

# Morgan Lewis

**Kenneth M. Kulak**

Partner

+1.215.963.5384

ken.kulak@morganlewis.com

October 22, 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 in the above-referenced matter are the **Exceptions of PECO Energy Company to the Recommended Decision of Administrative Law Judges Darlene Heep and Marta Guhl** (“Exceptions”).

As evidenced by the Certificate of Service, copies of the Exceptions are being served upon the Administrative Law Judges, all parties of record, and the Office of Special Assistants, as instructed in the Secretarial Letter dated October 15, 2024.

If you have any questions, please do not hesitate to contact me directly at 215.963.5384.

Very truly yours,



Kenneth M. Kulak

KMK/nt

Enclosures

c: Per Certificate of Service (w/encls.)  
[ra-OSA@pa.gov](mailto:ra-OSA@pa.gov) (w/encls.)

**Morgan, Lewis & Bockius LLP**

1701 Market Street  
Philadelphia, PA 19103-2921  
United States

**T** +1.215.963.5000  
**F** +1.215.963.5001

**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 **Exceptions of PECO Energy Company** on the following persons in the manner specified in accordance with the requirements of 52 Pa. Code § 1.54:

**VIA ELECTRONIC MAIL**

\*The Honorable Marta Guhl  
Administrative Law Judge  
Pennsylvania Public Utility Commission  
Office of Administrative Law Judge  
801 Market Street, Suite 4063  
Philadelphia, PA 19107  
[mguhl@pa.gov](mailto:mguhl@pa.gov)

\*The Honorable Darlene Heep  
Administrative Law Judge  
Pennsylvania Public Utility Commission  
Office of Administrative Law Judge  
801 Market Street, Suite 4063  
Philadelphia, PA 19107  
[dheep@pa.gov](mailto:dheep@pa.gov)

\*Barrett C. Sheridan  
\*Gina L. Miller  
\*Jacob D. Guthrie  
Consumer Advocate  
Office of Consumer Advocate  
Forum Place, 5<sup>th</sup> Floor  
555 Walnut Street  
Harrisburg, PA 17101-1923  
[OCAGASPECO2024@paoca.org](mailto:OCAGASPECO2024@paoca.org)  
*Counsel for Office of Consumer  
Advocate (“OCA”)*

\*Carrie B. Wright  
Bureau of Investigation & Enforcement  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2nd Floor  
Harrisburg, PA 17120  
[carwright@pa.gov](mailto:carwright@pa.gov)  
*Counsel for Bureau of Investigation  
& Enforcement (“BI&E”)*

**\*Receives confidential documents**

\*Steven C. Gray  
\*Rebecca Lyttle  
Office of Small Business Advocate  
Forum Place  
555 Walnut Street, 1st Floor  
Harrisburg, PA 17101  
[sgray@pa.gov](mailto:sgray@pa.gov)  
[relyttle@pa.gov](mailto:relyttle@pa.gov)  
*Counsel for Office of Small  
Business Advocate (“OSBA”)*

\*Todd S. Stewart  
Hawke McKeon & Sniscak LLP  
100 North Tenth Street  
Harrisburg, PA 17101  
[tstewart@hmslegal.com](mailto:tstewart@hmslegal.com)  
*Counsel for the Southeastern  
Pennsylvania Transportation  
Authority (SEPTA)*

Charles T. Joyce  
Spear Wilderman, P.C.  
230 South Broad Street, Suite 1650  
Philadelphia, PA 19102  
[ctjoyce@spearwilderman.com](mailto:ctjoyce@spearwilderman.com)  
*Counsel for Local 614 of the International  
Brotherhood of Electrical Workers,  
AFL-CIO (“IBEW Local 614”)*

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

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

\*David P. Zambito  
\*Jonathan P. Nase  
Cozen O’Connor  
17 North Second Street, Suite 1410  
Harrisburg, PA 17101  
[dzambito@cozen.com](mailto:dzambito@cozen.com)  
[jnase@cozen.com](mailto:jnase@cozen.com)  
*Counsel for The Trustees of the University  
of Pennsylvania and The Hospital at the  
University of Pennsylvania (“UPENN”)*

\*Nicholas J. Enoch  
Lubin & Enoch, P.C.  
349 North 4<sup>th</sup> Avenue  
Phoenix, AZ 85003-1505  
[nick@lubinandenoach.com](mailto:nick@lubinandenoach.com)  
*Counsel for IBEW Local 614*

\*Charlotte E. Edelstein  
\*Joline R. Price  
\*Vikram A. Patel  
\*Robert W. Ballenger  
Community Legal Services, Inc.  
1410 West Erie Avenue  
Philadelphia, PA 19140  
[cedelstein@clsphila.org](mailto:cedelstein@clsphila.org)  
[jprice@clsphila.org](mailto:jprice@clsphila.org)  
[vpatel@clsphila.org](mailto:vpatel@clsphila.org)  
[rballenger@clsphila.org](mailto:rballenger@clsphila.org)  
*Counsel for Coalition for Affordable*

Alan McCarthy  
705 East Barnard Street  
West Chester, PA 19382  
[alanmccarthy25@hotmail.com](mailto:alanmccarthy25@hotmail.com)  
*Pro Se*

### CONSULTANTS / WITNESSES

\*John DeFever  
Larkin & Associates, PLLC  
15728 Farmington Road  
Livonia, MI 48154  
[OCAGASPECO2024@paoca.org](mailto:OCAGASPECO2024@paoca.org)  
*Witness for OCA*

\*Clarence Johnson  
CJ Energy  
3707 Robinson Avenue  
Austin, TX 78722  
[OCAGASPECO2024@paoca.org](mailto:OCAGASPECO2024@paoca.org)  
*Witness for OCA*

\*David Garrett  
Resolve Utility Consulting PLLC  
101 Park Avenue, Suite 1125  
Oklahoma City, OK 73102  
[OCAGASPECO2024@paoca.org](mailto:OCAGASPECO2024@paoca.org)  
*Witness for OCA*

\*Roger Colton  
Fisher, Sheehan, & Colton  
34 Warwick Road  
Belmont, MA 02478  
[OCAGASPECO2024@paoca.org](mailto:OCAGASPECO2024@paoca.org)  
*Witness for OCA*

\*Nicholas A. DeMarco  
Regulatory Analyst  
Office of Consumer Advocate  
555 Walnut Street  
5<sup>th</sup> Floor – Forum Place  
Harrisburg, PA 17101-1923  
[OCAGASPECO2024@paoca.org](mailto:OCAGASPECO2024@paoca.org)  
*Witness for OCA*

\*Ron Nelson  
Volt-Watt Consulting LLC  
1311 SE 53<sup>rd</sup> Avenue  
Portland, OR 97215  
[OCAGASPECO2024@paoca.org](mailto:OCAGASPECO2024@paoca.org)  
[Ron.Nelson@voltwattconsulting.com](mailto:Ron.Nelson@voltwattconsulting.com)  
*Witness for OCA*

\*Anthony Spadaccio  
[aspadaccio@pa.gov](mailto:aspadaccio@pa.gov)  
*Witness for BI&E*

\*Christopher Keller  
[chrkeller@pa.gov](mailto:chrkeller@pa.gov)  
*Witness for BI&E*

\*Ethan Cline  
[etcline@pa.gov](mailto:etcline@pa.gov)  
*Witness for BI&E*

\*Martin Salamonski  
[msalamonsk@pa.gov](mailto:msalamonsk@pa.gov)  
*Witness for BI&E*

Robert D. Knecht  
\*Mark Ewen  
Industrial Economics, Incorporated  
2067 Massachusetts Avenue  
Cambridge, MA 02140  
[rdk@indecon.com](mailto:rdk@indecon.com)  
[mewen@indecon.com](mailto:mewen@indecon.com)  
*Consultant for OSBA*

Jeffrey Pollock  
\*Billie S. LaConte  
J. Pollock, Inc.  
14323 South Outer 40 Road  
Suite 206N  
Town and Country, MO 63017  
[jcp@jpollockinc.com](mailto:jcp@jpollockinc.com)  
[bsl@jpollockinc.com](mailto:bsl@jpollockinc.com)  
*Consultants for PAIEUG*

\*Elizabeth Marx  
Pennsylvania Utility Law Project  
118 Locust Street  
Harrisburg, PA 17101  
[emarx@pautilitylawproject.org](mailto:emarx@pautilitylawproject.org)  
*Witness for CAUSE-PA*

James Glenn  
IBEW Local 614  
4613 West Chester Pike, Upper Level  
Newtown Square, PA 19073  
[jamesglenn@614ibew.com](mailto:jamesglenn@614ibew.com)  
*Witness for IBEW Local 614*

\*James L. Crist  
Lumen Group, Inc.  
4226 Yarmouth Drive, Suite 101  
Allison Park, PA 15101  
[jlcris@aol.com](mailto:jlcris@aol.com)  
*Witness for SEPTA*



---

Kenneth M. Kulak (Pa. No. 75509)  
Mark A. Lazaroff (Pa. No. 315407)  
Catherine G. Vasudevan (Pa. No. 210254)  
Brooke E. McGlinn (Pa. No. 204918)  
Morgan, Lewis & Bockius LLP  
2222 Market Street  
Philadelphia, PA 19103-3007  
215.963.5384 (bus)  
215.963.5001 (fax)  
[ken.kulak@morganlewis.com](mailto:ken.kulak@morganlewis.com)  
[mark.lazaroff@morganlewis.com](mailto:mark.lazaroff@morganlewis.com)  
[catherine.vasudevan@morganlewis.com](mailto:catherine.vasudevan@morganlewis.com)  
[brooke.mcglinn@morganlewis.com](mailto:brooke.mcglinn@morganlewis.com)

Dated: October 22, 2024

*Counsel for PECO Energy Company*

**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**

**EXCEPTION OF  
PECO ENERGY COMPANY**

**To The Recommended Decision Of  
Administrative Law Judges  
Darlene Heep and Marta Guhl**

Anthony E. Gay (Pa. No. 74624)  
Jack R. Garfinkle (Pa. No. 81892)  
Adesola K. Adegbesan (Pa. No. 326242)  
PECO Energy Company  
2301 Market Street  
Philadelphia, PA 19103-8699

Kenneth M. Kulak (Pa. No. 75509)  
Mark A. Lazaroff (Pa. No. (Pa. No. 315407)  
Catherine G. Vasudevan (Pa. No. 210254)  
Brooke E. McGlinn (Pa. No. 204918)  
Morgan, Lewis & Bockius LLP  
2222 Market Street  
Philadelphia, PA 19103-2921

Dated: October 22, 2024

*Counsel for PECO Energy Company*

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## I. INTRODUCTION

On March 28, 2024, PECO Energy Company (“PECO” or “the Company”) initiated this rate case by filing with the Pennsylvania Public Utility Commission (the “Commission” or “PUC”) Tariff Gas – Pa. P.U.C. No. 6, requesting an increase in total operating revenues of \$111 million above the level of pro forma revenues for the fully projected future test year (“FPFTY”) ending December 31, 2025. The Company’s decision to propose a rate increase is primarily because of its plans to invest \$786 million in its gas distribution system by the end of 2025. PECO’s ability to obtain the revenue necessary for this infrastructure investment can be impacted by lower customer consumption during warmer winter months due to the substantial fixed costs associated with PECO’s gas distribution system that are recovered through volumetric rates. Customers can also experience unexpected high charges with increased usage when weather is colder than normal. Accordingly, PECO requested Commission approval to establish a weather normalization adjustment (“WNA”) pursuant to Section 1330 of the Public Utility Code (“Code”), with appropriate customer protections, to levelize costs for customers during colder and warmer weather.<sup>1</sup>

On April 25, 2024, the Commission instituted an investigation of PECO’s existing and proposed gas distribution rates and the Company’s proposed tariff was suspended by operation of law until December 27, 2024, and later conditionally extended by the Company to December 30, 2024. This matter was subsequently assigned to Administrative Law Judges Darlene Heep and Marta Guhl (the “ALJs”) for hearing and the issuance of a Recommended Decision.<sup>2</sup> On

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<sup>1</sup> 66 Pa.C.S. §1330(b). Hereafter, all references to a “Section” are to the Code, 66 Pa.C.S. §§ 101 et seq., unless indicated otherwise.

<sup>2</sup> A detailed history of this proceeding is set forth in the Company’s Main Brief dated September 6, 2024 (“PECO Main Br.”). PECO also filed a Reply Brief (“PECO Reply Br.”) on September 12, 2024, and the Commission is urged to review both briefs in its consideration of these Exceptions.

August 30, 2024, PECO, the Commission’s Bureau of Investigation and Enforcement (“I&E”), the Office of Consumer Advocate (“OCA”), the Office of Small Business Advocate (“OSBA”), the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (“CAUSE-PA”), the Philadelphia Area Industrial Energy Users Group (“PAIEUG”), the Southeastern Pennsylvania Transportation Authority (“SEPTA”), and Walmart Inc. (“Walmart”) (collectively, the “Joint Petitioners”) filed a Joint Petition for Non-Unanimous Partial Settlement of Rate Investigation (“Settlement”), which resolved all but one issue among the Joint Petitioners. Local 614 of the International Brotherhood of Electrical Works, AFL-CIO (“IBEW”) is the only party that opposed the Settlement. The single issue reserved for litigation by the Settlement is whether PECO’s proposed WNA, which is consistent with the WNAs the PUC has approved for five other gas utilities, is just and reasonable.

The Settlement provides for a rate increase of \$78 million, which is over \$30 million less than what PECO originally requested. PECO also agreed to a base-rate “stay out” that will provide customers with stable gas distribution base rates for at least two years. In addition, the Settlement includes significant commitments to enhance PECO’s low-income customer assistance programs, address customer service and consumer protection issues, and improve gas safety.

In their Recommended Decision (“RD”) issued on October 15, 2024, the ALJs determined that the Settlement is in the public interest and supported by substantial evidence after consideration of the voluminous record in this proceeding and the competing arguments of the settling parties and IBEW. Accordingly, the ALJs recommended that the Commission approve the Settlement with one modification – that PECO provide the Commission’s Bureau of Technical Utility Services (“TUS”) and IBEW a copy of a report PECO agreed to file as part of

the Settlement regarding its investigation of unresolved material issues (if any) from a 2022 audit report on PECO's handling of customer calls. However, on the issue reserved for litigation, the ALJs recommended the Commission "deny the request of PECO to implement a [WNA] because it is unjust, unreasonable, and contrary to the interest of customers and the public."<sup>3</sup> In addition, the ALJs recommended that the Commission direct TUS to "review the efficacy of a PECO Schedule of Affiliate Transactions as proposed by IBEW" that is not required under the Public Utility Code or Commission orders or regulations.<sup>4</sup>

PECO does not object to the ALJs' modification of the Settlement to require provision of the call center report to TUS and IBEW, as that report will be filed publicly with the Commission (with any redactions of confidential call center information as necessary). However, PECO does except to the ALJs' recommended rejection of PECO's proposed WNA, which was fully supported by substantial evidence in this proceeding. Notably, the ALJs' recommendation to reject PECO's WNA rests largely on the same arguments that the Commission fully considered and rejected in its September 12, 2024 Opinion and Order approving a WNA for Peoples Natural Gas Company ("*Peoples 2024*").<sup>5</sup> The ALJs did not mention *Peoples 2024* in the RD even though PECO discussed that decision in detail in its Reply Brief (pp. 2-4, 6-8, 10).

PECO also excepts to the ALJs' recommendation that TUS consider a possible new requirement for the filing of an annual schedule of utility affiliate transactions, which the IBEW proposed based on a report required under the Cost Allocation Manual and Code of Conduct for

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<sup>3</sup> RD, p. 93.

<sup>4</sup> *Id.*, p. 59.

<sup>5</sup> *Pa. P.U.C. v. Peoples Natural Gas Co. LLC*, Docket Nos. R-2023-3044549, et al. (Opinion and Order entered Sept. 12, 2024).

Delaware utilities adopted by the Delaware Public Service Commission.<sup>6</sup> The reporting adopted in Delaware is unnecessary because PECO's affiliate transactions are periodically audited by the Commission under Section 516 of the Code and those transactions are also subject to detailed review in base rate cases. Should the Commission believe that such a report might be useful, any such obligation should be considered in a separate statewide proceeding and not through a base rate proceeding referral to TUS which was not requested by IBEW or any other party or addressed in these proceedings.<sup>7</sup>

## II. EXCEPTIONS

### A. Exception No. 1: The RD Errs by Recommending Rejection of PECO's Proposed Weather Normalization Adjustment

In enacting Section 1330 of the Code and its provisions for alternative utility ratemaking, the Pennsylvania General Assembly stated that:

It is the policy of the Commonwealth that utility ratemaking should encourage and sustain investment through appropriate cost-recovery mechanisms to enhance the safety, security, reliability or availability of utility infrastructure and be consistent with efficient consumption of service.<sup>8</sup>

Section 1330 specifically allows for alternative ratemaking in the form of decoupling mechanisms, which the General Assembly defined as follows (with respect to utilities other than water and wastewater utilities):

A rate mechanism that reconciles authorized distribution rates or revenues for differences between the projected sales used to set rates and actual sales, which may include, but not be limited to, adjustments resulting from fluctuations in the number of customers

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<sup>6</sup> RD, p. 58, n. 165.

<sup>7</sup> The Commission may accept or reject, in whole or in part, the RD. 66 Pa.C.S. § 335; 52 Pa. Code § 5.536; *see also Pa. P.U.C. v. Phila. Gas Works*, Docket No. R-2020-3017206 (Opinion and Order entered Nov. 19, 2020), p. 94 (granting utility's exception relating to recommended new requirement to file climate-related information, stating that "[w]e accept PGW's argument that it is unadvisable for the Commission to make new policy or establish new filing requirements via individual rate cases.").

<sup>8</sup> 66 Pa.C.S. § 1330(a)(2).

served and other adjustments deemed appropriate by the commission.

A WNA is one such mechanism. As the Commission explained in *Peoples 2024* in approving Peoples' proposed WNA:

Alternative rate mechanisms that are decoupled from revenue are a relatively recent development in Pennsylvania. While it seems like a WNA does nothing more than shift the risk of warmer weather from a utility to its customers, it is also true that gas utilities have certain fixed costs for providing service that may be impacted by the revenue lost due to lower consumption during warmer winter months. Accordingly, the Commission has approved WNA mechanisms for other gas utilities in the Commonwealth.

PECO takes exception to the ALJs' conclusion that PECO's proposed WNA is not an appropriate and reasonable alternative ratemaking mechanism because, as explained at length in the Company's Main Brief (pp. 7-17) and Reply Brief (pp. 3-11) and the testimony of PECO witness Michael J. Trzaska, the WNA will achieve a variety of goals consistent with the policy objectives of alternative ratemaking in the Commonwealth, including reducing the financial impact of extreme weather on PECO's customers and stabilizing PECO's revenues to promote sustained investment in gas distribution infrastructure to continue to provide safe, efficient and reliable service.

PECO's distribution rates are designed based on the volumes of natural gas sold under normal weather conditions. The evidence in this case confirms – and no party disputes – that temperature impacts how much natural gas PECO's customers use and deviations from normal weather conditions can cause large swings in customers' monthly bills and PECO's revenues. Consistent with the General Assembly's policy declaration in Section 1330, PECO's proposed WNA will provide customers with rate relief during extremely cold months at the same time as it provides PECO with a reasonable opportunity to recoup PECO's fixed costs associated with

reliability, maintenance, safety and customer service during extremely warm months in the heating season.

The ALJs denied PECO's request to establish a WNA with a 1% deadband (i.e., if temperatures are within 1% of normal, there is no WNA adjustment) despite the record in this case clearly demonstrating that the Company's proposed WNA is just, reasonable, and consistent with Commission-approved WNAs that have been in place in Pennsylvania for over two decades. Significantly, in their recommendation regarding the WNA, the RD ignores Mr. Trzaska's testimony detailing the key benefits of PECO's proposed WNA – protection from sharp bill increases arising from using more gas due to extremely cold weather and revenue stability for the Company when customers use less gas in warmer winter months to facilitate continued long-term planning for infrastructure improvements. Likewise, the ALJs' findings of fact and analysis overlook the testimony of PECO witness Trzaska regarding the customer protections reflected in the Company's proposal, including (1) a cap on distribution revenues in the month of May each year that are recoverable under the WNA; (2) the measures the Company will take to educate customers regarding the WNA; and (3) a variety of annual reporting obligations for PECO.<sup>9</sup>

The ALJs offer four principal reasons for their recommendation to deny the WNA: (1) the WNA is not cost-based and unfairly shifts risks to customers for warmer-than-normal weather during the heating season (while PECO will continue to collect higher charges from electric customers for increased usage during the cooling season); (2) the WNA disincentivizes conservation and energy efficiency because customers cannot predict what they will pay based on usage; (3) the WNA will have a disproportionate, adverse impact on low-income customers;

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<sup>9</sup> See PECO St. 3, p. 69; PECO St. 3-R, p. 22; Tr. 826-27.

and (4) the WNA employs a complex formula and will make bills confusing for customers.<sup>10</sup> As discussed in Sections II.A.1 through II.A.4 below, none of these reasons are correct. Moreover, as explained in Section II.A.5, PECO demonstrated that its proposed WNA with the customer protections described by Mr. Trzaska is consistent with the Commission’s alternative ratemaking factors set forth at 52 Pa. Code § 69.3302. The Commission should therefore approve the WNA as proposed by PECO.

**1. The WNA Will Not Unfairly Shift Risk to Customers and Is Not a Charge for a Product That Customers Do Not Use**

In support of their recommendation, the ALJs submit that the WNA will unfairly shift risk to ratepayers, “act as a bonus to utilities,” charge customers for a product they do not use, and that as a utility with gas and electric operations, PECO will “reap the benefit of changing weather.”<sup>11</sup> These findings and conclusions are contrary to the record evidence and should be rejected.

At the outset, the ALJs’ finding that PECO’s proposal will unfairly shift risk to customers is refuted by Mr. Trzaska’s testimony that the WNA mutually benefits customers and the Company by providing customer credits when weather is colder than normal, and to PECO by stabilizing revenues, thus ensuring that customers will only pay for, and the Company will only collect, the distribution revenue authorized by the Commission in this base rate case proceeding.<sup>12</sup> These mutual benefits of the WNA are well-recognized; as former Chairman Gladys Brown Dutrieuille stated when the Commission approved a WNA for Columbia Gas of Pennsylvania (“Columbia Gas”) in 2018: “The Weather Normalization Adjustment works bi-

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<sup>10</sup> See RD, pp. 27-32, 90-93.

<sup>11</sup> RD, pp. 92-93

<sup>12</sup> See PECO Main Br., pp. 12-14.

directionally to insulate customers from high bills during the extremely cold months, while also limiting the decline in revenue for Columbia during unseasonably warm heating months.”<sup>13</sup>

Notwithstanding the OCA’s assertions that “no costs are truly fixed beyond the FPFTY,”<sup>14</sup> the Commission expressly recognized in *Peoples 2024* that natural gas utilities have fixed costs for providing service that may be impacted by decreases in revenues resulting from warmer weather.<sup>15</sup> Mr. Trzaska testified that the Company’s cost structure is largely fixed and does not vary depending on customer usage of natural gas due to the significant fixed investments required to construct and operate the Company’s distribution system.<sup>16</sup> These fixed costs, however, are primarily recovered on a volumetric basis through the Company’s rate design.<sup>17</sup> Therefore, warmer than normal weather can result in challenges in recovering Commission-authorized revenues, potentially impairing PECO’s ability to continue to maintain and enhance the safety and reliability of its system and attract the capital necessary to fund its investments.<sup>18</sup> Conversely, colder than normal weather subjects customers to high charges that are unanticipated and more difficult to manage. The WNA appropriately protects customers from unanticipated high bills and addresses the need to stabilize PECO’s revenues to support infrastructure improvements for the benefit of customers.

In addition, the ALJs’ statements that PECO did not conduct any bill impact or stability analysis for customers related to the impact of the proposed WNA are incorrect.<sup>19</sup> The Company

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<sup>13</sup> *Pa. P.U.C. v. Columbia Gas of Pa., Inc.*, Statement of Chairman Gladys M. Brown, Docket No. R-2018-2647577 (Dec. 6, 2018).

<sup>14</sup> RD, p. 91; *see* OCA Main Br., pp. 20-21.

<sup>15</sup> *Peoples 2024*, p. 92.

<sup>16</sup> PECO St. 3, pp. 66-67.

<sup>17</sup> *Id.*

<sup>18</sup> PECO St. 3, pp. 79-80.

<sup>19</sup> RD, pp. 28. The ALJs themselves later acknowledge the Company’s analysis. *Id.*, p. 85.

conducted a class level revenue analysis and, although the OCA criticized the adequacy of this analysis, the Company’s analysis is consistent with the level of analysis provided to the Commission by other natural gas distribution companies (“NGDCs”) prior to receiving approval of WNA mechanisms comparable to PECO’s proposed WNA.<sup>20</sup>

Although customers may experience a surcharge if weather is warmer than normal, PECO’s proposed WNA – just like other WNAs approved by the Commission – is designed as a reciprocal mechanism where customers will experience a credit to reduce their costs if weather is colder than normal. Moreover, WNAs provide utilities a greater opportunity to recover their fixed costs associated with maintaining a safe and reliable distribution system when weather is warmer than normal. PECO’s recovery under the WNA is not a “bonus” because it will be limited to the distribution revenues authorized by the Commission when setting rates in this proceeding.<sup>21</sup>

The ALJs also improperly concluded that a WNA is inappropriate because PECO has both electric and gas operations. As reflected in the simultaneous but separate rate case proceedings of PECO’s electric and gas divisions before the ALJs, PECO’s electric and gas operations are functionally separate with separate budgets, different customers and revenue streams, different rate structures, and independent distribution systems to support.<sup>22</sup> OCA’s claims that a warmer than normal heating season will result in substantial recovery for electric

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<sup>20</sup> PECO St. 3-R, p. 14. The Commission has unanimously approved WNAs for five NGDCs. *See Peoples 2024; Pa. P.U.C. v. Nat’l Fuel Gas Distrib. Corp.*, Docket No. R-2022-3035730 (Order entered June 15, 2023); *Pa. P.U.C. v. UGI Utils., Inc. – Gas Div.*, Docket No. R-2021-3030218 (Order entered Sept. 15, 2022); *Pa. P.U.C. v. Columbia Gas of Pa., Inc.*, Docket No. R-2012-2321748 (Order entered May 23, 2013); *Pa. P.U.C. v. Phila. Gas Works*, Docket No. R-00017034 (Order entered Aug. 8, 2002).

<sup>21</sup> PECO St. 3, pp. 66-67, 74-75; PECO St. 3-R, pp. 12, 16.

<sup>22</sup> *See generally Pa. P.U.C. v. PECO Energy Co. – Elec. Div.*, Docket No. R-2024-3046931 (Recommended Decision issued Oct. 15, 2024); RD, p. 3 (explaining that a separate recommended decision will be entered addressing PECO’s rates for electric service). *See also* Hearing Tr. 810:12-14.

operations during the cooling season were also completely unsubstantiated (and unquantified), and the ALJs' apparent conclusion that PECO will somehow obtain a "windfall" was not supported by the record.<sup>23</sup> Notably, the Commission approved a WNA for UGI Utilities – Gas Division ("UGI") even though UGI, like PECO, has both electric and gas operations.<sup>24</sup>

## **2. The WNA Will Not Frustrate Customer Efforts to Increase Energy Efficiency and Reduce Natural Gas Consumption**

The RD asserts that WNA surcharges applied to bills to offset the effects of unusually warm weather would "punish customers who conserve" and frustrate customer efforts to promote conservation and energy efficiency.<sup>25</sup> That contention, which has been made repeatedly by the parties opposed to the WNA, is simply not correct and PECO presented evidence that customers will still see the benefits of conservation and energy efficiency efforts with the WNA.<sup>26</sup> Customers who consume less natural gas will still lower their bill, as commodity charges are based on actual usage.<sup>27</sup> Furthermore, the WNA will only adjust a customer's distribution charges for variations in usage from normal weather, so customers who consume less gas during winter months will still see the benefits of conservation and energy efficiency (i.e., they will pay a lower surcharge due to their lower usage).<sup>28</sup> As former Chairman Gladys Brown Dutrieuille explained in her statements accompanying the Commission's respective approvals of WNAs for UGI and Columbia, WNAs continue to maintain incentives for customer conservation:

This decoupling of uncontrollable weather from revenues should stabilize UGI's cashflow, and in turn, allow UGI to focus on

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<sup>23</sup> See OCA Main Br., pp. 23-24; RD, pp. 30 & 91-92. PECO witness Trzaska also explained that PECO's proposed use of 30-year period for weather normalization was appropriate. PECO Reply Br., pp. 10 (discussing lack of material effects from use of a 20-year period and volatility associated with a 10-year period).

<sup>24</sup> *Pa. P.U.C. v. UGI Utils., Inc. – Gas Div.*, Statement of Chairman Gladys Brown Dutrieuille, Docket No. R-2021-3030218 (Sept. 15, 2022).

<sup>25</sup> RD, p. 92.

<sup>26</sup> PECO St. 3, p. 76; PECO St. 3-R, p. 17.

<sup>27</sup> See PECO Main Br., pp. 15-16; PECO Reply Br., p. 6; PECO St. 3, p. 76; PECO St. 3-R, p. 17.

<sup>28</sup> PECO St. 3, p. 76; PECO St. 3-R, p. 17.

operational items within its control, namely infrastructure upgrades and repairs. Further, since this decoupling mechanism is only applied to the distribution component of the bill, and not to the natural gas commodity charge, incentives for efficient consumption are maintained.<sup>29</sup>

Consistent with those decisions, the Commission again rejected arguments that WNAs disincentivize consumption in *Peoples 2024*.<sup>30</sup> In light of the manner in which PECO’s proposed WNA will similarly continue to incentivize reduced consumption and those prior decisions, the Commission should again conclude that PECO’s proposed WNA will not disincentivize customers from reducing their natural gas usage.

### **3. The WNA Will Not Disproportionately Impact Low-Income Customers**

In the RD, the ALJs accepted CAUSE-PA’s contention that the WNA is a “particularized harm” for low-income customers, leading to higher bills, arrearage accruals and risk of termination.<sup>31</sup> Citing OCA testimony, the ALJs also erroneously concluded that “PECO Gas enrolls only a fraction of its low-income customers into the CAP program” and so “any argument that the CAP program protects low-income customers” is negated.<sup>32</sup>

The ALJs’ findings on the impact of the WNA on low-income customers are wrong for several reasons. First and foremost, the ALJs’ characterization of PECO’s CAP enrollment is contrary to detailed evidence presented by PECO witness Jaqueline F. Golden at hearing. Ms. Golden explained that the Commission measures a utility’s CAP participation rate by dividing the number of customers enrolled in CAP at the end of the calendar year by the number of

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<sup>29</sup> *Pa. P.U.C. v. UGI Utils., Inc. – Gas Div.*, Statement of Chairman Gladys Brown Dutrieuille, Docket No. R-2021-3030218 (Sept. 15, 2022); *see also Pa. P.U.C. v. Columbia Gas of Pa., Inc.*, Statement of Chairman Gladys M. Brown, Docket No. R-2018-2647577 (Dec. 6, 2018).

<sup>30</sup> *Peoples 2024*, pp. 88-89 & 93.

<sup>31</sup> RD, pp. 92-93.

<sup>32</sup> RD, p. 93, n. 286.

confirmed low-income customers served by the utility.<sup>33</sup> As shown in PECO Hearing Exhibit No. 2, between 2017 and 2022, PECO’s Gas CAP participation rate ranged from **74.6% to 79.2%**.<sup>34</sup> In each of those years, PECO had the **highest CAP participation rate of all its peer gas utilities**, often exceeding some other utility participation rates by 30 to 50 percent.<sup>35</sup> In the future, PECO will also be using the Department of Human Services (“DHS”) data sharing program to automatically recertify current CAP customers, and committed in the Settlement to convene a stakeholder collaborative to discuss how PECO could implement automatic enrolling of non-CAP Low-Income Home Energy recipients in CAP.<sup>36</sup>

Importantly, once a customer is enrolled in PECO’s CAP, their bill will be based on a set percentage of their income (a “PIPP bill”). Even if weather is warmer-than-normal and a CAP customer’s undiscounted bill increases due to the WNA, the CAP customer would continue to pay the same PIPP bill amount. In sum, PECO’s CAP will protect a large percentage of PECO’s confirmed low-income customers from any potential bill increases due to the WNA.<sup>37</sup>

Second, non-CAP customers will benefit from the WNA through greater bill predictability and protection from larger bills in colder-than-normal months. As explained in Section II.A.4 below, application of the WNA, combined with budget billing, would reduce variability in customer bills due to weather and provide customers with even greater bill stability

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<sup>33</sup> The Commission has explained that “[t]he CAP participation rate would be much lower if the rate reflected estimated low-income customers rather than confirmed low-income customers, as estimated customer numbers based on census data are much higher and less accurate.” See PECO Hearing Exhibit No. 2, p. 2.

<sup>34</sup> While the Commission had not yet reported CAP participation for 2023, PECO calculated a Gas CAP participation rate of 73.7%. See PECO Hearing Exhibit No. 3.

<sup>35</sup> Hearing Tr. 885-886.

<sup>36</sup> See RD, pp. 41, 70-71.

<sup>37</sup> PECO St. 3, pp. 76-77; PECO St. 3-R, p. 20.

than budget billing alone. Further, PECO would only be entitled to earn its Commission-approved revenue requirement under the WNA – even if the weather is colder-than-normal.<sup>38</sup>

Third, as explained in more detail in Section II.A.2 above, customers (including non-CAP low-income customers) will still have the ability to reduce their overall bill through usage reductions if the WNA is implemented. Notably, under the pending partial settlement, PECO has agreed to include an additional \$500,000 in the Gas Low-Income Usage Reduction Program annual budget – which will increase the opportunities for low-income customers to reduce usage and achieve bill savings.<sup>39</sup>

Finally, there is no record evidence that PECO’s proposed WNA would have a greater impact on PECO’s low-income customers than the impact of the respective Commission-approved WNAs of other NGDCs on their low-income customers.<sup>40</sup> Indeed, each of these utilities has a substantially lower CAP participation rate than PECO<sup>41</sup> – meaning that PECO’s confirmed low-income customers are more likely to be protected from purported WNA bill impacts than the confirmed low-income customers of PGW, Columbia, UGI, NFG or Peoples. For all these reasons, the Commission should reject the ALJs’ finding of disproportionate harm to low-income customers.

#### **4. The WNA is Not Confusing and Will Create Better Monthly Billing Predictability Than Budget Billing Alone**

The ALJs also erred in determining that the Company’s WNA is confusing.<sup>42</sup> In support of this conclusion, the ALJs noted that four customers testified during the Company’s seven

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<sup>38</sup> PECO St. 3-R, pp. 19-20; Hearing Tr. 824.

<sup>39</sup> PECO Statement in Support, p. 23.

<sup>40</sup> Further, as noted earlier, in *Peoples 2024* the Commission very recently disagreed with the OCA that the WNA in that case would disproportionately impact low-income customers.

<sup>41</sup> See PECO Hearing Exhibit No. 2. UGI, for example, has achieved CAP participation rates ranging from 23.4% to 31.3% over the last several years.

<sup>42</sup> See RD, p. 90.

public input hearings that the WNA would be confusing and hard to explain (out of 54 people who testified).<sup>43</sup>

Mr. Trzaska explained in detail how the Company will calculate billing adjustments under the WNA, and how the Company's WNA is substantially similar in form and substance to the WNAs in place for the other NGDCs.<sup>44</sup> The WNA will be applied to PECO's residential and non-residential customers receiving service under the Company's GR and GC rate schedules in the months of October through May and will adjust the amount billed to customers to offset the impact of actual heating degree day variations from normal heating degree days.<sup>45</sup> The Company also proposed to incorporate customer protections including utilizing a 1% deadband,<sup>46</sup> implement a cap on May distribution revenues,<sup>47</sup> develop educational materials for customers, and implement a communication and outreach strategy consistent with programs implemented by other utilities after approval of the WNA.<sup>48</sup>

The ALJs, referencing the OCA's statement that 52 Pa. Code § 56.15 requires bills to explain how to verify the accuracy of a bill amount, also note that PECO did not provide a sample bill containing the WNA explaining how the accuracy of the WNA can be calculated.<sup>49</sup> Mr. Trzaska, however, presented the WNA formula in his testimony and explained, in detail, how the WNA will be calculated.<sup>50</sup> The formula was also set forth in PECO's proposed tariff.<sup>51</sup>

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<sup>43</sup> RD, pp. 9, 29, and 83.

<sup>44</sup> *Id.* (noting that the WNAs mostly apply with residential heating customers and certain non-residential heating customers, and utilize a similar calculation).

<sup>45</sup> PECO St. 3, p. 69.

<sup>46</sup> *Id.*

<sup>47</sup> Hearing Tr. 826:22-827:6.

<sup>48</sup> PECO St. 3, p. 70; PECO St. 3-R, pp. 24-25.

<sup>49</sup> RD, pp. 29, 84.

<sup>50</sup> PECO St. 3, p. 71-74.

<sup>51</sup> *See* PECO Exhibit JAB-2.

52 Pa. Code § 56.15 does not require PECO to provide a sample bill in this proceeding; rather, it requires that a bill rendered by a public utility include “a statement that a rate schedule, an explanation of how to verify the accuracy of a bill and an explanation, in plain language of the various charges, if applicable, is available for inspection in the local business office of the public utility and on the public utility’s web site.” There was no evidence presented that PECO does not comply with Commission billing requirements and PECO intends to fully comply with all Commission billing requirements with respect to the WNA. Furthermore, the OCA alleges PECO cannot comply with 52 Pa. Code § 56.15, but offers no reason as to why PECO cannot comply when the other NGDCs with WNAs are able to do so.

Nothing about PECO’s proposed WNA is new to the Commission or customers in the Commonwealth – not the concept of a WNA, the mechanics of how it will work, a deadband, or the concept of capping May distribution revenues. And the Company has affirmatively committed to concrete steps to educate its customers regarding the WNA. In addition, no party has provided any evidence that PECO’s proposed WNA is any more confusing than the Commission-approved WNAs of other NGDCs or that PECO’s customers would be less able to understand the WNA than the customers of those NGDCs.

Finally, the ALJs were also incorrect in concluding that budget billing alone would be better in assisting customers with billing predictability.<sup>52</sup> As Mr. Trzaska noted, the OCA structured its arguments with respect to the WNA and budget billing to create the false impression that the Commission needs to pick one or the other.<sup>53</sup> That is not accurate. The best option for customers in terms of smoothing predictability would be a combination of the WNA

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<sup>52</sup> RD, p. 91.

<sup>53</sup> PECO St. 3-R, p. 19.

and budget billing, since this will provide all customers with greater billing predictability and stability than budget billing alone.<sup>54</sup>

### **5. The WNA Is Proper Alternative Ratemaking Under Section 1330 and Commission Policy**

In the RD, the ALJs concluded that PECO had failed to demonstrate how its proposed WNA satisfied the alternative ratemaking factors set forth by the Commission in its Statement of Policy on Section 1330 alternative distribution rate mechanisms at 52 Pa. Code § 69.3302 without citing specific testimony.<sup>55</sup> In fact, Mr. Trzaska testified at length as to how the Company's WNA comports with each of the Commission's factors,<sup>56</sup> and fully rebutted the contentions of the OCA to the contrary.<sup>57</sup>

The Company also explained that it will implement numerous WNA-related customer protections to benefit customers. The Company proposed to incorporate a 1% deadband to allow for a degree of change in weather without application of the WNA,<sup>58</sup> implement a cap on May distribution revenues under the WNA,<sup>59</sup> and develop WNA educational materials for customers.<sup>60</sup> The Company also agreed: (1) to annual reporting obligations proposed by I&E witness Ethan Cline,<sup>61</sup> and (2) with OSBA witness Mark Ewen to adopt communication and outreach efforts consistent with programs implemented by other utilities after approval of a WNA mechanism. These communication and outreach efforts include (i) notifying customers and providing a bill insert describing the implementation of the WNA and instructions to access

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<sup>54</sup> PECO St. 3-R, pp. 19-20; Hearing Tr. 824:3-20.

<sup>55</sup> RD, p. 31, n. 105 & 106, p. 92, n. 283.

<sup>56</sup> PECO St. 3, pp. 74-79.

<sup>57</sup> PECO St. 3-R, pp. 16-18.

<sup>58</sup> PECO St. 3, p. 79.

<sup>59</sup> Hearing Tr. 826:22-827:6.

<sup>60</sup> PECO St. 3, p. 79; PECO St. 3-R, pp. 24-25.

<sup>61</sup> See I&E St. 3, pp. 6-7; PECO St. 3-R, p. 22.

further information; (ii) availability of “FAQs” (i.e., frequently asked questions) on PECO’s website to educate customers; (iii) providing its CSRs with WNA-specific training; and (iv) monitoring customer feedback and adjusting its customer approach if necessary.<sup>62</sup>

The record also demonstrates that the Company’s WNA is substantially similar to other Commission-approved WNAs of other NGDCs.<sup>63</sup> PECO highlights this fact not, as OCA argued, to claim that PECO is entitled to implement its proposed WNA simply because those NGDCs have WNAs, but because the record in this proceeding demonstrates that (i) PECO proposed its WNA for similar reasons as those NGDCs (which have been affirmatively accepted by the Commission, while the OCA’s arguments against WNAs have been rejected), (ii) PECO’s proposed WNA would function similarly to the WNAs of other NGDCs and would utilize a similar formula, (iii) PECO proposed similar customer protections; and (iv) PECO committed to undertake efforts, consistent with those NGDCs, to educate its customers regarding the WNA.<sup>64</sup>

In the RD, the ALJs appear to have generally not addressed the record evidence regarding these customer protections. With respect to the deadband issue, the ALJs did reference the deadband in its recitation of the parties’ positions (RD, pp. 88-89) but not in the ALJs’ recommendation to the Commission. PECO acknowledges that, in the event the Commission approves the WNA, the Commission may modify the WNA to incorporate I&E’s proposed 3% deadband, and respectfully requests that, if the Commission approves the implementation of PECO’s proposed WNA, the Commission clarify in its Order the approved deadband percentage.

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<sup>62</sup> PECO St. 3-R, p. 24.

<sup>63</sup> PECO St. 3, pp. 68-73.

<sup>64</sup> *Id.*

In rejecting PECO’s proposed WNA, the ALJs concluded that “[c]ontinued use of alternative ratemaking tools begs the question, “Where does it end?”<sup>65</sup> To the extent the ALJs have general concerns regarding the WNA or alternative ratemaking under Section 1330, PECO respectfully believes that the Commission has repeatedly made clear that WNAs are consistent with the Code and Commission policy and PECO’s proposed WNA should therefore be approved.

**B. Exception No. 2: The RD Errs by Recommending That the Bureau of Technical Utility Services “Consider the Efficacy” of a Schedule of Affiliate Transactions**

In opposing the Settlement, IBEW proposed that PECO prepare and provide several additional reports that are not required by the Code or Commission regulations, including an annual “schedule” of PECO’s affiliate transactions.<sup>66</sup> The ALJ rejected each of these requests, but did recommend that TUS consider whether there may be some benefit to the schedule of affiliate transactions requested by IBEW.<sup>67</sup>

The sample schedule provided by IBEW witness Glenn as the type of report IBEW wants PECO to provide is a report by Delmarva Power & Light Company (“DPL”), a PECO affiliate, that DPL filed with the Delaware Public Service Commission (“DE PSC”). The schedule provides a summary of affiliate transactions between DPL and its parent, Exelon, and other Exelon subsidiaries for the year ended 2023. The report on the interactions between DPL and its affiliates is governed by the Cost Allocation Manual and Code of Conduct approved by the DE PSC in Order No. 5469 in PSC Docket No. 99-582.<sup>68</sup> Notably, the Delaware Code of Conduct

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<sup>65</sup> RD, p. 93.

<sup>66</sup> RD, pp. 57-59.

<sup>67</sup> *Id.*, p. 59.

<sup>68</sup> See *In the Matter of the Application of Delmarva Power & Light Co., d/b/a Conectiv Power Delivery, For Approval of a Cost Acctg. Manual and a Code of Conduct*, Docket No. 99-582, 2000 WL 1035896 (Del.P.S.C.), 202 P.U.R. 4<sup>th</sup> 53 (Order No. 5469 June 20, 2000).

requires DPL among other things, to report to the DE PSC, on an annual basis, all affiliated companies, contracts entered into with affiliated companies, transactions undertaken with affiliates without written contract, and data regarding affiliate transaction costs.<sup>69</sup> In short, IBEW is recommending that the Commission require PECO to comply with regulatory requirements related to affiliate transactions and costs adopted by the DE PSC.

PECO's affiliate agreements are already subject to Commission review and approval<sup>70</sup> and PECO's affiliate transactions are periodically audited by the Commission pursuant to Section 516.<sup>71</sup> PECO's affiliate transactions are also subject to review in PECO's base rate cases. In addressing the lack of need for IBEW's proposed schedule in light of existing Pennsylvania requirements, PECO explained that even if the Commission were to consider requiring such a report, any such requirement should be established through a generic, statewide proceeding applicable to all utilities.<sup>72</sup>

In the RD, the ALJs agreed that PECO had "raised a legitimate question: Is this the proper procedure through which to require such a report or should it be established through a proceeding in which it would be determined that the affiliated entities report should be required of all utilities?"<sup>73</sup> Despite the fact that there is no requirement for such a report under Pennsylvania law, the ALJs recommended that TUS "review the efficacy" of IBEW's proposed report,<sup>74</sup> even though no party had asked for such consideration by TUS and therefore the possibility was not able to be addressed in testimony.

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<sup>69</sup> *See id.* at 73.

<sup>70</sup> 66 Pa.C.S. § 2102.

<sup>71</sup> *See, e.g.,* Management and Operations Audit of PECO Energy Company, Docket No. D-2021-3023906 (issued July 2022).

<sup>72</sup> PECO Main Br., p. 35.

<sup>73</sup> RD, p. 59.

<sup>74</sup> RD, p. 93.

The Commission should reject the ALJs' recommendation. As explained above, there is no requirement for any such report under Pennsylvania law, and the Commission already has extensive oversight over the affiliate transactions of Pennsylvania utilities. If the Commission nevertheless believes that additional reporting regarding affiliate transactions similar to those required in Delaware is necessary, that obligation should be established through a generic, statewide proceeding and be applicable to all utilities, and not initiated through a referral to TUS without any ability of other Pennsylvania utilities or stakeholders to address the issue or the scope and nature of TUS' review.

### **III. CONCLUSION**

For the reasons set forth above, the Commission should grant the Company's Exceptions, approve PECO's proposed Weather Normalization Adjustment, reject the ALJs' recommendation that the Bureau of Technical Utility Services "review the efficacy" of a

schedule of affiliate transactions, and adopt the Recommended Decision with the modifications described herein.

Respectfully submitted,



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Anthony E. Gay (Pa. No. 74624)  
Jack R. Garfinkle (Pa. No. 81892)  
Adesola K. Adegbesan (Pa. No. 326242)  
PECO Energy Company  
2301 Market Street  
Philadelphia, PA 19103-8699  
215.841.4220 (bus)  
[anthony.gay@exeloncorp.com](mailto:anthony.gay@exeloncorp.com)  
[jack.garfinkle@exeloncorp.com](mailto:jack.garfinkle@exeloncorp.com)  
[Adesola.adegbesan@exeloncorp.com](mailto:Adesola.adegbesan@exeloncorp.com)

Kenneth M. Kulak (Pa. No. 75509)  
Mark A. Lazaroff (Pa. No. 315407)  
Catherine G. Vasudevan (Pa. No. 210254)  
Brooke E. McGlinn (Pa. No. 204918)  
Morgan, Lewis & Bockius LLP  
2222 Market Street  
Philadelphia, PA 19103-2921  
215.963.5384 (bus)  
[ken.kulak@morganlewis.com](mailto:ken.kulak@morganlewis.com)  
[mark.lazaroff@morganlewis.com](mailto:mark.lazaroff@morganlewis.com)  
[catherine.vasudevan@morganlewis.com](mailto:catherine.vasudevan@morganlewis.com)  
[brooke.mcglinn@morganlewis.com](mailto:brooke.mcglinn@morganlewis.com)

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*Counsel for PECO Energy Company*