

COMMONWEALTH OF PENNSYLVANIA



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September 12, 2024

Via Electronic Filing

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

Re: Pennsylvania Public Utility Commission
v.
PECO Energy Co. - Electric Division
Docket No. R-2024-3046931

Dear Secretary Chiavetta:

Attached for electronic filing please find the Office of Consumer Advocate's Statement in Support of Settlement in the above-referenced proceedings.

Copies have been served on the parties as indicated on the enclosed Certificate of Service.

Respectfully submitted,



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Enclosures

cc: Honorable Administrative Law Judge Marta Guhl
Honorable Administrative Law Judge Darlene Heep
Certificate of Service (as indicated)

CERTIFICATE OF SERVICE

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

I hereby certify that I have this day filed electronically on the Commission’s electronic filing system and served a true copy of the following document, the Office of Consumer Advocate’s Statement in Support, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below.

Dated this 12th day of September 2024.

SERVICE BY E-MAIL ONLY

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Dated: September 12, 2024

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

STATEMENT OF THE OFFICE OF CONSUMER
ADVOCATE IN SUPPORT OF THE JOINT PETITION FOR
NON-UNANIMOUS SETTLEMENT

The Office of Consumer Advocate (OCA), one of the signatory parties to the Non-
Unanimous Petition for Approval of Settlement (Settlement), finds the terms and conditions of the
Settlement to be in the public interest for the following reasons:

I. INTRODUCTION

On March 28, 2024, PECO Energy – Electric Division (PECO or the Company) filed
Original Tariff Electric– PA. P.U.C. No. 8 (Supplement No. 8) to become effective May 27, 2024.
PECO’s tariffs propose to increase the total annual operating revenues by approximately \$464
million¹ per year, or 29.2%, over the amount of annual distribution revenues at present rates for
the Fully Projected Future Test Year (FPFTY), ending December 31, 2025.

PECO is an electric distribution company that serves approximately 1.7 million residential,
residential heating, general service, primary distribution, high tension, electric propulsion and

¹ PECO also proposed a one-time surcharge credit of \$64 million; therefore, it claimed that proposed \$464 million
increase resulted in a net electric rate increase of \$399 million in 2025. PECO St. 1, p. 5; PECO Exhibit MJT-1, Sch.
A-1.

lighting customers in southeastern Pennsylvania, including the City of Philadelphia and in portions of the following counties: Philadelphia, Bucks, Chester, Delaware, Montgomery and York. Roughly 90% of PECO's customers are residential and 10% are Commercial and Industrial.

On April 11, 2024, the Office of Consumer Advocate (OCA) filed a Formal Complaint and Public Statement. The Bureau of Investigation and Enforcement (I&E) filed a Notice of Appearance on April 2, 2024. On April 12, 2024, the International Brotherhood of Electrical Workers, AFL-CIO, Local 614 (IBEW) filed a Petition to Intervene. On April 16, 2024, Alan McCarthy, an individual complainant, and the Office of Small Business Advocate (OSBA) filed Complaints. On April 22, 2024, the University of Pennsylvania and the Hospital at the University of Pennsylvania (UPenn) filed a Petition to Intervene. On April 24, 2024, the Philadelphia Area Industrial Energy Users Group filed a Complaint. On April 26, 2024, The Tenant Union Representative Network (TURN) and the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA) filed a joint Petition to Intervene. On May 1, 2024, EVgo Services, LLC filed a Petition to Intervene. On May 2, 2024, Walmart, Inc. filed a Petition to Intervene. Electrify America, LLC also filed a Petition to Intervene on May 2, 2024. On May 3, 2024, Constellation Energy Generation, LLC and Constellation New Energy, Inc. (Constellation) filed a Petition to Intervene. The City of Philadelphia and Philadelphia Energy Authority (City of Philadelphia/PEA) also filed a Petition to Intervene on May 3, 2024. On May 7, 2024, Amtrak aka National Railroad Passenger Corp. (Amtrak) and the Southeastern PA Transportation Authority (SEPTA) each filed a Petition to Intervene. Grays Ferry Cogeneration Partnership and Vicinity Energy Philadelphia, Inc. (Grays Ferry/Vicinity) jointly filed Formal Complaint on May 28, 2024.

On April 25, 2024, the Commission issued a Suspension Order, initiating an investigation into the lawfulness, justness, and reasonableness of the proposed rate increase requests, and

suspended the effective date of Supplement No. 8, by operation of law. The Commission assigned this proceeding to the Office of Administrative Law and further assigned this proceeding to Administrative Law Judges Marta Guhl and Darlene D. Heep (the ALJs). The ALJs issued a Prehearing Conference Order on April 26, 2024, directing parties to file and serve a Prehearing Memorandum by Monday, May 6, 2024, and scheduled a telephonic Prehearing Conference for May 7, 2024.

At the Prehearing Conference, a litigation schedule was established and modifications to the discovery rules were adopted. In accordance with the litigation schedule, the OCA submitted its direct testimony on June 17, its rebuttal and supplemental direct testimonies by noon on July 16, and its surrebuttal testimonies on August 2, 2024.² Seven public input hearings were held, some in person in the Company's service territory, some telephonic. On August 8, 2024, ALJs Guhl and Heep held an evidentiary hearing. Company witnesses submitted oral rejoinder testimony, subject to cross-examination.

PECO, I&E, OCA, OSBA, TURN/CAUSE-PA, PAIEUG, Amtrak, SEPTA, Electrify America, EVgo, City/PEA, and Walmart (collectively the Joint Petitioners) engaged in extensive settlement discussions in an attempt to resolve the issues presented in this proceeding. On August 23, 2024, the Joint Petitioners reached a settlement in principle that resulted in the Non-Unanimous Joint Petition for Approval of Settlement. IBEW indicated that it is opposed to the proposed Settlement. Constellation Energy, Grays Ferry/Vicinity, and UPENN have indicated that they do not oppose the Settlement.

The OCA submits that the Settlement is in the public interest and should be approved without modification.

² All of the OCA's testimony and exhibits, which were admitted into the record, are identified in the Joint Stipulation for Admission of Testimony and Exhibits submitted in this docket on August 14, 2024.

II. SETTLEMENT TERMS AND CONDITIONS

The Commission encourages settlement, and to do so it must recognize the balance of compromises struck by settling parties. While the OCA does not address all issues addressed by the Settlement in this Statement in Support, the OCA does not oppose terms and conditions not expressly addressed herein. The OCA submits that the Settlement, taken as a whole, is a reasonable compromise in consideration of likely litigation outcomes before the Commission. The OCA submits that the Settlement is in the public interest and supports Commission approval of the Settlement without modification.

A. Revenue Requirement (Settlement at ¶¶ 13-14)

In its filing, PECO proposed to increase its total electric distribution revenues by \$464 million, or 29.4%, over the amount of annual distribution revenues at present rates *exclusive* of what it is currently also collecting in Distribution System Improvement Charge (DSIC) revenue. This net increase in base distribution revenues was calculated based upon a Fully Projected Future Test Year ending December 31, 2025. In addition, PECO's rate filing proposed to set the Distribution System Improvement Charge (DSIC) at zero and recover those surcharge revenues of \$64.3 million through distribution rates. Thus, PECO's total revenue request could reasonably be characterized as a \$528.3 million request inclusive of its DSIC revenues at present rates. PECO's rate filing also proposed to implement two Section 1307 surcredits, to reduce distribution revenues in 2025 by a combined amount of \$64 million, to account for incremental COVID-19 related uncollectible expense (ICUS surcredit) and revenues paid by affiliates for past use of PECO's fiber assets (FARS surcredit).

Under the Settlement, the Company will be permitted to increase annual electric distribution revenues by \$354 million *exclusive* of DSIC revenues. Settlement at ¶ 13. The agreed

upon increase is approximately 76% of the Company's requested increase of \$464 million and is within the range of reasonably projected outcomes in this proceeding. As part of the change in base rates, the \$64.3 million revenues collected currently through the DSIC will be rolled into distribution rates for a total revenue increase of \$418.3 million over current distribution rates *inclusive* of DSIC revenue. Settlement at ¶ 13. For 2025, the Company will provide the one-time surcredits totalling \$64 million, as proposed in its original rate filing. Settlement at ¶ 13; see Appendix A – Proposed Tariff (Settlement Rates), Tariff Electric No. 8, Original pages 35, 36. Effectively, between the Settlement distribution revenue increase of \$354 million and the offset of the \$64 million in surcredits, the net revenue increase in distribution revenues for calendar year 2025 will be approximately \$290 million. In 2026, the full Settlement revenue increase of \$354 million would be billed, as the surcredits will have ended.

The OCA submits that while the agreed upon revenue requirement is higher than the OCA's litigated position, based on the facts examined by the OCA in this case, it represents a reasonable compromise that is consistent with what PECO would likely have received if the case had been fully litigated. By settling the case, the OCA was able to achieve other outcomes that benefit consumers that either would not have occurred in a fully litigated case – such as the rate case stay out discussed in the next section – or that would have been more difficult to achieve in litigation. The OCA submits that the Settlement revenue increase will provide sufficient funds to maintain PECO's distribution system in a reliable manner, while avoiding the harsh rate impacts that an increase at the full request would have caused. The terms of the Settlement provide that the increase will go into effect on January 1, 2025.

This represents a “black box” settlement of all revenue requirement and return on equity issues, with the limited exceptions contained in the Settlement. Black box settlements provide

timely resolution of disputes without the significant expense of prolonged litigation. The OCA submits that it is unlikely that the parties would have been able to reach consensus on each disputed accounting and ratemaking issue in this matter as policy and legal positions can differ widely.

Based on the OCA's analysis of the Company's filing, discovery responses received, testimony filed, and various cost of capital proposals, the revenue increase under the Settlement represents a result that would be within the range of likely outcomes in the event of full litigation of the case. The increase, when accompanied by other important conditions in the Settlement, yields a result that overall is in the public interest.

B. Stay Out Provision (Settlement at ¶ 15)

The Settlement provides that PECO Electric will not file a proposed general increase in distribution rates under Section 1308(d) of the Public Utility Code prior to March 16, 2026, two years from when they filed this case. This 2-year stay out is an important provision because it ensures some level of rate stability for PECO Electric's customers, as any further rate increases after this one would not go into effect until at least December 2026.

C. Revenue Allocation and Rate Design (Settlement at ¶¶ 16-18)

In its filing, PECO proposed an increase of approximately \$464 million for a system average distribution increase of 29.2%. OCA St. 3 at 21. Of that amount, the Company proposed to allocate approximately \$283 million of its proposed \$464 million revenue increase request to residential customers. OCA St. 3, Exhibit CJ-1. The Company's proposed allocation resulted in an allocation of 65.4 percent of the distribution revenue increase to the residential classes. OCA St. 3 at 23. OCA witness Clarence Johnson recommended a proportional scale back from the OCA's recommended class results, should an increase of less than \$464 million be authorized. OCA St. 3 at 23.

Under Mr. Johnson's proposed allocation, the Rate R class would receive a 20.2 percent distribution increase as compared to the Company's proposed 26.6 percent distribution rate increase. OCA St. 3 at 23. The RH class would receive a 40.8 percent increase, as compared to the Company's proposed 38.8 percent increase. In addition to the Company and the OCA, OSBA, I&E, PAIEUG and other parties also submitted allocation recommendations in their direct testimonies based on the results of the Company's cost of service study. The allocation proposals varied widely.

Based on the OCA's review of the cost-of-service studies presented in this proceeding and the varying revenue allocation proposals presented by other parties, the OCA views the Settlement to be within the range of reasonable outcomes that would result from the full litigation of this case. The distribution rate increase in the Settlement reflects an increase in total annual distribution revenues of approximately 22.3 percent as compared to the Company's original request of a 29.2 percent increase in distribution revenues. Settlement at ¶ 16. Specifically, Rate R will receive an approximate 19.2 percent increase on a distribution basis, and Rate RH will receive a 30.1 percent increase. *Id.* The OCA submits that the revenue allocation, and in the public interest, and should be approved.

2. Residential Rate Design (Settlement at ¶ 17)

In its filing, PECO proposed increasing the monthly customer charge for Rate R and RH from \$10.50 to \$14.28, a 36 percent increase. OCA St. 3 at 24. The OCA recommended that the customer charge remain at \$10.50. OCA St. 3 at 30. Under the Settlement, the Joint Petitioners agreed to a monthly residential customer charge of \$11.25 for rates R and RH. Settlement at ¶ 17.

The compromise position here is reasonable, and within the results that might have been obtained through litigation considering the various positions of the Company, the OCA, and other

parties. The residential customer charge of \$11.25 represents a 7 percent increase over the Company's existing charge. This increase will continue to promote conservation efforts as the larger percentage increase from the proposed revenue settlement will be accounted for in the volumetric rates. Accordingly, the OCA submits the Settlement provisions as to Rate Design are reasonable, in the public interest, and should be approved without modification.

D. FPFTY Reports (Settlement at ¶ 19)

Under the Settlement, the Company has agreed to file no later than April 21, 2025 an update with the Bureau of Technical Utility Services, I&E, the OCA and OSBA of a key PECO accounting exhibit showing the Company's capital expenditures, plant additions and retirements for the FTY. Settlement at ¶ 19. The Company will provide another update no later than April 1, 2026, showing the Company's capital expenditures, plant additions and retirements for the FPFTY (calendar year 2025). Further, the Company will also provide in its next base rate proceeding a comparison of actual expenses and rate base additions for the twelve months ending December 31, 2025 to its projections in this case. Settlement at ¶ 19. The OCA submits that this provision is in the public interest because it is consistent with Section 315, 66 Pa. C.S. § 315(e), which states that whenever a utility utilizes a fully projected future test year (FPFTY) as the basis for its rate increase, the utility shall provide appropriate data evidencing the accuracy of the estimates of its FPFTY. This reporting requirement will permit parties to compare the accuracy of PECO's projections in this matter to its actual expenditures.

E. DSIC (Settlement at ¶¶ 20-22)

The Settlement provides that the Company will be entitled to include plant additions in its DSIC effective no earlier than March 31, 2026, based on DSIC-eligible expenditure during January 1, 2026 to February 28, 2026. Settlement at ¶ 20. This is the first quarter after the end of the

FPFTY. However, as an additional safeguard, the Company will not begin to impose a DSIC until the total aggregate gross plant costs (before retirement, depreciation or amortization in 2024 and 2025) associated with the eligible property that has been placed in service exceed \$11,503,005,000. This \$11.5 billion figure is the Company's total aggregate plant costs claimed in the FPFTY ending December 31, 2025. *Id.* Stated differently, the Settlement clearly establishes the base level of plant investment that must be realized before any incremental expenditures can be recovered through the DSIC as well as the fact that even if this plant level is met *before* the end of the FPFTY period, no DISC can go into effect until March 1, 2026 at the earliest. The OCA submits that this provision provides clarity with regard to the timing and implementation of a DSIC and affords some protection for ratepayers that the DSIC will not begin until after the FPFTY and the plant investment noted in the settlement are reached.

Moreover, the Settlement provides, for purposes of 66 Pa. C.S. § 1358(b)(1) relating to the DSIC earnings cap, that it shall use the equity return rate contained in the Commission's most recent Quarterly Report on the Earnings of Jurisdictional Utilities. Settlement at ¶ 1. The OCA submits that such a provision is common among utilities that have reached a black box settlement and have not designated a specific rate of return in the Settlement. See also, Implementation of Act 11 of 2012, Docket No. M-2012-2293611, Tentative Implementation Order at 14-15 (May 11, 2012).

F. Storm Reserve Account (Settlement at ¶¶ 23-24)

As part of its rate filing, PECO proposed to establish a storm reserve account in order to defer and record any amount above or below its base rate allowance for storm damage expense to a Storm Reserve Account. Under PECO's proposal, the differences between its expenses included in rates and its actual storm expense would be tracked and recorded in deferral account, with the

net account balance representing a deferral, either as a regulatory liability or a regulatory asset. In PECO's next rate case, it would, as recorded, either credit to or recover from, customers by means of an amortization. PECO also recommended that when the Company files its next base rate case, the Storm Reserve Account balance should be amortized over a two-year period, with the inclusion of interest on any over-or-under recover to protect consumers from any timing deviation of recovery and actual storm costs. PECO St. 3 at 70-73

The OCA opposed PECO's Storm Reserve Account proposal on multiple fronts. These included concerns about the determinative impact that PECO's unilaterally- determined rate case filing frequency would have upon the Storm Reserve Account impact to customers, that PECO's proposal appeared to be unnecessary given its present ability to recover storm costs. OCA St. 1 at 39-40. Moreover, OCA witness Defever correctly pointed to the fact that there is already a mechanism in place for PECO to request approval to defer expenses for extraordinary storm damage if it were to actually incur such expense. *Id.* at 41. OCA witness Defever identified PECO's already-existing path for seeking deferred accounting treatment for extraordinary storm damage expense, in the form of a petition to the Commission for deferred accounting. *Id.* Additionally, PECO's appropriate amortization period should be decided in the rate case where the liability or asset is claimed, and not confined to a 2-year amortization period as proposed. *Id.* Evidence demonstrates that PECO has consistently used a five-year historic average adjusted for inflation when presenting its storm expense claims in rate filings, and that it has consistently been able to its storm expense claims into rates. I&E St. No. 1 at 36.

Under the terms of the Joint Petition, PECO has agreed to withdraw its request to establish a Storm Reserve Account without prejudice. From the OCA's perspective, PECO's agreement to withdraw the Storm Reserve Account was an important component of the settlement, as OCA

maintains that PECO had not met its burden of supporting that it has incurred extraordinary storm expenses to warrant the deferral accounting treatment sought. Moreover, the OCA agrees with I&E that PECO can pursue an appropriate course of action via a petition filing with the Commission to seek exceedingly higher storm expense costs than projected, if the demonstrated need materializes. The OCA also agrees with I&E that such treatment is preferable to dollar-for-dollar recovery with interest of all storm expenses incurred, as PECO's proposal sought, because such treatment makes PECO less accountable to ratepayers in controlling costs. I&E St. 1 at 37. By way of the Settlement, PECO has agreed to petition the Commission separately for any future desired extraordinary storm expense recovery. The OCA supports that commitment as necessary to ensure the integrity of the Commission's review of any future extraordinary expense claim by PECO.

The Joint Petition also permits PECO to seek recovery of up to up to \$22.8 million for the storm damage costs that PECO incurred in January 2024³, for which recovery shall be subject to review for reasonableness and prudence in PECO's next electric distribution rate case (including any amortization period for recovery of such expenses). The OCA agreed to this term in recognition of the fact that PECO claims that it will have incurred such costs, but also in order to ensure that PECO is required to substantiate the costs as part the reasonableness and prudence review that cannot be waived in PECO's next rate case. PECO maintains, as it should, the burden of proof for with respect to demonstrating the reasonableness and prudence of the costs. The Settlement preserves PECO's burden. A close review of the Settlement language also underscores that it should not be construed to operate as a type of preapproval of any claimed costs, as "up to \$22.8 million" contemplates the possibility that no recovery may be awarded, and PECO shall

³ PECO claimed that it incurred storm costs of \$25 million, or "approximately" \$3.5 million less than the amount reflect in it its storm expense claim for the first quarter of 2024. PECO St. No. 3-R at 16. The OCA has not accepted PECO's claim as fact, and PECO will now appropriately retain the burden of proving this claim in its next rate case.

maintain its burden to provide that recovery is warranted and consistent with all applicable standards, as the public interest requires.

G. Universal Service Programs (Settlement at ¶¶ 25-41)

In his testimony, OCA witness Colton identified concerns about the affordability of PECO Electric's rates, the affordability of low-income customers' rates, the impact of affordability on collections, PECO Electric's CAP offset, and proposed revisions to PECO Electric's tariffs and practices to ensure the Company's practices are equitable and in compliance with Commission regulations. See generally OCA St. 4. The Settlement addresses the concerns of OCA witness Colton in addition to those raised by TURN/CAUSE-PA witness Marx. See generally TURN/CAUSE-PA St. 1. The Settlement includes several provisions which are designed to help mitigate the impact of the rate increase on low-income customers and to further ensure that adequate protections are provided to confirmed low-income customers. Settlement at ¶¶ 25-40. The OCA supports these provisions as in the public interest for the reasons set forth in the testimony of TURN/CAUSE-PA witness Marx and for the reasons set forth in OCA witness Colton's testimony regarding the disproportionate impact of the rate increases on low-income customers.

The Settlement addresses OCA witness Colton's concerns regarding the CAP offset factor. The Settlement provides that "PECO will maintain the existing adjustment factor applied to [CAP] costs recovered through its Universal Services Fund Charge ('USFC') of 22% for bad debt and 5% for cash working capital, totaling 27%." Settlement at ¶ 18. The Company, in its initial filing, proposed changing the portion of CAP costs recovered in rates from 27% to 10.5%, citing a need to reduce the bad debt portion of the offset to 5%. PECO Electric St. 10 at 6. OCA witness Colton, in response, testified that the data presented by the Company included the year 2021, which skewed

the data presented; that any adjustment to the bad debt portion of the offset should result in an adjustment to the cash working capital portion, and, if this adjustment is done, the offset factor remains substantially similar; and that PECO Electric failed to provide evidence sufficient to support its proposal. OCA St. 4 at 92-99. The OCA recommended that the CAP offset factor be unchanged unless or until PECO Electric was able to provide evidence which supported a change, and that any changes to bad debt expense result in parallel changes to cash working capital costs. Id. The Settlement recognizes that data do not support an adjustment to the CAP offset factor at this time.

1) Customer Assistance Program

The Settlement assists low-income customers who receive Low-Income Home Energy Assistance Program (LIHEAP) grants more easily enroll in the Company's CAP, as well as recertify their CAP-eligible status. Settlement at ¶¶ 25-26. The Commission recently entered an order which permits energy utilities to temporarily waive the portion of their universal service programs to engage in data-sharing with the Pennsylvania Department of Human Service's (DHS) LIHEAP. *2023 Review of All Jurisdictional Fixed Utilities' Universal Service Programs*, Docket No. M-2023-3038944 (Order entered June 13, 2024). On July 31, 2024, PECO filed a letter providing that its electric and natural gas distribution companies intend to participate in the data sharing program. *PECO Energy Company's 2019-2028 Universal Service and Energy Conservation Plan, LIHEAP Data Sharing*, Docket No. M-2018-3005795 (Letter filed July 31, 2024).

As a result of the Settlement, not only are parties given a clear time-table on PECO Electric's implementation of data-sharing for CAP enrollment and recertification – within 60 days of the effective date of new rates – but they are also given the opportunity to participate in

determining how data-sharing is implemented. Settlement at ¶¶ 25-26. Under the terms of the Commission's Order and PECO's responsive letter, PECO Electric was not required to provide a firm implementation date for when data-sharing would go into effect and was not required to convene stakeholders when developing plans for customer education, notice prior to automatic enrollment, treatment of shopping customers, and treatment of arrears for new enrollees. Instead, now parties such as the OCA and TURN/CAUSE-PA have the opportunity to assist PECO's Universal Services Advisory Committee (USAC) with making the most of data-sharing with DHS.

This term was of substantial importance to PECO Electric's customers. Eight customers testified at public input hearings that PECO should automatically enroll customers who seek funding from LIHEAP in its CAP. OCA Exh. NAD-1-SD at 12. Proactive enrollment and recertification of customers through data-sharing would permit low-income customers who qualify for CAP to immediately see, or continue to see, the benefits of CAP, including limiting monthly bill payments to a fixed percentage of income, without the need to apply for multiple programs. *Id.* Due to the significant number of qualifying but not enrolled low-income customers, using LIHEAP data to automatically enroll customers in CAP would help make rates affordable for the PECO customers who need it most. *Id.* Similarly, permitting recertification through data-sharing lessens the burden on current CAP customers of producing the necessary documentation for PECO Electric after having previously provided it to DHS.

Securing PECO Electric's commitment in a settlement agreement to engage in data-sharing and with relevant stakeholders to improve the data-sharing process is a significant step forward. It is a commitment that could not have been secured in the course of litigation and weighs in favor of the Settlement being found in the public interest.

The Settlement also supports increasing customers' awareness of the health usage exemption to PECO Electric's CAP credit maximum by adding the health usage rider exemption language to maximum CAP credit letters, outlining the procedure to request the exemption, and how to challenge PECO Electric's denial of the health usage exemption. Settlement at ¶ 27. TURN/CAUSE-PA pointed out that the "health usage rider" is a narrow exemption which requires customers applying for the exemption to leave their continued CAP benefits up to PECO Electric's discretion, due to the restrictions regarding the required monthly usage and types of medical equipment that qualify for the exemption. TURN/CAUSE-PA St. 1SR at 19-20. While the Settlement does not alleviate TURN/CAUSE-PA's broader concerns regarding the health usage exemption, it increases customer access to the program by ensuring customers are adequately informed regarding how to request it and how to dispute PECO Electric's decision to deny the exemption. This compromise ultimately benefits customers who may need or qualify for the health usage exemption.

2) *Low-Income Usage Reduction Program ("LIURP")*

Under the terms of the Settlement, PECO Electric commits to provide additional funding to its LIURP and provide data to its USAC regarding how LIURP interacts with customers approaching their maximum CAP credits, considering any feedback provide by the USAC with respect to targeting CAP customers nearing their maximum credits. Settlement at ¶¶ 28-29.

Eight customers testified during the public input hearings in this proceeding that PECO Electric should expand funding for, and access to, its LIURP. OCA Exh. NAD-1-SD. As stated by Ms. Greenspan at the June 13 evening public input hearing, "[i]nsulation, energy efficient windows and doors and heat pumps will bring down customer bills and reduce the need for PECO to pay for expensive distribution and transmission upgrades." *Id.* This testimony showed that PECO

Electric's customers recognize the benefits that LIURP provides for low-income households, reducing bills and usage for qualifying customers, and recognize that the benefits of LIURP should be wider-spread than at present. *Id.* An increase in LIURP funding can be extremely beneficial to low-income households.

Similarly, customers nearing their maximum CAP credits are likely to benefit from LIURP. As stated by TURN/CAUSE-PA witness Marx, "many low-income households who exceed their maximum CAP credits do so because they have usage beyond their ability to control due to broken appliances[or] inefficient housing. . ." TURN/CAUSE-PA St. 1 at 40. However, TURN/CAUSE-PA's data show that only 22.4% of PECO Electric customers exceeding their maximum CAP credits receive LIURP services. *Id.* PECO Electric's willingness to engage with its USAC regarding feedback on how PECO Electric can better target customers nearing their maximum CAP credits through its LIURP demonstrates the Company's first step towards building LIURP deployments targeted at maximizing the number of customers able to receive the benefits of its CAP.

These commitments have the potential to substantially benefit PECO Electric's low-income customers. They are also the type of commitments which can only be secured through a settlement agreement, and weigh in favor of the Settlement being found in the public interest.

3) Matching Energy Assistance Fund ("MEAF")

The Settlement provides that PECO Electric will make a number of improvements to its MEAF program. The Company will amend its MEAF program to permit grants of up to an additional \$250 and permit customers to utilize MEAF funding to bring an account balance to \$0 if they are able to provide the difference between the MEAF grant and the \$0 account balance. Settlement at ¶ 32. PECO Electric will provide additional data regarding its MEAF programs to

its USAC each quarter. *Id.* at ¶ 33. The Company will also provide more information regarding MEAF on its website, including contact information for MEAF agencies and the type of documentation which a MEAF agency may request when the customer applies for a grant. *Id.* at ¶ 34a. Importantly, during the period between when a MEAF agency approves a grant application and when the funds from the agency are disbursed to PECO, PECO Electric will stay the applicable customer's termination and, if the agency is unable to accept or process MEAF applications, PECO Electric will commit to seeking alternative options and put a 15-day hold on termination of impacted, unprocessed customer accounts. *Id.* at 34b.

TURN/CAUSE-PA witness Marx identified a number of concerns regarding the MEAF program. Specifically, the evidence presented by TURN/CAUSE-PA witness Marx shows that PECO Electric is underspending its MEAF funding, despite a clear and demonstrated need for emergency grant funding. TURN/CAUSE-PA St. 1 at 57-59. In part, it is possible that operational challenges to MEAF agencies can result in the under-delivery of MEAF grants. TURN/CAUSE-PA witness Marx testified that the Utility Emergency Services Fund in Philadelphia "has encountered operational challenges that have impacted its ability to administer MEAF grants." *Id.* at 62. Ms. Marx recommended that PECO Electric improve its oversight over MEAF agencies to ensure that they are processing applications at a pace which reflects the need of the applying customers, are better utilizing the pool of grant funding available to them, and are adequately serving low-income customers within PECO Electric's service territory. *Id.* at 65-66.

It is clear that MEAF needs improvements. PECO Electric's commitments regarding expanding funding and access to funding, however small, will assist MEAF funding in the households that need it most. By providing additional data regarding the performance of MEAF agencies, PECO Electric's USAC will be better able to target areas for improvement and

development in the administration in the MEAF program, including improving accountability and oversight of MEAF agencies. Finally, the Settlement provisions regarding holding terminations while MEAF funds are processing or if a relevant MEAF agency is unable to process grant applications are a bridge solution until PECO Electric is able to develop MEAF into a more effective program. These commitments are beneficial to the customers who need MEAF grants, and weigh in favor of the Settlement being found in the public interest.

4) Other PECO Commitments to Enhance Assistance to Low-Income Customers

In addition to the programmatic commitments addressed above, PECO Electric has also agreed to a number of specific commitments in the Settlement.

PECO Electric committed to extending its use of speech analytics software to assist with the quality monitoring of calls universal service programs and other low-income issues. OCA witness Colton recommended that PECO Electric begin using key words captured in the Company's speech analytics software currently in use to identify low-income or payment troubled customers in order to enhance PECO Electric's targeting for enrolling customers in its CAP. OCA St. 4 at 55-59. Improved targeting will enable the Company to better serve its low-income customers as well as reduce the costs of nonpayment, such as collection costs, uncollectibles, and working capital. *Id.* at 56. Expanding PECO Electric's current use of the program to include improved identification of and targeting for low-income customers is easy and cost-effective. *Id.* at 58. As a result, the Company's commitment in the Settlement is a benefit to low-income customers without demanding substantial resources from the Company.

The Settlement also requires PECO Electric to use confirmation of low-income status to determine the length of payment arrangements. Settlement at ¶ 36. This change will bring PECO Electric's payment arrangement practices more in line with Chapter 14 of the Public Utility Code.

OCA witness Colton recommended that the Company should consider customers to have confirmed their low-income status if they supply information which would reasonably place the customer in a low-income designation. OCA St. 4 at 37. Chapter 56 of the Commission's regulations does not require customers to provide proof of income documentation to confirm low-income status, and, instead, only requires information which would reasonably place the customer in a low-income designation. 52 Pa. Code § 56.2 (providing the definition of a "confirmed low-income customer"). PECO Electric disagrees with this interpretation of the Commission's regulations and, in the process of establishing a payment arrangement with a low-income customer, does not affirmatively require its customer service representatives to take an income statement to confirm what length of payment arrangement the customer qualifies for. PECO St. 10R at 12. Committing in the Settlement to make this small step towards compliance with Chapter 14 of the Public Utility Code and Chapter 56 of the Commission's regulations will provide benefits towards customers who may receive more affordable payment arrangements when PECO Electric properly considers their low-income status when establishing the arrangement.

The Settlement also provides that PECO Electric will include language in its 10-day termination notices which alert the customer at risk of termination that the customer may be eligible to apply for CAP, which may stop termination and/or include arrearage forgiveness. Settlement at ¶ 37. Providing an additional notice at the time of termination that a payment-troubled customer may be able to avoid termination by applying for CAP increases customers' awareness of CAP and its benefits and may permit customers to avoid termination. OCA St. 4 at 38. This commitment recognizes that termination of electric service should be an EDC's measure of last resort for payment troubled customers and can reduce the costs associated with termination

and disconnection for PECO Electric, customers who avoid termination by applying for CAP, and the ratepayers that ultimately bear the burden of funding terminations by the Company. *Id.*

Similarly, the Settlement provides that PECO Electric will include a CAP application and universal services program information sheet during its Cold Weather Survey, in addition to information regarding PECO Electric's residential heating rate. Settlement at ¶ 38. Increasing the number of points of contact between the Company and potentially payment troubled customers provides PECO Electric's customer base with a greater awareness of CAP and its benefits, in addition to the benefits of other universal service programs, and will more likely lead to customers enrolling in the Company's CAP. OCA St. 4 at 50. This especially true during the Cold Weather Survey to mitigate the impact of cold weather on customers who may see higher bills during the winter. Further, by providing information regarding PECO Electric's residential heating rate at a relevant time – before cold weather begins for the season – more customers will be aware of PECO Electric's more advantageous rate for customers using electric heat, a rate about which PECO Electric customers testified at Public Input Hearings that they see enough information publicized from PECO Electric to make the rate acceptable. *See* OCA Exh. NAD-1-SD at 15.

The Settlement provides that confirmed low-income customers who had their service terminated by PECO Electric, and have not previously enrolled in CAP, will be able to have their service restored with lower reconnection fees and enrollment in CAP upon reconnection. Settlement at ¶ 39. OCA witness Colton recommended that PECO Electric require confirmed low-income customers to affirmatively acknowledge, at the time of reconnection, that they would elect to pay all reconnection fees and owed arrearages instead of enrolling in CAP and receiving the benefits of CAP. OCA St. 4 at 41. The Settlement compromises the positions of the OCA and PECO Electric by recognizing PECO Electric's policy of only offering arrearage forgiveness

benefits to first-time CAP enrollees while potentially alleviating the burden of a portion of reconnection fees for CAP enrollees.

These commitments would not have been secured absent the Settlement agreement. They have the potential to benefit low-income customers within PECO Electric's service territory and weigh in favor of finding the Settlement to be in the public interest.

H. Customer Service and Consumer Protection (Settlement at ¶¶ 42-52)

1) Call Center Performance

The Settlement provides that PECO Electric will investigate “material issues with call handling that were identified in the 2022 Audit Report” and that the Company will file a report on its investigation within six months of the effective dates of the rates established in this proceeding. Settlement at ¶ 42. OCA witness DeMarco identified that PECO Electric had no concrete implementation plan to meet its goals for call center performance improvement, despite the fact that the 2022 Audit Report and PECO Electric's responsive implementation plan identified several areas for focus and improvement, which caused Mr. DeMarco concern about the quality of the Company's call center performance. OCA St. 5 at 15. The Company's agreement to investigate material issues demonstrates the Company's desire to improve its customers' quality of customer service – as represented through call center performance – and is a critical step in improving its customers' ability to rely on PECO Electric to resolve their concerns on the first attempt.

2) Low-Income Customer Security Deposits and Disconnections

The Settlement provides for a number of improvements to the Company's security deposit collection practices. PECO Electric will conduct a review of all accounts for which a security deposit was collected from a customer with an income confirmed to earn at or below 250% of the federal poverty level (FPL) and refund those customers who, under Chapter 14 should not have

been subject to a security deposit collection to begin with, with ongoing quarterly reviews of the same. Settlement at ¶ 43. The Company will also add language to its security deposit letter informing customers that proof of income document showing the customer earns at or below 250% FPL in lieu of a security deposit. *Id.* at ¶ 44.

OCA witness Colton identified several concerns with the Company's security deposit collection practices. Mr. Colton presented data which indicate that PECO Electric has collected security deposits from customers that, under the Commission's regulations, should be exempt from such collections because the Company has confirmed the low-income status of those customers. OCA St. 4 at 53. By reviewing the accounts from which security deposits were collected, the Company will be able to ensure that its practices conform to Commission regulations and payment-troubled customers who provided cash security deposits will have those deposits returned to them. Furthermore, PECO Electric's additional language on its security deposit letter will make it more likely that customers from whom security deposits have not yet been collected – in addition to the existing customers addressed in Settlement paragraph 43 – will not have to provide security deposits when Commission regulations would not support a deposit being collected.

Finally, PECO Electric will conduct an analysis to ensure that those portions of its service territory considered to be Environmental Justice Communities are not being disproportionately targeted with termination notices, terminations for nonpayment, or security deposit collections. Settlement at ¶ 45. OCA witness Colton presented data which showed, controlling for other factors such as income, a disproportionate percentage of households in the zip codes with the highest penetration of Black households received termination notices, terminations for nonpayment, and security deposit collection activities. OCA St. 4 at 60-68. While Mr. Colton's analysis reached no conclusion as to why this was occurring, he requested that that PECO examine the data as the

Company nonetheless is obligated to ensure that its practices do not have an effect which disproportionately affects residents in Environmental Justice Communities. PECO Electric's commitment in the Settlement to analyze the data presented by OCA witness Colton and meet with the OCA, CAUSE-PA, and TURN to discuss the Company's efforts to ensure no such disproportionate impact occurs is a meaningful step in this direction.

3) Language Access

The Settlement provides that PECO Electric will continue to engage with its Limited English Proficiency stakeholders to improve language access of PECO Electric's customer communications regarding taglines on residential customer bills and shutoff notices in English and Spanish. Settlement at ¶ 46. A number of customers at Public Input Hearings testified that the Company should endeavor to provide more customer communications in the languages its customers actually speak, such as termination notices and CAP enrollment and recertification letters. OCA Exh. NAD-1-SD. TURN/CAUSE-PA witness Marx also presented testimony that a number of critical customer communications provided by PECO Electric are not available in Spanish or other languages besides English which are prevalent in PECO Electric's service territory. TURN/CAUSE-PA St. 1 at 73-77. Commission regulations require that termination notices, should be available to customers in languages other than English, including Spanish and a language spoken by at least 5% of the Company's customer base. 52 Pa. Code § 56.91. The Company's commitment to provide termination notices in both English and Spanish is a step towards ensuring that all customers will be appraised of critical information from PECO Electric in a language they speak.

4) *Determination of Residential Heating Type*

The Settlement provides that PECO Electric will improve how it informs customers about its residential heating (RH) rate. Specifically, the Company will begin asking customers at the time they open a PECO Electric account about the source of heating in their home to determine if the customer may qualify for rate RH and will identify customers who may be eligible when performing LIURP audits. Settlement at ¶ 47. Further, the Company will discuss rate RH availability to customers with stakeholders to ensure that rate RH is available to customers who may use electricity as their primary heat source but do not meet PECO Electric's current equipment specifications, or other, similar bars to accessing rate RH. *Id.* at ¶ 48

As stated above, a number of customers testified at PECO Electric's Public Input Hearings that the Company was not doing enough to promote its rate RH and make customers aware that they may qualify. OCA Exh. NAD-1-SD at 15. Currently, PECO Electric only evaluates whether a customer may be able to receive rate RH at the time the address is connected to PECO Electric service, which means that customers retrofitting their homes with electric heat pumps or other sources of electric heating for winter months would not be examined by PECO Electric as potential rate RH customers. TURN/CAUSE-PA St. 1 at 84. PECO Electric's commitment to expand its point of determination for when a customer would qualify for rate RH brings the Company more in line with its obligation under the Public Utility Code to offer its customers the most advantageous rate to that customer. 66 Pa. C.S. § 1303. By taking these steps towards complying with the Public Utility Code, more customers are going to be able to benefit from the reduced volumetric rate during winter months available through rate RH.

5) *Payment Processing*

The Settlement provides that PECO Electric will undertake a good faith effort to negotiate lower payment processing fees with third-party vendors when it negotiates its next contract, will track bill payment processing fees until its next rate case, and will propose the elimination of all bill payment fees in that rate case. Settlement at ¶¶ 49-50. OCA witness DeMarco remarked that not all PECO Electric customers have to pay bill processing fees; PECO Electric customers who pay their bills while enrolled in or logged into PECO Electric's MyAccount portal or pay by phone are not charged these fees. OCA St. 5 at 21. However, PECO customers who are not enrolled in MyAccount or do not pay by phone are subject to processing fees, such as for payments by eCheck, debit, commercial credit card, or in person at an authorized bill payment location. *Id.* Bill payment processing fees unnecessarily inflate a customer's monthly payment and can pose a barrier to customers' ability to pay on time and in full if customers are struggling to meet their monthly payments before the imposition of such fees. *Id.* By rolling these fees into base rates, PECO Electric would eliminate the potentially hidden nature of these fees and provide all customers the opportunity to make a payment that reflects the bill they receive electronically or in the mail, instead of one with processing fees added on top, not just those using the Company's portal or paying by phone. For these reasons, the Settlement's provisions regarding payment processing fees are beneficial to consumers and weigh in favor of the Settlement being found in the public interest.

I. Electric Vehicle Programs (Settlement at ¶¶ 53-55)

As part of this case, OCA witness Ron Nelson reviewed PECO's proposals to extend and modify PECO's EV Pilot Program. PECO's EV pilot was initiated as part of its 2021 base rate case in which PECO proposed the Transit Charging Program, a Commercial and Industrial Level 2 (L2) Program, as well as an EV Education and Outreach Program. Additionally, the Company

proposed to expand its EV Fast Charging (EV-FC) Pilot to include public transit direct current fast charging (DCFC) stations. OCA St. 6 at 6. In this rate case, there are two categories of EV pilots proposed for modification: the EV Charging Pilot and EV Fast Charging (EV-FC) Pilot Rider.

In his review of PECO's programming, witness Nelson did not oppose an extension of PECO's EV Pilots; however, he made multiple recommendations to improve the, make them more efficient, and improve PECO's accountability to ratepayers. Mr. Nelson recognized the stated goals for PECO's EV Programming, which were identified as follows: "[it would] help the Company understand the load profile and other implications of commercial and industrial L2 EV charging," and would use real world data to "inform future rate design and distribution system planning for the load impact of (transportation electrification). OCA St. No. 6, citing PECO St. No. 9 at 8, Docket No. R-2021-3024601. Mr. Nelson also designed his recommendations to be consistent with PECO's stated goals. As explained below, the Settlement adopts several critical OCA recommendations, including strategically limiting the pilot extensions to end on May 31, 2029, addressing PECO's ratcheted demand charge, and providing for more comprehensive program evaluation to inform future pilot programming. OCA St. 6.

1) Limiting the Pilot Extension Term to End on May 31, 2029

PECO proposed extended terms for both of its pilots, proposing that its EV Charging Pilot should be extended from December 31, 2024 to December 31, 2029 and that its EV-FC Rider term should be extended from December 31, 2025 to December 31, 2030. OCA St. 6 at 7-8. OCA witness Nelson recommended that each of the pilots should be extended only until May 31, 2029 so that they conclude in line with the timing of PECO's default service plan period. OCA St. 6 at 21. Mr. Nelson notes that PECO's existing default service plan is in place for the four-year period

extending from June 1, 2021 through May 31, 2025,⁴ and the next iteration of the plan is projected to extend from June 1, 2025 through May 31, 2029. OCA St. 6 at 21. By aligning the EV pilot programming term with PECO's default service plan term will permit congruent evaluations of the impacts and outcomes of the EV pilot and the default service plan to better inform future decisions, including the need for coordination. The Joint Petition adopts OCA's recommendation to limit the both the extended EV Charging Pilot term and the EV-FC Rider term to an end date of May 31, 2029, thereby permitting the type of informed decision making that aligning PECO's default service plan and EV Program pilot will enable.

2) *Addressing the Ratcheted Demand Charge*

OCA witness Nelson's review of PECO's EV-FC Pilot program proposals concluded with the determination that PECO has a ratcheted demand charge for some commercial customers that would take service under the Company's EV-FC Pilot. OCA St. 6 at 16. Mr. Nelson explained that billed demand is the kW amount used for billing purposes, and measured demand is the kW amount read on a customer meter over a specific time period, usually a month. Here, PECO's ratcheted demand charge used the highest measured demand over a 12-month period as the billed demand. Mr. Nelson further explained that if an impacted PECO's customer's demand requirements spike 50% in November to 750 kW, from the previous 12 month high of 550 kW, the customer would receive a billed demand charge based on the 750 kW for, at minimum, one year. Only if the measured demand is higher than the billed demand in a given month did PECO use it for billing purposes. The result is problematic in two ways: it is expensive for the customer, and it also does not reflect cost causation on higher voltage distribution system assets, such as substations. OCA St. 6 at 16-17.

⁴ Petition of PECO Energy Company for Approval of its Default Service Program for the Period from June 1, 2021 through May 31, 2025, P-2020-3019290, Opinion and Order at 67 (December 3, 2020).

During the litigation phase of this case, PECO recognized that the ratcheted demand charge that OCA witness Nelson identified resulted from an error in the billing demand section of PECO's tariff for rate GD. Tr. at 733. The erroneous tariff contained language from an earlier proceeding contemplating that maximum measured demand from the prior year could be used as a basis for calculation of billing demand, but that was inadvertently included in Rate GS. Tr. at 733. PECO indicated that it was not actually calculating billing demand on maximum measured demand basis as an actual practice, but now that the error has been identified it is being corrected within the tariff as part of this case. The clarifying edit was contained in PECO's unopposed Hearing Exhibit No. 2, and it also been reflected in Appendix A of the Joint Petition. The OCA avers that PECO EV-FC customers will benefit from the unambiguous fact that PECO is not permitted to use a ratcheted demand charge to calculate bills.

3) *Pilot Program Evaluation*

OCA witness expressed concerns about whether PECO is truly gaining insights in the form of data collection and evaluation. Mr. Nelson indicated as follows:

After three plus years of collecting data, the Company has not applied the data to any tangible insights into rate design or distribution system planning. In fact, the Company does not expect to use any of the EV Charging Pilot data for several years to inform either rate design or distribution system planning. While the data collected from the pilots has been limited, the lack of insights created by the data are concerning and suggest that the EV Pilots are creating less value for ratepayers than expected or than is reasonable given the costs.

OCA St. 6 at 11.

Mr. Nelson also rightly acknowledged that data is important, but it is only valuable if it is actionable. *Id.* To that end, OCA supports the Joint Petition's term outlining PECO's agreement to work with stakeholders through its transportation electrification collaborative working group in calendar year 2027 to design and conduct an evaluation of the modified EV-FC Pilot Rider. The

evaluation will be used to inform a determination of 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. By way of this term, any decision to extend the EV-FC further can be a more informed one that is based upon stakeholder input and consider whether a successor DC fast charging rate is warranted. As witness Nelson explained, a primary objective of PECO's EV Pilot program was to collect data to inform rate design, and PECO's commitment to include stakeholders in an evaluation of the DC fast charging rate is a positive step forward.

J. Assistance with Non-Company Clean Energy and Energy Conservation Programs (Settlement at ¶¶ 56-61)

The OCA does not take a position on these issues contained in the settlement, but also does not object to their inclusion.

K. Interconnection Costs (Settlement at ¶62)

The OCA does not take a position on these issues contained in the settlement, but also does not object to their inclusion.

L. Tariff Changes (Settlement at ¶ 63)

The Settlement includes Appendix A – Proposed Tariff (Settlement Rates), as a redline of proposed Electric Pa. P.U.C. No. 8. As discussed above, there are negotiated tariff provisions and language which provided benefits to PECO distribution service customers and the public. One example is PECO's agreement to maintain the existing adjustment factor applied to [CAP] costs recovered through its Universal Services Fund Charge ('USFC'). Settlement at ¶ 18; see Appendix A – Proposed Tariff (Settlement Rates), Original pages 1, 44. Another example are the modified EV Pilot terms as discussed above, including the ratcheted demand charge. Settlement at ¶¶ 53-55; Appendix A – Proposed Tariff (Settlement Rates), Original pages 1, 86, 86a, 87, 87a.

The Settlement also clarifies that the Settlement Rates reflect the reduced Pennsylvania Corporate Net Income Tax (CNIT) rate of 7.99% for the 2025 tax year. Settlement at ¶ 14. The Company's State Tax Adjustment Surcharge will be set to zero, subject to reconciliation for prior years, and modification in the event of future changes in covered tax rates. Settlement at ¶ 14.

Similarly, the Settlement reflects the Joint Petitioners' agreement as to the future activation of the Company's DSIC tariff provisions. Settlement at ¶¶ 20-22.

These Settlement terms and the Proposed Tariff reflect the Joint Petitioners' agreement and provide clarity for implementation of the Appendix A – Proposed Tariff (Settlement Rates).

III. CONCLUSION

The OCA submits that the terms and conditions of the proposed Settlement, taken as a whole, represent a fair and reasonable resolution of the issues and claims arising in this proceeding. The OCA further submits that, for the reasons detailed above, the Commission should approve the Settlement without modification as it is in the public interest.

Respectfully Submitted,

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