenience of the public equal to that generally being made at the same time and in the

same general part of the country on investments in other business undertakings which are attended by corresponding risks and uncertainties; but it has no constitutional right to profits such as are realized or anticipated in highly profitable enterprises or speculative ventures. The return should be reasonably sufficient to assure confidence in the financial soundness of the utility and should be adequate, under efficient and economical management, to maintain and support its credit and enable it to raise the money necessary for the proper discharge of its public duties. A rate of return may be too high or too low by changes affecting opportunities for investment, the money market and business conditions generally.<sup>16</sup>

Neither the Public Utility Code nor principles of due process require the Commission to adhere to a specific formula or methodology to determine “just and reasonable” utility rates.<sup>17</sup>

Indeed, Pennsylvania appellate precedent holds as follows:

[T]he power to fix “just and reasonable” rates imports a flexibility in the exercise of a complicated regulatory function by a specialized decision-making body and that the term “just and reasonable” was not intended to confine the ambit of regulatory discretion to an absolute or mathematical formulation but rather to confer upon the regulatory body the power to make and apply policy concerning the appropriate balance between prices charged to utility customers and returns on capital to utility investors consonant with constitutional protections applicable to both.<sup>18</sup>

In short, “just and reasonable” rates, like the associated concept of a “fair return,” are not point values. Rather, both “just and reasonable” rates and a “fair return” exist within a “constitutional range of reasonableness.”<sup>19</sup> And there are a variety of ways in which the

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<sup>16</sup> *Pa. P.U.C. v. PECO Energy Co. – Elec. Div.*, Docket No. R-2015-2468981 (Opinion and Order entered Dec. 17, 2015), pp. 6-7; *see also* PAWC 2020 Rate Case Order, pp. 11-14.

<sup>17</sup> *See Duquesne Light Co. v. Barasch*, 488 U.S. 299, 315-16 (1989) (“the Commission was not bound to the use of any single formula or combination of formulae in determining rates”) (quoting *FPC v. Hope Nat. Gas Co.*, 320 U.S. 591, 605 (1944)).

<sup>18</sup> *Pa. P.U.C. v. Pa. Gas & Water Co.*, 424 A.2d 1213, 1219 (Pa. 1980).

<sup>19</sup> *Duquesne Light*, 488 U.S. at 312. *See also Pa. Gas & Water Co.*, *supra*.

parameters of the “constitutional range of reasonableness” can be determined. As long-standing Commission precedent establishes, one important way to identify an outcome that is within the acceptable “range” is through the settlement process. In that way, parties with differing interests engage in an adversarial process to scrutinize the evidence supporting a rate request and, based on robust negotiations, agree to a reasonable overall result.

Applying the ratemaking principles discussed above and the standards employed by the Commission for assessing settlements, the revenue level set forth in the Settlement is reasonable, in the public interest and should be approved. As previously explained, the significant increase in the Company’s plant in service projected over the next two years, and rising labor and materials costs, among other factors detailed in the testimony of PECO’s witnesses, present a compelling case for significant rate relief.

Moreover, with respect to the *Bluefield*, *Hope*, and *Barasch* standards, the Settlement carefully balances (1) the right of the Company and its investors “to earn a return on the value of the property which it employs for the convenience of the public” and “to maintain and support its credit and enable it to raise the money necessary for the proper discharge of its public duties” with (2) the right of customers to pay rates that are commensurate with “business undertakings which are attended by corresponding risks and uncertainties” without providing the utility “profits . . . realized or anticipated in highly profitable enterprises or speculative ventures.”<sup>20</sup> That balance is ensured by the fact that parties legally obligated to protect consumers and the public interest vigorously investigated all aspects of the Company’s proposed increase and concluded that the Settlement Rates are just and reasonable. Similarly, the Company carefully considered the proposed revenue increase in light of the obligation to its investors to secure a

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<sup>20</sup> *Bluefield*, *supra*.

reasonable opportunity to earn a fair return, maintain the financial stability of its business, and obtain needed capital on reasonable terms. The Company concluded that the Settlement Rates satisfy those criteria. The careful balance of interests achieved by the Settlement avoids what could have been a significant expenditure of time, money, and other resources by the parties and the Commission to individually resolve a number of issues and proposed adjustments that have now been subsumed by the interrelated compromises that led to the Settlement. Those savings are in everyone's interest and, in themselves, are another important reason why the Settlement promotes the public interest.

**B. Gas Base Rate Stay-Out (Joint Petition, Paragraph 15)**

Paragraph 15 sets forth the Company's agreement to a base rate stay-out. Specifically, it provides that PECO will not file for another general rate increase under Section 1308(d) for its gas operations prior to March 16, 2026. The stay-out provision will provide customers base rate stability for a period of at least approximately two years.

**C. Revenue Allocation and Rate Design (Joint Petition, Paragraphs 16-20)**

As required by the Commission's filing requirements, PECO submitted a fully-allocated class cost of service study (the "COSS"), which was prepared and sponsored by Company witness Jiang Ding (PECO St. 6 and accompanying exhibits). Ms. Ding applied well-established cost-of-service principles and well-accepted COSS procedures to functionalize and classify the Company's total cost of providing gas distribution service and to allocate the functionalized and classified costs among its major rate classifications. PECO St. 6, pp. 5-29.

The largest component of PECO's plant investment and associated fixed costs consists of mains. As Ms. Ding explained, the costs of the Company's mains are part of its distribution function and were classified as capacity-related. While a portion of the cost of the Company's

mains (approximately 1%) was directly assigned, the balance of the cost of mains was allocated using the Average and Excess Demand (“A&E”) method as described in the treatise *Gas Rate Fundamentals* published by the American Gas Association (1987 edition). *Id.*, p. 13. The Commission approved the use of the A&E method for allocation of mains costs in PECO’s fully litigated gas base rate case at Docket No. R-2020-3018929.

OCA witness Clarence Johnson opposed using the A&E method to allocate the cost of mains, advocating instead the Peak and Average Demand method, while PAIEUG witness Billie S. LaConte proposed revisions to elements of the Company’s COSS. *See* OCA St. 3, pp. 9-22; PAIEUG St. 1, pp. 4-11. As Ms. Ding explained (PECO Statement No. 6-R), none of the revisions other Joint Petitioners proposed to the Company’s COSS were warranted.

**Revenue Allocation (Joint Petition, Paragraph 16).** Although complete agreement could not be reached among all the Joint Petitioners with respect to either the COSS or the revisions to that study proposed by the OCA and PAIEUG, there was no dispute that a COSS should be used as a guide and that the Commission has long recognized that the movement toward cost of service should be tempered by the concept of gradualism in order to avoid large, disruptive, one-time increases to any particular customer class. That was the approach the Company employed to develop its proposed revenue allocation and rate design in this case, as explained by PECO witness Joseph A. Bisti. *See* PECO St. 7, pp. 3-6; PECO St. 7-R, pp. 6-8.

The allocation of the revenue increase under the Settlement Rates was subject to careful consideration and detailed negotiations among the Joint Petitioners. As a result, the Joint Petitioners were able to reach agreement on the allocation among customer classes of the revenue increase under the Settlement Rates that is depicted in Paragraph 16 of the Joint Petition. That allocation provides for reasonable movement toward the system average rate of return by

the various customer classes as measured by the Company's COSS. Accordingly, the revenue allocation effected by the Settlement Rates and depicted in Paragraph 16 of the Joint Petition is consistent with the Commonwealth Court decision in *Lloyd v Pennsylvania Public Utility Commission*, 904 A.2d 1010 (Pa. Commw. Ct. 2006). Moreover, as the Commonwealth Court recognized in pre-*Lloyd* decisions, which were not disturbed by its holding in *Lloyd*, "there is no single cost of service study or methodology that can be used to answer all questions pertaining to costs"<sup>21</sup> nor is there any "set formula for determining proper ratios among rates of different customer classes."<sup>22</sup>

**Rate Design (Joint Petition, Paragraphs 17-20).** The Joint Petitioners' litigation positions regarding rate design differed somewhat from each other and from the Company's proposed rates. The principal areas of disagreement related to the level of PECO's residential fixed distribution service charge (i.e., customer charge) and the rate design for non-residential customers.

As part of the Settlement, the Joint Petitioners have agreed that the Gas Residential ("Rate GR") class customer charge should be \$15.70 per month in lieu of a charge of \$19.38 per month proposed by the Company in its initial rate case filing (Joint Petition, Paragraph 17 and Appendix A). The residential customer charge is fully supported by the detailed analysis of customer-related costs conducted by Ms. Ding (PECO Exhibit JD-5). That analysis shows that the customer-related costs for residential customers support a customer charge of \$33.00 per month for Rate GR. In addition, the Joint Petitioners have agreed to PECO's original proposal to maintain a single General Service ("Rate GC") monthly customer charge for 2025 of \$36.38 and

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<sup>21</sup> *Executone of Phila., Inc. v. Pa. P.U.C.*, 415 A.2d 445, 448 (Pa. Commw. Ct. 1980).

<sup>22</sup> *Peoples Nat. Gas Co. v. Pa. P.U.C.*, 409 A.2d 446, 456 (Pa. Commw. Ct. 1979).

to implement the differentiated customer charges shown in Appendix A for large and small Rate GC customers based on meter size on January 1, 2026.

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

Under the Settlement, the Joint Petitioners have agreed to declining block volumetric rates for Rate GC consistent with the recommendation made by the OSBA. In addition, the Settlement Rates reflect a compromise among PECO, the OSBA and PAIEUG on the rate design for transportation customers. The Company agreed to reduce the current volumetric rate differential for Rate TS-F from 2.1 to 2.0 and Rate TS-I from 1.88 to 1.74, respectively, instead of 1.49 (TS-F) and 1.67 (TS-I) as originally proposed. *See* Joint Petition, App. A-B.

In addition, Paragraph 20 reflects the Joint Petitioners' agreement resolving issues between the OCA and PECO pertaining to the offset factor applied to reconcilable Customer Assistance Program ("CAP") costs recovered through the Company's Universal Services Fund Charge. *Compare* OCA Sts. 4, pp. 104-09 *and* OCA St. 4SR, pp. 6-9 *with* PECO St. 10, pp. 3-7; PECO St. 3-R, pp. 25-27; PECO St. 10-R, pp. 19-20 *and* Tr. 822-24 (Trzaska).

**Reasonableness of the revenue allocation and rate design provisions of the Settlement.** Every rate proceeding consists of two parts. First, the overall revenues to which a utility is entitled must be determined. The second part of the process is determining how much of the total revenue requirement each rate class should bear. The allocation of revenue responsibility can be one of the more contentious parts of a rate proceeding because it is a "zero sum" exercise among the non-utility parties – any revenue responsibility not borne by a particular rate class must be borne by one or more other rate classes. While cost-of-service studies are the touchstone for reasonable allocations of revenue responsibility among rate classes,<sup>23</sup> the Commission has often stated that cost-of-service analyses must reflect the exercise of judgment and are as much a matter of art as of science.<sup>24</sup> For that reason, Pennsylvania appellate courts have repeatedly held that the Commission, in crafting a reasonable rate structure, is "invested with a flexible limit of judgment" and may establish just, reasonable and nondiscriminatory rates within a "range of reasonableness."<sup>25</sup>

Thus, establishing a reasonable revenue allocation requires a careful balancing of the countervailing interests of the non-utility parties representing the various customer classes. Accordingly, this aspect of a rate proceeding is particularly well suited to achieving a reasonable

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<sup>23</sup> *See Lloyd v. Pa. P.U.C.*, *supra*.

<sup>24</sup> *See Pa. P.U.C. v. Phila. Suburban Water Co.*, 75 Pa. P.U.C. 391, 440 (1991).

<sup>25</sup> *U.S. Steel Corp. v. Pa. P.U.C.*, 390 A.2d 865, 872 (Pa. Commw. Ct. 1978).

overall outcome based on the give-and-take of the settlement process. That is precisely what occurred in this case, which resulted in a complete settlement of all contested issues involving revenue allocation and rate design among a wide array of parties representing the interests of residential, commercial, and industrial customers.

While settlement negotiations among parties representing a wide array of customer and stakeholder interests can, in themselves, ensure a reasonable outcome, the revenue allocation under the Settlement Rates also comports with well-accepted ratemaking principles. As previously explained, although some parties proposed revisions to the COSS, the Joint Petitioners are in general agreement that the Settlement Rates make appropriate progress in moving all classes closer to their cost of service consistent with the principle of gradualism.

With respect to rate design, the Settlement Rates reflect the need to recover the customer component of total cost of service in the customer charge, while recognizing that increases in the customer charges can impact low-usage customers. Accordingly, the Settlement Rates provide for an increase in the PECO's Rate GR customer charge, but in a lesser amount than the customer charge that the Company originally proposed.

For all the foregoing reasons, the proposed revenue allocation and rate design are reasonable, appropriately balance the interests of all parties, and are in the public interest.

**D. FPFTY Reports (Joint Petition, Paragraph 21)**

In its initial filing, PECO developed its FPFTY revenue requirement employing plant-in-service balances and other rate base elements projected as of the end of the FPFTY (December 31, 2025). I&E proposed that the Company update PECO Exhibit MJT-2, Schedule C-2 by April 1, 2025, and PECO Exhibit MJT-1, Schedule C-2 by April 1, 2026, to include actual capital expenditures, plant additions, and retirements by month for 2024 and 2025, respectively. I&E

St. 3, pp. 6-7. PECO has agreed to provide such updates, as set forth in more detail in Paragraph 21 of the Joint Petition (*see also* PECO St. 3-R, pp. 5-6). In addition, PECO agrees that in its next base rate proceeding, it will prepare a comparison of its actual expenses and rate base additions for the twelve months ended December 31, 2025 to its projections in this case.

**E. DSIC (Joint Petition, Paragraphs 22-24)**

Section 1358(b)(1) requires that a utility’s DSIC be reset at zero on the effective date of new base rates. Section 1358(b)(2) specifies when, after such a “reset,” a utility may begin to charge a DSIC. In its Supplemental Implementation Order,<sup>26</sup> the Commission has set forth its criteria for determining when a utility may charge a DSIC following a base rate “reset.”

The Settlement provides that the DSIC rate will be reset to zero effective January 1, 2025, PECO will not implement a DSIC during the calendar year ending December 31, 2025 and the first DSIC in 2026 will be effective no earlier than March 31, 2026. In any event, and consistent with the requirements of the Supplemental Implementation Order, the Company will not begin to impose a DSIC until the total aggregate gross plant costs (before depreciation or amortization) associated with the eligible property that has been placed in service exceed the baseline of gross plant balances shown in Appendix C of the Joint Petition (which total \$4,679,514,000). This provision relates solely to the calculation of the DSIC during the time that the Settlement Rates are in effect. *See* Joint Petition, ¶¶ 22-23.

As explained in Section II.A. above, the revenue requirement elements of the Settlement reflect, for the most part, a matrix of compromises by the Joint Petitioners, and therefore, specific ratemaking adjustments are not spelled out in the Joint Petition, subject to limited

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<sup>26</sup> *Implementation of Act 11 of 2012*, Docket No. M-2012-2293611 (Final Supplemental Implementation Order entered Sept. 21, 2016) (“Supplemental Implementation Order”).

exceptions. The Joint Petitioners have recognized that, notwithstanding the “black box” nature of the Settlement regarding revenue requirement, it is important to resolve, as part of the Settlement, the rate of return on equity that Joint Petitioners agree should be used by the Company in computing the Company’s DSIC revenue requirement. To that end, the Joint Petitioners have agreed and stipulated in Paragraph 24 of the Joint Petition that the Company shall use the rate of return on equity as calculated for gas utilities and published in the “Bureau of Technical Utility Services [(‘TUS’)] Report on the Quarterly Earnings of Jurisdictional Utilities” for the most recent quarter for calculating the return on equity component of the Company’s DSIC. The TUS calculation is a recognized and accepted benchmark return on equity for use in calculating revenue requirement under the DSIC. Moreover, TUS regularly updates its calculation to reflect changes in market-determined equity costs based on a clearly stated methodology and database. A term like Paragraph 24 has been adopted in settlements of numerous base rate cases for major utilities that employ a DSIC.

**F. Universal Service Programs (Joint Petition, Paragraphs 25-35)**

**1. Customer Assistance Program (Joint Petition, Paragraphs 25-26)**

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

those proposals, PECO witness Jacqueline F. Golden explained PECO's existing screening strategies, described the Company's current processes that provide customers with appropriate information about the availability of CAP and explained the challenges associated with auto-enrollment of LIHEAP recipients. *See* PECO St. 10-R, pp. 7-14; Tr. 886-87. Under the Settlement PECO will implement several measures to benefit CAP customers, including: (1) participation in the DHS data sharing program in a manner consistent with the Commission's June 13, 2024 data sharing order at Docket No. M-2023-3038944 and (2) a stakeholder collaborative by July 1, 2025 to discuss how PECO could implement automatic enrollment of non-CAP LIHEAP grant recipients in CAP. Joint Petition, ¶¶ 25-26.

**2. Low-Income Usage Reduction Program ("LIURP")  
(Joint Petition, Paragraph 27)**

CAUSE-PA recommended several changes to PECO's LIURP, including: (1) increasing the annual budget by \$1.85 million; (2) revising the high usage eligibility threshold to account for usage on a per-square foot basis; (3) improving direct solicitation to high usage CAP customers; and (4) reporting to the Universal Services Advisory Committee ("USAC") about (i) barriers and solutions regarding tenant issues and (ii) barriers and solutions regarding coordination with other home repair and weatherization programs. *See* CAUSE-PA St. 1, pp. 31-38; CAUSE-PA St. 1-SR, pp. 23-26. In her rebuttal testimony, Ms. Golden explained that CAUSE-PA's criticisms of the success of PECO's LIURP narrowly looks at individual statistics in isolation, PECO works with customers who are renters to minimize barriers to accessing LIURP and appropriately engages the USAC and program partners on various LIURP issues. *See* PECO St. 10-R, pp. 14-16. Under the Settlement, PECO will increase its annual LIURP budget by \$500,000 (from \$3.15 million to \$3.65 million). Joint Petition, ¶ 27.

**3. Matching Energy Assistance Fund (“MEAF”) (Joint Petition, Paragraphs 28-30)**

PECO’s existing MEAF is funded through voluntary donations that are matched up to \$300,000 with shareholder funds. As explained by Ms. Golden, PECO proposed to change the maximum allowable MEAF grant from \$500 to \$1,000 per account to expand the number of customers who may qualify for assistance. PECO St. 10, pp. 9-10; PECO St. 10-R, pp. 17-18. CAUSE-PA made several recommendations related to PECO’s MEAF, including that: (1) MEAF grant amounts be increased to \$1,000; (2) MEAF funds be distributed proportional to low-income populations in each county; and (3) PECO replace MEAF’s zero balance requirement with a requirement that a grant be sufficient to “resolve the crisis;” (4) PECO monitor the performance of each MEAF agency including requiring monthly reports from each agency; (5) PECO file monthly reports on the status and availability of MEAF; and (6) MEAF operation issues be referred to the Commission’s Bureau of Audits and I&E. CAUSE-PA St. 1, pp. 39-55; CAUSE-PA St. 1-SR, pp. 26-32.

Under the Settlement, PECO agreed to several changes to improve access to its MEAF program, including: (1) setting maximum grants at \$1,250 per account; (2) replacing the zero balance requirement with the amount stated on the termination notice or as otherwise agreed to by PECO; (3) additional MEAF reporting requirements at USAC meetings; (4) more oversight of MEAF agencies; and (5) expanded information regarding applying for MEAF on the Company’s website. *See* Joint Petition, ¶¶ 32-34.

**4. Other PECO Commitments to Enhance Assistance to Low-Income Customers (Joint Petition, Paragraphs 31-35)**

Witnesses for the OCA and CAUSE-PA expressed concerns about affordability in response to PECO’s proposed base rate increase and made several recommendations to increase assistance to low-income customers. *See* OCA Sts. 4, pp. 12-37, 51-60, & 4SR, pp. 19-23;

CAUSE-PA Sts. 1, pp. 10-22 & 1-SR, pp. 13-17. In response to those concerns, PECO witness Golden explained the Company's robust outreach efforts, PECO's current use of a natural language processing analytics solution to identify opportunities to improve processes and customer service representative performance, and the Company's existing termination noticing process that already provides customers with appropriate information about the availability of assistance programs. PECO St. 10-R, pp. 2-5; Tr. 883-86.

The Settlement includes various commitments to connect PECO customers in need with programs that can reduce their bill and enhance assistance to low-income customers, including: (1) extending the future utilization of speech analytics to assist with quality monitoring of calls concerning universal service programs and other low-income customer issues; (2) using confirmation of low-income status in its billing system to establish a customer's payment arrangement length of up to five years; (3) seeking Commission approval for additional language in PECO's 10-Day Termination Notice about the availability of assistance programs that may stop disconnection of service for non-payment; (4) providing customers eligible for the Cold Weather Service with a CAP application and a Universal Services Program Information Sheet (one pager); and (5) upon application and approval for enrollment in CAP as a first time CAP customer, reconnecting non-CAP customers identified as confirmed low-income customers in PECO's system prior to disconnection at a reduced restoration amount and enroll those customers in CAP upon reconnection. Joint Petition, ¶¶ 31-35.

**G. Customer Service and Consumer Protections (Joint Petition, Paragraphs 36-42)**

**1. Call Center Performance (Joint Petition, Paragraph 36)**

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

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

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

**2. Low-Income Security Deposits and Disconnections (Joint Petition, Paragraphs 37-39)**

CAUSE-PA made several recommendations concerning security deposits, including that PECO: (1) educate customers about the low-income security deposit exemption and income screen customers prior to assessing a security deposit; (2) within 30 days of a final order in this proceeding, review all prior security deposit collections from low-income customers, issue refunds and continue the monthly review moving forward; and (3) issue refunds directly to the customer, with an account credit used only if a customer provides explicit and informed consent. *See* CAUSE-PA St. 1, pp. 64-65.

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

disconnection of service and cash security deposits should be subject to a public review by the Bureau of Consumer Services and stakeholders; and (3) PECO's gas tariff be modified to state that its credit scoring methodology "does not directly, or have the effect of, discriminating based on a protected class as set forth in the federal Equal Credit Opportunity Act." *See* OCA St. 4, pp. 60-69.

In response to the CAUSE-PA proposals, PECO witness Golden explained that PECO's existing security deposit processes are appropriate and already provide for customer refunds or credits upon income verification. Ms. Golden further stated that OCA's recommendations were not warranted because PECO's termination procedures, credit scoring, and other processes are applied equally to all customers and the Company does not target specific zip codes or classes of individuals or even track customer demographics such as race for purposes of disconnection. *See* PECO St. 10-R, pp. 5-7, 24-26.

Under the Settlement, PECO has agreed to implement several measures related to security deposit and termination policies to address the concerns and proposals of other parties, including that: (1) PECO will, by April 1, 2025 and then moving forward on a quarterly basis, review all accounts where a security deposit was previously collected from a customer with verified income less than or equal to 250% of the Federal Poverty Level ("FPL") and if PECO determines it is holding a security deposit for a confirmed low-income customer (less than or equal to 150% FPL), refund that amount unless the customer has given explicit and informed consent for the deposit to be applied to the customer's account; (2) PECO will, by April 1, 2025, update its security deposit letter to include information about the low-income security deposit waiver; and (3) within 12 months from the date rates go into effect, PECO will conduct an assessment of the disconnection of service and cash security deposits issues raised by OCA

witness Roger Colton in his Direct Testimony (OCA Statement No. 4, pp. 67-70) and meet with the OCA, CAUSE-PA, and TURN to discuss PECO's efforts to ensure that Environmental Justice communities are not inadvertently disproportionately impacted by terminations of service or requests for security deposits. Joint Petition, ¶¶ 37-39.

### **3. Language Access (Joint Petition, Paragraph 40)**

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

In response to the CAUSE-PA proposals, PECO witness Golden explained how PECO's existing processes to address language access issues are appropriate and meet or exceed Commission requirements. For example, PECO's termination notices and bills already include a sentence in Spanish explaining how to contact the Company for assistance, PECO's website can be translated into Spanish and Simplified Chinese, customers who call PECO have access to translation services in over 100 languages, and outreach events are held with PECO representatives fluent in Spanish or with interpreters if requested. *See* PECO St. 10-R, pp. 23-24.

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

customer bills; and (b) send shutoff notices that are in both English and Spanish. Joint Petition, ¶ 40.

#### **4. Payment Processing (Joint Petition, Paragraphs 41-42)**

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

In response to the OCA's concerns, PECO witness Golden explained that PECO offers multiple no fee payment options (e.g., payments by US mail, electronic payments via MyAccount) and reimburses the fee associated with paying by check or cash at authorized bill payment locations (e.g., large retail stores and drug stores). The fees assessed for payments made outside of PECO's no-fee payment options are primarily associated with the processing of debit and credit card payments and are collected by the third-party processing vendor. PECO's revenue requirement could potentially increase by a minimum of \$5 million annually if the Company included third-party processing vendor fees associated with residential payments. *See* PECO St. 10-R, pp. 35-37.

Under the Settlement, PECO will undertake a good faith effort to negotiate lower payment processing fees with third-party vendors when it negotiates its next contract. In addition, as described in detail in the Settlement, PECO has agreed to do the following in its next base rate filing: (1) provide, for the most recent 24 months available, the monthly number of residential payments by credit card and by debit card and the fee charged for each type of

transaction; and (2) propose to eliminate all payment processing fees, or, provide detailed information supporting the Company’s decision to not make such a proposal. Joint Petition, ¶¶ 41-42.

**H. Gas Safety (Joint Petition, Paragraphs 43-49)**

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In her rebuttal testimony and at the evidentiary hearing, PECO witness Amy E. Hamilton explained PECO’s compliance with system integrity management requirements set forth in the 2020 Gas Rate Case Order, the effectiveness of the Company’s mapping program and continued

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

analysis of its DIMP plan, and PECO's progress with respect to leak management and reducing excavation damage on its gas distribution system. *See* PECO St. 1-R, pp. 5-19; Tr. 774-77.

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

#### **I. Customer Programs (Joint Petition, Paragraphs 50-51)**

PECO proposed revisions to its natural gas energy efficiency and conservation ("EE&C") program, including a \$350,000 increase to the overall budget from \$2.727 million per year to \$3.077 million per year. The additional \$350,000 would support the projected growth in customer participation and support future program evaluation and customer education activities. *See* PECO St. 9, pp. 12-19. I&E opposed the proposed increase to the natural gas EE&C program budget, noting that in prior years the budget had not been fully expended. *See* I&E St. 1, pp. 31-34; I&E St. 1-SR, pp. 28-32. PECO explained that the Company (i) had expended 94% of its budget in 2023, (ii) was on pace to fully expend its budget in 2024, and (iii) had projected future participation levels to support the requested budget increase. PECO St. 9-R, pp. 1-8.

Under the Settlement, the Joint Petitioners agreed to PECO's proposal to increase the overall natural gas EE&C budget to \$3.077 million per year. *See* Joint Petition, ¶ 50.

In its initial filing, PECO proposed to extend the Neighborhood Gas Pilot Rider ("NGPR") through December 31, 2029 and update the Net Present Value modeling used in the NGPR to better reflect implementation experience. The Company proposed to invest a maximum of \$40 million in capital over the revised NGPR term (January 1, 2025 to December 31, 2029) to support the strong demand for natural gas conversion from potential customers. *See* PECO St. 9, pp. 19-24. No party opposed this proposal. Under the Settlement, the Joint Petitioners agreed to PECO's proposed extended and modified NGPR. Joint Petition, ¶ 51.

In its initial filing, the Company proposed to continue the Small Business Grant Program without any new allocation of funds but with some programmatic changes to improve accessibility to small business customers. PECO also proposed to continue the Gas Customer Safety Program, with an annual budget of \$400,000, and implement several Program enhancements such as incorporating gas safety advertising. *See* PECO St. 10, pp. 10-16. No party opposed these proposals. Under the Settlement, the Joint Petitioners agreed to PECO's proposed modifications to the Small Business Grant Program and Gas Customer Safety Program. Joint Petition, ¶ 51.

**J. Tariff Changes (Joint Petition, Paragraph 52)**

Paragraph 52 acknowledges that, subject to the resolution of issues related to PECO's proposed WNA, the changes originally proposed by the Company in PECO Exhibit JAB-2 that were uncontested have been reflected in Appendix A.

**K. Effective Date (Joint Petition, Paragraph 13)**

The increase in revenues negotiated by the Joint Petitioners reflects their agreement that the Settlement Rates should become effective as of January 1, 2025. Upon the entry of a Commission Order approving this Joint Petition, the Company will be permitted to file a tariff for gas service, in the form provided in Appendix A, to become effective on January 1, 2025.

**III. SUMMARY: THE SETTLEMENT IS IN THE PUBLIC INTEREST**

The Settlement, both in its specific terms and viewed holistically, is reasonable, supported by record evidence, and in the public interest for, among others, the following principal reasons:

- The revenue requirement provisions provide for Settlement Rates that are within the “constitutional range of reasonableness”<sup>28</sup> and are consistent with the legal standards articulated in the *Bluefield*, *Hope*, and *Duquesne Light* decisions, as interpreted and applied by the Pennsylvania Supreme Court in *Pennsylvania Gas & Water*. The Settlement Rates reflect a careful balance of the interests of customers with those of the Company and its investors. As such, the Settlement Rates protect customers from paying excessive rates while allowing the Company and its investors a reasonable opportunity to earn a fair return on their investment in property devoted to public service and to obtain additional capital needed to meet the Company’s service obligations. *See* Section II.A., *supra*.
- The rate structure and rate design provisions of the Settlement resolve a number of contentious issues in a manner that is acceptable to parties representing every major customer class and service classification. While the parties could not agree to a

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<sup>28</sup> *See Duquesne Light, supra*.

single, specific cost of service methodology, they are in general agreement that the Settlement Rates provide for reasonable progress in moving all major customer classes closer to their cost of service consistent with the Commission-approved principle of gradualism. *See* Section II.C., *supra*.

- The Settlement reasonably resolves various contested issues, including, in particular, those pertaining to low-income customer and customer service issues and gas safety, in a manner that is fair to the various stakeholders involved. *See* Sections II.D. – II.I., *supra*.
- In reaching this Settlement, the Joint Petitioners thoroughly considered all issues, including those raised in the testimony and evidence presented by the parties to this proceeding and during public input hearings. As a result of that consideration, the Joint Petitioners believe that the Settlement meaningfully addresses all such issues and, therefore, should be approved without modification.
- All of the foregoing benefits are achieved while also conserving the time, resources and money that would otherwise have to be expended if this case were to be fully litigated. Customers are direct beneficiaries of these savings.

#### IV. CONCLUSION

For the reasons set forth above and in the Joint Petition, PECO submits that the Settlement is a fair and reasonable compromise that is fully supported by the record evidence. Accordingly, the Company respectfully requests that the Administrative Law Judges and the Commission (1) approve the Settlement without modification; (2) find that the Settlement Rates are just and reasonable; and (3) grant the Company permission to file the gas tariff attached to the Joint Petition as Appendix A to become effective for service rendered on and after January 1, 2025.

Respectfully submitted,



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Dated: September 12, 2024

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