



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
COMMONWEALTH KEYSTONE BUILDING
400 NORTH STREET, HARRISBURG, PA 17120

BUREAU OF
INVESTIGATION
&
ENFORCEMENT

September 12, 2024

Via Electronic Filing

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

Re: Pennsylvania Public Utility Commission v.
PECO Energy Company – Electric Division
Docket No. R-2024-3046931
I&E Reply Brief

Dear Secretary Chiavetta:

Enclosed for electronic filing please find the Reply Brief of the Bureau of Investigation and Enforcement in the above-captioned proceeding.

Copies are being served on parties per the attached Certificate of Service. Should you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink that reads 'Carrie B. Wright' with a stylized flourish at the end.

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CBW/ac
Enclosures

cc: Administrative Law Judge Marta Guhl (*via Electronic and First-Class Mail*)
Administrative Law Judge Darlene Heep (*via Electronic and First-Class Mail*)
Per Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

**REPLY BRIEF
OF THE
BUREAU OF INVESTIGATION AND ENFORCEMENT**

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Dated: September 12, 2024

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I. INTRODUCTION AND OVERVIEW

A. Description of the Company

PECO Energy Company – Electric Division (PECO or Company) is an electric distribution company serving approximately 1.7 million customers in southeastern Pennsylvania. PECO’s service territory consists of all or portions of Bucks, Chester, Delaware, Montgomery, Philadelphia and York Counties.

B. Procedural History

On March 28, 2024, PECO Energy Company – Electric Division (Company or PECO) filed proposed Tariff Electric-PA. P.U.C. No. 8. PECO’s initial requested increase equaled \$464 million based on a fully projected future test year (FPFTY) ended December 31, 2025. Additionally, PECO proposed one-time surcharge credits equaling \$64 million resulting in a net increase in electric rates of \$399 million.

On April 25, 2024, the Commission entered an Order instituting an investigation into the lawfulness, justness and reasonableness of the Company’s proposed rates. Pursuant to 66 Pa.C.S. Section 1308(d), proposed Tariff Electric-PA. P.U.C. No. 8 was suspended by operation of law until December 28, 2024¹, unless permitted by Commission Order to become effective on an earlier date.

The Commission assigned the Company’s filing to the Office of Administrative Law Judge (OALJ) for the development of an evidentiary record culminating in a Recommended Decision (RD). The OALJ subsequently assigned the suspended

¹ PECO agreed to request an extension of the suspension period until December 30, 2024 and that request was granted.

proceeding to Administrative Law Judges Marta Guhl and Darlene Heep for investigation and scheduling of hearings to consider the lawfulness, justness and reasonableness of the Company's rate increase request.

A Prehearing Conference was held on May 7, 2024, at which time a procedural schedule was discussed. The procedural schedule included filing dates for written Direct, Rebuttal, and Surrebuttal Testimony and Main Briefs and Reply Briefs, as well as dates for Evidentiary Hearings. Five in person and two telephonic public input hearings were held in PECO's service territory. A telephonic evidentiary hearing was held on August 8, 2024. At this hearing several PECO witnesses presented oral rejoinder testimony and were cross examined. I&E witness Christine Wilson was also cross examined by counsel for Local 614 of the International Brotherhood of Electrical Workers (IBEW). In addition, the parties' written testimony and exhibits were entered into the record.

C. Overview of PECO's Filing

As noted above, the Company's filing proposed to increase rates to produce additional overall revenues of \$464 million per year. Under the Company's proposal, the total bill for a residential customer purchasing 700 kilowatt hours (kWh) per month would increase from \$135.85 to \$155.22, or by approximately 14.3%. PECO Electric is also proposing that, for the first year that new rates are in effect (2025), there will be a credit applied to bills. Because of that credit, the Company's notices to customers show that the actual increase for the same residential customer using 700 kWh would be \$16.67 per month (12.3%) during 2025. There would be no credit during 2026, so for bills

starting in 2026, the same residential customer would see an additional increase of \$2.70 per month (1.8%).

PECO proposed to increase the monthly residential customer charge from \$10.50 to \$14.28. PECO Electric proposes a return on equity of 10.95% resulting in an overall rate of return of 7.98%. PECO also requested approval of the following: (1) a Storm Reserve Account, (2) changes to its Economic Development Rider, and (3) changes to its Electric Vehicle (EV) Pilot Program.

D. Overview of the Settlement

The Settlement provides an annual increase in PECO's electric distribution revenues of approximately \$354 million to become effective as of January 1, 2025, in addition to the Distribution System Improvement Charge (DSIC) revenue of \$64.3 million that will be rolled into base rates. The \$354 million increase excludes a one-time surcharge credit totaling approximately \$64 million in 2025 for the incremental COVID-19-related bad debt that the Company recovered through current rates and revenue received for past use of PECO's fiber network. Additionally, the settlement contains a base rate case stay out whereby PECO will not file for another electric distribution base rate increase prior to March 16, 2026. These provisions along with various other provisions are discussed in detail in the I&E Statement in Support of Settlement.

E. Legal Standards and Burden of Proof

The Company carries the burden of proof to show its rate proposal is just and reasonable.² PECO must satisfy its burden of proof by presenting a preponderance of

² See 66 Pa.C.S. § 315(a); *Irwin A. Popowsky v. Pa. P.U.C.*, 674 A.2d 1149 (Pa. Cmwlth. 1996).

evidence.³ A preponderance of the evidence is evidence that is more convincing, by even the smallest amount, than that presented by another party.⁴ In base rate cases, the Commission has affirmed the utility's burden to establish the justness and reasonableness of every component of its rate request.⁵ The burden of proof does not shift to parties challenging a requested rate increase.⁶ Additionally, the Company must produce substantial evidence to satisfy its burden.⁷ Substantial evidence is "such relevant and competent evidence having a rational probative force which a reasonable mind might accept as adequate to support a conclusion."⁸ Thus, PECO must affirmatively prove the justness and reasonableness of each element of each of its claims.

II. SUMMARY OF ARGUMENT

IBEW has opposed the Settlement and suggests that PECO should be granted its full requested rate increase.⁹

Therefore, this brief addresses only IBEW's position that PECO be granted its full requested rate increase. I&E recommends the ALJs' recommend and the Commission adopt the Joint Petition for Settlement and reject IBEW's recommendation that PECO be granted its full requested rate increase.

³ *Samuel J. Lansberry, Inc. v. Pa. P.U.C.*, 578 A.2d 600 (Pa. Cmwlth. 1990).

⁴ *Se-Ling Hosiery v. Margulies*, 70 A.2d 854 (Pa. 1950).

⁵ *See, e.g., Pa. P.U.C. v. PPL Electric Utilities Corporation*, 2012 WL 6758304 (Pa. P.U.C. 2012); *Pa. P.U.C. v. Aqua Pennsylvania, Inc.*, 2004 WL 2314523 (Pa. P.U.C. 2004).

⁶ *Id.*

⁷ *See Brockaway Glass v. Pa. P.U.C.*, 437 A.2d 1067 (Pa. Cmwlth. 1981); *Lower Frederick Township v. Pa. P.U.C.*, 409 A.2d 505 (Pa. Cmwlth. 1980).

⁸ *Dutchland Tours, Inc. v. Pa. P.U.C.*, 337 A.2d 922, 925 (Pa. Cmwlth. 1975).

⁹ IBEW MB, p. 8.

III. CUSTOMER SERVICE REPRESENTATIVE ISSUES

I&E is not presenting any arguments specifically related to customer service representative issues, however, as this was part of IBEW's proposal, I&E reiterates that PECO should not be granted its full requested rate increase subject to the IBEW adjustments, and that, rather, the Commission should adopt the Joint Petition for settlement including all terms therein as the appropriate resolution of this base rate proceeding.

IV. IBEW PROPOSALS

While I&E is not addressing each individual issue raised by IBEW, I&E does address IBEW's contention that granting PECO's full requested rate increase is appropriate. In its Main Brief, IBEW contends that "[i]f PECO is insufficiently funded to provide a competitive employment package, PECO will begin to face a reduction in its highly skilled workforce..."¹⁰ IBEW then states that the general purpose of a rate increase is to ensure that a public utility receives a fair rate of return.¹¹

IBEW's position is problematic for a variety of reasons. Inherent in IBEW's recommendation is the premise that because PECO asked for it, the amount of rate increase requested is appropriate. This is simply not true as a variety of items requested in a base rate case may not be appropriate for recovery for various reasons, whether it be that they are not allowable by law, or they fall outside the fully projected future test year (FPFTY), or a variety of other reasons. Further, while the appropriate rate of return is a

¹⁰ IBEW MB, p. 5.

¹¹ IBEW MB, p. 9.

component of a base rate case, IBEW itself did not provide any rate of return analysis or any commentary on what the appropriate rate of return for PECO would be. Therefore, to offer the premise that the general purpose of base rate case is to determine the appropriate rate of return and imply that granting the full requested increase would generate the appropriate rate of return is imprudent with no analysis, or response to the other party's analysis, upon which to base this recommendation.

Additionally, PECO, by virtue of agreeing in settlement to a certain revenue level has indicated that it believes it has the ability to provide safe and reliable service at that revenue level. As PECO is required to provide safe and reliable service, it would not be appropriate for PECO to agree to a revenue level that would not allow for the provision of safe and reliable service. Therefore, it stands to reason that the revenue requirement PECO agreed to is sufficient to meet its operating and hiring needs in order to meet its obligations under the Public Utility Code.

IBEW seems to believe that the revenue requirement PECO requested in its filing would all go to hiring a skilled workforce. This is simply untrue. PECO's filing contained requests for a variety of expense beyond hiring skilled employees. Both I&E and OCA provided a detailed analysis of PECO's ratemaking claims and revenue requirement, including rate of return. IBEW provided no such analysis. In fact, the settled upon revenue requirement is very close to the I&E litigation position¹² on revenue requirement demonstrating the reasonableness of the settlement.

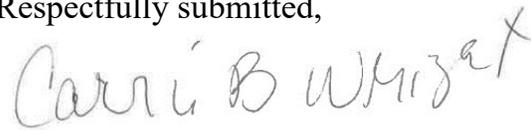
¹² I&E St. No. 1-SR, p. 4.

As set forth and explained in the I&E Statement in Support of Settlement, the revenue requirement agreed to by all parties, including PECO itself, is appropriate and adequate in order for PECO to continue to provide safe and reliable service at reasonable rates.

V. CONCLUSION

I&E recommends the Commission approve the Joint Petition for settlement of this rate investigation and reject IBEW's recommendation that PECO's full requested rate increase be granted.

Respectfully submitted,

A handwritten signature in black ink that reads "Carrie B. Wright". The signature is written in a cursive, slightly slanted style.

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Dated: September 12, 2024

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

CERTIFICATE OF SERVICE

I hereby certify that I am serving the foregoing **Reply Brief** dated September 12, 2024, in the manner and upon the persons listed below.

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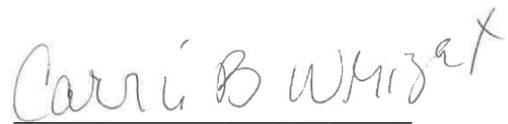
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