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September 12, 2024

VIA eFILING

Secretary Rosemary Chiavetta
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, Pennsylvania 17105-3265

**Re: Pa. PUC v. PECO Energy Company – Gas Division
Docket No. R-2024-3046932
IBEW L. 614’s Statement in Opposition to Settlement
File No. 1974-004**

Dear Secretary Chiavetta:

Enclosed for filing in the above-referenced matter is the Certificate of Service evidencing service of IBEW Local 614’s Statement in Opposition to Settlement.

Copies have been served in accordance with the enclosed Certificate of Service.

Sincerely,

/s/ Charles T. Joyce
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/s/ Nicholas J. Enoch
Nicholas J. Enoch

Counsel to Intervenor-Applicant IBEW Local 614

cc. Certificate of Service

**PENNSYLVANIA PUBLIC UTILITY
COMMISSION**

Docket No. R-2024-3046932

v.

**PECO ENERGY COMPANY-GAS
DIVISION**

CERTIFICATE OF SERVICE

I hereby certify and affirm that I have this 12th day of September 2024 served a copy of the foregoing document on the following persons in the matter specified in accordance with the requirements of 52 Pa. Code § 1.54.

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September 12, 2024

/s/ Cristina Gallardo-Sanidad

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PENNSYLVANIA PUBLIC UTILITY COMMISSION	Docket No. R-2024-3046931
v.	
PECO ENERGY COMPANY-ELECTRIC DIVISION	
PENNSYLVANIA PUBLIC UTILITY COMMISSION	Docket No. R-2024-3046932
v.	
PECO ENERGY COMPANY-GAS DIVISION	

**STATEMENT IN OPPOSITION
OF JOINT PETITION FOR NON-UNANIMOUS SETTLEMENT OF RATE
INVESTIGATION OF INTERVENOR LOCAL 614 OF THE INTERNATIONAL
BROTHERHOOD OF ELECTRICAL WORKERS, AFL-CIO**

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I. BACKGROUND

For the reasons set forth herein, Local 614 of the International Brotherhood of Electrical Workers (“IBEW Local 614” or the “Union”) recommends the Commission reject the proposed Joint Petition for Non-Unanimous Settlement of Rate Investigation (“Settlement”) for both Gas and Electric, and find that the proposed settlement rates are unjust, unreasonable, and not in the public interest.

II. LEGAL STANDARD

The burden of proof to establish the justness and reasonableness of every element of a public utility’s rate increase request rests solely upon the public utility in all proceedings filed under Section 1308(d) of the Code. The standard to be met by the public utility is set forth in Section 315(a) of the Code, 66 Pa.C.S. § 315(a), as follows:

Reasonableness of rates. – In any proceeding upon the motion of the commission, involving any proposed or existing rate of any public utility, or in any proceedings upon complaint involving any proposed increase in rates, the burden of proof to show that the rate involved is just and reasonable shall be upon the public utility.

In reviewing Section 315(a) of the Code, the Pennsylvania Commonwealth Court interpreted a public utility’s burden of proof in a rate proceeding as follows:

Section 315(a) of the Public Utility Code, 66 Pa.C.S. § 315(a), places the burden of proving the justness and reasonableness of a proposed rate hike squarely on the public utility. It is well-established that the evidence adduced by a utility to meet this burden must be substantial.

Lower Frederick Twp. Water Co. v. Pa. Pub. Util. Comm'n, 409 A.2d 505, 507 (Pa. Cmwlth. 1980) (emphasis added). *See also Brockway Glass Co. v. Pa. Pub. Util. Comm'n*, 437 A.2d 1067 (Pa. Cmwlth. 1981).

The Commission, when deciding whether to adopt a settlement agreement between parties in a contested rate case is not bound by any agreements entered into by the parties. Rather, the Commission must review any proposed settlement in a manner consistent with the processes and standards for deciding a contested rate case. The Commission has stated:

Despite the policy favoring settlements, **the Commission does not simply rubber stamp settlements without further inquiry**. In order to accept a settlement . . . the Commission must determine that the proposed terms and conditions are in the public interest. The focus of the inquiry for determining whether a proposed settlement should be approved by the Commission is whether the proposed terms and conditions foster, promote and serve the public interest.

Pa. Pub. Util. Comm'n v. PECO Energy Co., Docket No. R-2018-3000164 (Order entered Dec. 20, 2018), at 15 (emphasis added). The parties proposing the settlement “share the burden of proof to show that the terms and conditions of the [] Settlement are in the public interest.” *Id.*

In reviewing a proposed settlement, the Commission may consider all relevant factors and is not limited to any fixed allocation of costs between the parties. Within its statutory authority to ensure just and reasonable rates, the Commission has discretion to determine what factors to consider in evaluating a proposed utility settlement and determine whether it is in the public interest. *Pa. Pub. Util. Comm'n v. C.S. Water and*

Sewer Associates, 74 Pa. P.U.C. 767 (1991); *Pa. Pub. Util. Comm’n v. Philadelphia Electric Company*, 60 Pa. P.U.C. 1 (1985).

III. OPPOSITION TO SETTLEMENT

A. Aiming High and Settling Low Does Not Make Any of the Amounts Just or Reasonable.

In its original filings with the Commission, PECO requested an increase in total operating revenues of \$464 million for electric, and \$111 million for gas, irrespective of revenues currently recovered through the Distribution System Improvement Charge (“DSIC”). In the Settlement, PECO has reduced those figures to \$354 million and \$78 million, respectively, exclusive of revenues recovered through the DSIC.

While PECO’s adjustments to its total operating revenues may seem reasonable—even generous—PECO has a history of aiming high in its rate applications, then settling low. This does not mean, however, that the settlement amounts are just, reasonable, or in the public interest; it merely means that PECO has reduced its request from the numbers in its initial ask.

By way of example, in PECO’s last five electric and gas rate cases, it has requested, then settled for the following amounts:

Gas (G)/ Electric (E)	Docket No.	Requested Rate Relief	Settlement Rate Relief	Reduction %
G	R-2022-3031113	\$81.2 million	\$55 million	32.3%
E	R-2021-3024601	\$246 million	\$132 million	46.3%
G	R-2020-3018929	\$68.7 million	\$29.1 million	57.6%
G	R-2018-3000164	\$82 million	\$25 million	69.5%
E	R-2015-2468981	\$190 million	\$127 million	33.2%.

If PECO habitually files rate applications with the expectation that between 32.3–69.5% of its requested rate relief will be slashed, then in the present case, where only 23.7% and 29.8% of its rate relief for electric and gas was slashed respectively, how can the Settlement amounts be reasonable? Even assuming, for the sake of argument, that the previous settlements were unreasonably low, and PECO has historically recovered less than what it is statutorily entitled to, then is the Settlement still in the public interest when ratepayers could be saving money if PECO was adequately funded and did not need to request rate relief every few years? In addition, it would lessen the burden on this Commission and its Staff if PECO reduced the frequency of its rate applications. This would also benefit ratepayers inasmuch as they are the ones who ultimately pay for PECO's rate case expenses.

Notably, despite reducing its rate recovery in the present case by 23.7% and 29.8% for electric and gas respectively, the Settlement Rates still reflect an annual net increase in residential rates of 19.2% and 16.7%. *See* paragraph 16 of Electric Settlement and paragraph 16 of Gas Settlement. These amounts constitute a huge increase for ratepayers. Moreover, despite being a “win” for ratepayers in the sense that these rates are less than the Company initially requested, this huge increase in rates does not comply with the principles of gradualism. The real-world impact of these rate hikes will be a huge shock to PECO customers. PECO has not satisfied its burden that such a rate increase is just or reasonable.

B. PECO and the Settling Parties Have Not Carried Their Burden that the Settlement is in the Public Interest.

1. Customer Service Representative (“CSR”) Issues

In paragraph 36 of the Gas Settlement and paragraph 42 of the Electric Settlement, PECO states it will investigate and report on call handling issues identified in the 2022 Audit Report that have not been previously resolved. PECO does not explain how it will report on these issues or make any commitment to addressing and resolving these issues. Absent from consideration are issues identified by IBEW Local 614 in its pre-filed testimony, and further explained in its Main Brief filed September 6, 2024. Candidly, the manner in which PECO has simply ignored the issues is alarming, including the fact that the program has overcharged commercial accounts with previously non-existent distribution and transmission charges; the program has failed to bill clients and then disconnected them due to lack of payment; and that the program has failed to follow through with start service requests. Further, neither Settlement addresses the Union’s concerns regarding the adequacy of CSR training on PECO’s new billing system, the adequacy of supervisor support for CSRs, or mandatory overtime requirements for CSRs. Having failed to address these issues, IBEW Local 614 submits that the Settlements are not in the public interest.

2. Reporting Requirements

Likewise missing from the Settlements, are four annual reports IBEW Local 614 requested: Workforce Planning Report, Capital and O&M Project Lists, Reconciliation of Rate Base and Operating Income Filing, and a Schedule of Affiliate Transactions. These

reports would provide some much-needed transparency into PECO's hiring and recruitment process, its projected versus actual costs, its overreliance on expensive contract labor, and the prudence of its transactions with other Exelon-affiliated companies. IBEW Local 614 submits that these reports are necessary to accurately assess the justness and reasonableness of PECO's rates, and that PECO needs to be more transparent in its reporting.

3. Qualified Contractor Standards

Finally, neither Settlement provides for the adoption of qualified contractor standards which would ensure that PECO is only contracting with third parties who (1) comply with prevailing wage standards, (2) have adequate insurance coverage, (3) implement safety training, and (4) participate in apprenticeship and training programs approved by the U.S. Department of Labor. IBEW Local 614 believes these are the bare minimum requirements PECO should be addressing when selecting contractors in order to comply with its obligations as a public utility to provide safe and reliable service and facilities to its customers, employees, and the public. 66 Pa.C.S.A. § 1501 (requiring every public utility to “furnish and maintain adequate, efficient, **safe**, and reasonable service and facilities, and [] make all such . . . improvements in or to such service and facilities as . . . necessary or proper for the **accommodation, convenience, and safety of its patrons, employees, and the public.**”).

IV. CONCLUSION

For the reasons set forth above, IBEW Local 614 submits that the Settlements are not in the public interest and that the Settlement rates are unjust and unreasonable.

RESPECTFULLY SUBMITTED this 12th day of September, 2024.

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