Morgan Lewis

Anthony C. DeCusatis
Of Counsel
+1.215.963.5034
anthony.decusatis@morganlewis.com

March 4, 2016

VIA ELECTRONIC MAIL
& FEDERAL EXPRESS

The Honorable Christopher P. Pell
Administrative Law Judge
Pennsylvania Public Utility Commission
801 Market Street, Suite 4063
Philadelphia, PA 19107

The Honorable Darlene D. Heep
Administrative Law Judge
Pennsylvania Public Utility Commission
801 Market Street, Suite 4063
Philadelphia, PA 19107

Re: Petition of PECO Energy Company for Approval to Establish a Distribution System Improvement Charge for Its Gas Operations
Docket No. P-2013-2347340

Dear Judge Pell and Judge Heep:

Enclosed please find the **Joint Petition for Settlement** with accompanying Statements in Support ("Settlement Petition") in the above-captioned matter.

As evidenced by the enclosed Certificate of Service, copies of the Settlement Petition have been served on all parties to this proceeding.

Very truly yours,

Anthony C. DeCusatis

ACD/ap

c: Per Certificate of Service (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

Morgan Lewis

Anthony C. DeCusatis
Of Counsel
+1.215.963.5034
anthony.decusatis@morganlewis.com

March 4, 2016

VIA eFILING

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

Re: Petition of PECO Energy Company for Approval to Establish a Distribution System Improvement Charge for Its Gas Operations
Docket No. P-2013-2347340

Dear Secretary Chiavetta:

Enclosed for filing is the **Joint Petition for Settlement** with accompanying Statements in Support ("Settlement Petition") in the above-captioned matter.

As evidenced by the enclosed Certificate of Service, copies of the Settlement Petition have been served on the presiding Administrative Law Judges and all parties to this proceeding.

Very truly yours,

Anthony C. DeCusatis

ACD/ap

c: Per Certificate of Service (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

PETITION OF PECO ENERGY COMPANY FOR APPROVAL TO ESTABLISH A DISTRIBUTION SYSTEM IMPROVEMENT CHARGE FOR ITS GAS OPERATIONS	:	**DOCKET NO. P-2013-2347340**

CERTIFICATE OF SERVICE

I hereby certify and affirm that I have this day served a copy of the **Joint Petition for Settlement** with accompanying Statements in Support on the following persons in the matter specified in accordance with the requirements of 52 Pa. Code § 1.54:

VIA ELECTRONIC MAIL & FEDERAL EXPRESS

The Honorable Christopher P. Pell
Administrative Law Judge
Pennsylvania Public Utility Commission
801 Market Street, Suite 4063
Philadelphia, PA 19107
cpell@pa.gov

The Honorable Darlene D. Heep
Administrative Law Judge
Pennsylvania Public Utility Commission
801 Market Street, Suite 4063
Philadelphia, PA 19107
dheep@pa.gov

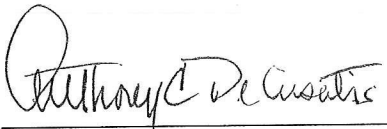
VIA ELECTRONIC MAIL & FIRST CLASS MAIL

Erin L. Gannon
Brandon J. Pierce
Office of Consumer Advocate
Forum Place, 5th Floor
555 Walnut Street
Harrisburg, PA 17101-1923
egannon@paoca.org
bpierce@paoca.org

Elizabeth Rose Triscari
Office of Small Business Advocate
Commerce Building, Suite 202
300 North Second Street
Harrisburg, PA 17101
etriscari@pa.gov

Phillip C. Kirchner
Bureau of Investigation and Enforcement
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120
phikirchner@pa.gov

Charis Mincavage
Adeolu A. Bakare
McNees Wallace & Nurick LLC
P.O. Box 1166
100 Pine Street
Harrisburg, PA 17108-1166
cmincavage@mwn.com
abakare@mwn.com
Counsel for PAIEUG



Romulo L. Diaz, Jr. (Pa. No. 88795)
Jack R. Garfinkle (Pa. No. 81892)
PECO Energy Company
2301 Market Street
P.O. Box 8699
Philadelphia, PA 19101-8699
Phone: 215.841.4608
Fax: 215.568.3389
romulo.diaz@exeloncorp.com
jack.garfinkle@exeloncorp.com

Thomas P. Gadsden (Pa. No. 28478)
Anthony C. DeCusatis (Pa. No. 25700)
Catherine G. Vasudevan (Pa. No. 210254)
Morgan, Lewis & Bockius LLP
1701 Market Street
Philadelphia, PA 19103-2921
Phone: 215.963.5234
Fax: 215.963.5001
thomas.gadsden@morganlewis.com
anthony.decusatis@morganlewis.com
catherine.vasudevan@morganlewis.com

Counsel for PECO Energy Company

Date: March 4, 2016

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PETITION OF PECO ENERGY COMPANY TO ESTABLISH A DISTRIBUTION SYSTEM IMPROVEMENT CHARGE FOR ITS GAS OPERATIONS	:	**DOCKET NO. P-2013-2347340**

JOINT PETITION FOR SETTLEMENT

March 4, 2016

Petition

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PETITION OF PECO ENERGY COMPANY TO ESTABLISH A DISTRIBUTION SYSTEM IMPROVEMENT CHARGE FOR ITS GAS OPERATIONS	:	**DOCKET NO. P-2013-2347340**

JOINT PETITION FOR SETTLEMENT

March 4, 2016

TABLE OF CONTENTS

		Page
I.	BACKGROUND	1
II.	TERMS AND CONDITIONS OF SETTLEMENT	3
III.	THE SETTLEMENT IS IN THE PUBLIC INTEREST	4
IV.	ADDITIONAL TERMS AND CONDITIONS	4

EXHIBITS AND STATEMENTS IN SUPPORT

Exhibit 1	Gas Service Tariff Supplement (clean and redline)
Statement A	Statement in Support of Joint Petition for Settlement of PECO Energy Company
Statement B	Statement in Support of Joint Petition for Settlement of the Bureau of Investigation and Enforcement
Statement C	Statement in Support of Joint Petition for Settlement of the Office of Consumer Advocate
Statement D	Statement in Support of Joint Petition for Settlement of the Office of Small Business Advocate
Statement E	Statement in Support of Joint Petition for Settlement of the Philadelphia Area Industrial Energy Users Group

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PETITION OF PECO ENERGY COMPANY TO ESTABLISH A DISTRIBUTION SYSTEM IMPROVEMENT CHARGE FOR ITS GAS OPERATIONS	:	**DOCKET NO. P-2013-2347340**

JOINT PETITION FOR SETTLEMENT

TO THE HONORABLE CHRISTOPHER P. PELL AND THE HONORABLE DARLENE D. HEEP, ADMINISTRATIVE LAW JUDGES:

PECO Energy Company ("PECO" or the "Company"), the Bureau of Investigation and Enforcement ("I&E"), the Office of Consumer Advocate ("OCA"), the Office of Small Business Advocate ("OSBA"), and the Philadelphia Area Industrial Energy Users Group ("PAIEUG") (collectively, the "Joint Petitioners"), by their respective counsel, submit this Joint Petition for Settlement ("Settlement") in the above-captioned proceeding and request that the Administrative Law Judges approve the Settlement without modification. In support of this Settlement, the Joint Petitioners state as follows:

I. BACKGROUND

1. On March 20, 2015, PECO filed with the Pennsylvania Public Utility Commission (the "Commission") the above-captioned Petition requesting approval to establish a Distribution System Improvement Charge ("DSIC") for its gas operations ("Petition").

2. On March 27, 2015, PAIEUG filed a Petition to Intervene and an Answer. On April 7, 2015, the OCA filed an Answer and Complaint. On April 9, 2015, OSBA filed a Notice of Intervention and Answer.

3. On September 11, 2015, the Commission entered an Opinion and Order in which it concluded (p. 20) as follows:

> Upon review, the Commission finds that the Petition of PECO for a Distribution System Improvement Charge complies with the requirements of Act 11 and our Final Implementation Order. Moreover, the Commission has reviewed the filing and does not find it to be inconsistent with the applicable law or Commission policy. Subject to recoupment and/or refund pending final resolution of the matters referred herein to the OALJ, PECO may elect to implement a DSIC mechanism consistent with this Order on ten days' notice.

4. In the Opinion and Order (p. 21), the Commission identified two issues that it referred to the Office of Administrative Law Judge for the parties to address in on-the-record proceedings and evidentiary hearings, as needed.

> a. If PECO's initial DSIC charge is 0.00% because of an over-earning situation at the time of implementation of the DSIC mechanism, can the Company recover, in its first positive DSIC charge, investment that would have been eligible had the Company not been over the [Return on Equity ("ROE")] threshold?
>
> b. Should PECO be allowed to recover costs for balancing services through distribution charges in its tariff and include balancing charges in the calculation of the 5% cap on costs recovered through the DSIC?

5. This matter was assigned to Administrative Law Judges Christopher P. Pell and Darlene D. Heep (the "ALJs") and a telephonic Prehearing Conference was convened on January 22, 2016. A second Prehearing Conference was scheduled for March 2, 2016 to provide the parties time to explore the possibility of reaching a stipulation or settlement of the issues in this proceeding.

II. TERMS AND CONDITIONS OF SETTLEMENT

6. The Joint Petitioners have agreed to the following Settlement terms and conditions which are reflected, as appropriate, in the Gas Service Tariff Supplement (Exhibit 1) attached to this Joint Petition:

7. For the first quarterly update setting forth a positive DSIC rate subsequent to PECO's initial DSIC charge of zero, the Company will reflect plant additions only from the first month of the quarter that its ROE is below the threshold ROE through a date 30 days before the positive DSIC is to become effective. This term of the Settlement reflects the additional information obtained, and the clarification provided, after the Commission entered its September 11, 2015 Opinion and Order, including the affirmation that: (1) PECO's initial DSIC rate, which became effective on October 1, 2015, was zero; (2) the procedure for determining eligible plant additions to be reflected in the DSIC rate that is described above in this paragraph applies only to the first quarterly update in which PECO proposes to establish a positive DSIC rate subsequent to the initial DSIC rate of zero currently in effect; and (3) the eligible plant additions will reflect accumulated depreciation through the date that is 30 days before the DSIC is to become effective.

8. Revenue from the Balancing Service Cost ("BSC") charges applicable to all Low Volume Customers (*see* PECO Tariff Gas-Pa. P.U.C. No. 2, p. 37) and Balancing Charges to Gas Transportation Service customers receiving service on Rate Schedules TS-I and TS-F (*see* PECO Tariff Gas-Pa. P.U.C. No. 2, p. 54) will not be included in the revenues used to calculate the DSIC charge or in the revenue base on which the 5% cap on the DSIC will be calculated. Upon the Commission's entry of a final order approving this Settlement, PECO will file a tariff supplement in the form attached as Exhibit 1 to implement this change.

III. THE SETTLEMENT IS IN THE PUBLIC INTEREST

9. PECO, I&E, OCA, OSBA, and PAIEUG have prepared, and attached to this Joint Petition, Statements in Support identified as Statements A through E, respectively, setting forth the bases on which they believe the Settlement is in the public interest.

10. The Joint Petitioners submit that the Settlement is in the public interest for the following additional reasons:

- ***Substantial Litigation And Associated Costs Will Be Avoided.*** The Settlement amicably and expeditiously resolves a number of important and contentious issues. The administrative burden and costs to litigate these matters to conclusion would be substantial.
- ***The Settlement Is Consistent With Commission Policies Promoting Negotiated Settlements.*** The Joint Petitioners arrived at the Settlement terms after conducting discovery and engaging in in-depth discussions. The Settlement terms and conditions constitute a carefully crafted package representing reasonable negotiated compromises on the issues addressed herein. Thus, the Settlement is consistent with the Commission's rules and practices encouraging negotiated settlements (see 52 Pa. Code §§ 5.231 and 69.391), and is supported by substantial record evidence.

IV. ADDITIONAL TERMS AND CONDITIONS

11. The Commission's approval of the Settlement shall not be construed as approval of any party's position on any issue, except to the extent required to effectuate the terms and

agreements of the Settlement. Accordingly, this Settlement may not be cited as precedent in any future proceeding, except to the extent required to implement this Settlement.

12. It is understood and agreed among the Joint Petitioners that the Settlement is the result of compromise and does not necessarily represent the position(s) that would be advanced by any party in this or any other proceeding, if it were fully litigated.

13. This Settlement is being presented only in the context of this proceeding in an effort to resolve the proceeding in a manner that is fair and reasonable. This Settlement is presented without prejudice to any position which any of the parties may have advanced and without prejudice to the position any of the parties may advance in the future on the merits of the issues in future proceedings, except to the extent necessary to effectuate the terms and conditions of this Settlement.

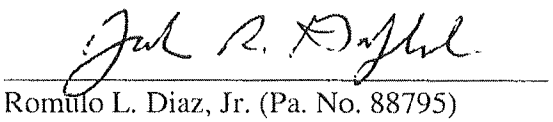
14. This Settlement is conditioned upon the Commission's approval of the terms and conditions contained herein without modification. If the Commission should disapprove the Settlement or modify the terms and conditions herein, this Settlement may be withdrawn upon written notice to the Commission and all active parties within five business days following entry of the Commission's Order by any of the Joint Petitioners and, in such event, shall be of no force and effect. In the event that the Commission disapproves the Settlement or the Company or any other Joint Petitioner elects to withdraw as provided above, the Joint Petitioners reserve their respective rights to fully litigate this case, including but not limited to presentation of witnesses, cross-examination and legal argument through submission of Briefs, Exceptions and Replies to Exceptions.

15. If the ALJs, in their Recommended Decision, recommend that the Settlement be adopted as herein proposed without modification, the Joint Petitioners agree to waive the filing

of Exceptions. However, the Joint Petitioners do not waive their rights to file Exceptions with respect to any modifications to the terms and conditions of this Settlement, or any additional matters proposed by the Administrative Law Judges in their Recommended Decision. The Joint Petitioners also reserve the right to file Replies to any Exceptions that may be filed.

WHEREFORE, the Joint Petitioners, by their respective counsel, respectfully request that the Administrative Law Judges enter a Recommended Decision and the Commission enter an Order approving the Settlement as set forth herein, including all terms and conditions thereof and authorize PECO to file, on one day's notice, a tariff supplement in the form attached hereto as Exhibit 1.

Respectfully submitted,

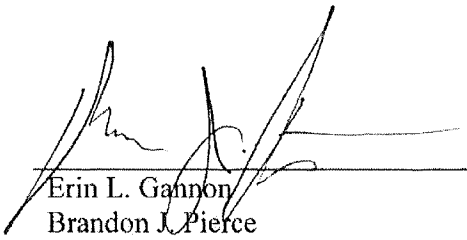


Romulo L. Diaz, Jr. (Pa. No. 88795)
Jack R. Garfinkle (Pa. No. 81892)
PECO Energy Company
2301 Market Street
P.O. Box 8699
Philadelphia, PA 19101-8699
Phone: 215.841.4608
Fax: 215.568.3389
romulo.diaz@exeloncorp.com
jack.garfinkle@exeloncorp.com

Thomas P. Gadsden (Pa. No. 28478)
Anthony C. DeCusatis (Pa. No. 25700)
Catherine G. Vasudevan (Pa. No. 210254)
Morgan, Lewis & Bockius LLP
1701 Market Street
Philadelphia, PA 19103-2921
Phone: 215.963.5234
Fax: 215.963.5001
tgadsden@morganlewis.com
adecusatis@morganlewis.com
cvasudevan@morganlewis.com

Dated: March 4, 2016

Counsel for PECO Energy Company



Erin L. Gannon
Brandon J. Pierce
Office of Consumer Advocate

Counsel for the Office of Consumer Advocate

Elizabeth R. Triscari
Office of Small Business Advocate

Counsel for the Office of Small Business Advocate

Phillip C. Kirchner
Bureau of Investigation and Enforcement
Pennsylvania Public Utility Commission

Counsel for the Bureau of Investigation and Enforcement

Charis Mincavage
Adeolu A. Bakare
McNees Wallace & Nurick LLC

Counsel for Philadelphia Area Industrial Energy Users Group

Erin L. Gannon
Brandon J. Pierce
Office of Consumer Advocate

Counsel for the Office of Consumer Advocate

Elizabeth R. Triscari
Office of Small Business Advocate

Counsel for the Office of Small Business Advocate

Phillip C. Kirchner
Bureau of Investigation and Enforcement
Pennsylvania Public Utility Commission

Counsel for the Bureau of Investigation and Enforcement

Charis Mincavage
Adeolu A. Bakare
McNees Wallace & Nurick LLC

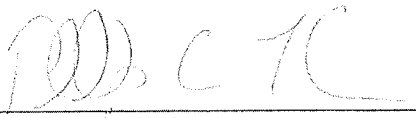
Counsel for Philadelphia Area Industrial Energy Users Group

Erin L. Gannon
Brandon J. Pierce
Office of Consumer Advocate

Counsel for the Office of Consumer Advocate

Elizabeth R. Triscari
Office of Small Business Advocate

Counsel for the Office of Small Business Advocate



Phillip C. Kirchner
Bureau of Investigation and Enforcement
Pennsylvania Public Utility Commission

Counsel for the Bureau of Investigation and Enforcement

Charis Mincavage
Adeolu A. Bakare
McNees Wallace & Nurick LLC

Counsel for Philadelphia Area Industrial Energy Users Group

Erin L. Gannon
Brandon J. Pierce
Office of Consumer Advocate

Counsel for the Office of Consumer Advocate

Elizabeth R. Triscari
Office of Small Business Advocate

Counsel for the Office of Small Business Advocate

Phillip C. Kirchner
Bureau of Investigation and Enforcement
Pennsylvania Public Utility Commission

Counsel for the Bureau of Investigation and Enforcement

Charis Mincavage
Adeolu A. Bakare
McNees Wallace & Nurick LLC

Counsel for Philadelphia Area Industrial Energy Users Group

Exhibit 1

PECO Exhibit No. 1 – Supplement No. xx to PECO Tariff Gas – Pa. PUC No. 2 (the DSIC Tariff)

PECO ENERGY COMPANY

GAS SERVICE TARIFF

COMPANY OFFICE LOCATION

2301 Market Street

Philadelphia, Pennsylvania 19101

For List of Communities Served, See Page 2.

Issued XXXX X, 2015

Effective October 1, 2015

ISSUED BY: C. L. Adams - President & CEO
PECO Energy Distribution Company
2301 MARKET STREET
PHILADELPHIA, PA. 19101

NOTICE.

TABLE OF CONTENTS

Index of Communities Served ..... 2[2]
How to Use Loose-Leaf Tariff 3
Definition of Terms and Explanation of Abbreviations ..... 4[4]
RULES AND REGULATIONS:
1. The Gas Service Tariff ..... 7[2]
2. Service Specifications. 8
3. Customer's Installation ..... 9[4]
4. Application for Service 10
5. Credit. ..... 11[4]
6. Service-Supply Facilities ..... 12[5]
7. Extensions. ..... 12[5]
8. Rights-of-Way 13
9. Introduction of Service. 13
10. Company Equipment ..... 14[4]
11. Tariff Options on Applications for Service ..... 15[2]
12. Service Continuity. ..... 16[1]
13. Customer's Use of Service. 21
14. Measurement 21
15. Tests. 22
16. Payment Terms ..... 23[5]
17. Termination by the Company ..... 25[3]
18. Unfulfilled Contracts ..... 25[23]
19. Cancellation by Customer. 26
20. General 26
21. Gas Choice Program Enrollment and/or Switching ..... 27[1]
22. Usage Data ..... 27[1]
23. Affiliated Marketer Standards of Conduct 28
24. Requests for Energy Efficiency Information ..... 31[2]
25. Creditworthiness of Natural Gas Supplier (NGS) Serving High Volume Transportation Customers ..... 31[2]
STATE TAX ADJUSTMENT CLAUSE ..... 32[20]
UNIVERSAL SERVICE COST RECOVERY MECHANISM ..... 33[13]
SALES SERVICE COSTS - ("SSC") Section 1307(f) ..... 34[60]
GAS PROCUREMENT CHARGE ..... 36A[9]
BALANCING SERVICE COSTS ("BSC") ..... 37[60]
MIGRATION RIDER ..... 39[1]
TRANSITION SURCHARGE - SECTION 1307 (a) ..... 40[12]
CONSUMER EDUCATION CHARGE (CEC) ..... 40A[2]
DISTRIBUTION SYSTEM IMPROVEMENT CHARGE (DSIC) 40B-40G
RATES:
Rate GR General Service - Residential ..... 41[20]
Rate CAP Customer Assistance Program ..... 42[3]
Rate GC General Service - Commercial and Industrial. ..... 43[11]
Rate OL Outdoor Lighting. ..... 44[7]
Rate L Large High Load Factor Service ..... 45[16]
Rate MV-F Motor Vehicle Service-Firm ..... 46[11]
Rate MV-I Motor Vehicle Service-Interruptible ..... 47[4]
Rate IS Interruptible Service. 49
Rate TCS Temperature Controlled Service. ..... 51[5]
Gas Transportation Service - General Terms and Conditions ..... 53[9]
Rate TS-I Gas Transportation Service - Interruptible ..... 58[6]
Rate TS-F Gas Transportation Service-Firm ..... 59[6]
Rate CGS - City Gate Sales Service ..... 60[32]
Rate NGS – Negotiated Gas Service ..... 61A[1], 61B[1]
RIDERS:
Applicability Index of Riders ..... 62[2]
Casualty Rider 63
Construction Rider 63
Excess Off-Peak Use Rider ..... 64[6]
Receivership Rider. 65
Temporary Service Rider 65
Customer Assistance Program (CAP) Rider ..... 66[26], 67[1]

LIST OF CHANGES MADE BY THIS SUPPLEMENT

DISTRIBUTION SYSTEM IMPROVEMENT CHARGE (DSIC) - Original Pages No. 40B - 40G
Adding this rider in accordance with the Commission Order at Docket No. - P-2013-2347340.

DISTRIBUTION SYSTEM IMPROVEMENT CHARGE (DSIC)

In addition to the net charges provided for in this Tariff, a charge of 0.XX% will apply consistent with the Commission Order dated XXXX at Docket No. - P-2013-2347340, approving the DSIC.

DISTRIBUTION SYSTEM IMPROVEMENT CHARGE (DSIC) (CONTINUED)

1. **General Description**

A. Purpose: To recover the reasonable and prudent costs incurred to repair, improve, or replace eligible property which is completed and placed in service and recorded in the individual accounts, as noted below, between base rate cases and to provide the Company with the resources to accelerate the replacement of aging infrastructure, to comply with evolving regulatory requirements and to develop and implement solutions to regional supply problems.

The costs of extending facilities to serve new customers are not included for recovery in the DSIC.

B. Eligible Property: The DSIC-eligible property will consist of the following:

piping (account 376);
Couplings (account 376);
Gas services lines (account 380) and insulated and non-insulated fittings (account 378);
Valves (account 376);
Excess flow valves (account 376);
Risers (account 376);
Meter bars (account 382);
Meters (account 381);
Unreimbursed costs related to highway relocation projects where a natural gas distribution company or city natural gas distribution operation must relocate its facilities; and
Other related capitalized costs.

C. **Effective Date:** The DSIC will become effective October 1, 2015.

DISTRIBUTION SYSTEM IMPROVEMENT CHARGE (DSIC) (CONTINUED)

2. Computation of the DSIC

A. Calculation: The initial DSIC, effective October 1, 2015, shall be calculated to recover the fixed costs of eligible plant additions that have not previously been reflected in the Company's rates or rate base and will have been placed in service between June 1, 2015 and August 31, 2015. Thereafter, the DSIC will be updated on a quarterly basis to reflect eligible plant additions placed in service during the three-month periods ending one month prior to the effective date of each DSIC update. Thus, changes in the DSIC rate will occur as follows:

Effective Date of Change	Date to which DSIC Eligible Plant Additions Reflected
January 1	September - November
April 1	December - February
July 1	March - May
October 1	June - August

B. Determination of Fixed Costs: The fixed costs of eligible distribution system improvements projects will consist of depreciation and pre-tax return, calculated as follows:

1. Depreciation: The depreciation expense shall be calculated by applying the annual accrual rates employed in the Company's most recent base rate case for the plant accounts in which each retirement unit of DSIC-eligible property is recorded to the original cost of DSIC-eligible property.

2. Pre-tax return: The pre-tax return shall be calculated using the statutory state and federal income tax rates, the Company's actual capital structure and actual cost rates for long-term debt and preferred stock as of the last day for the three-month period ending one month prior to the effective date of the DSIC and subsequent updates. The cost of equity will be the equity return rate approved in the Company's last fully litigated base rate proceeding for which a final order was entered not more than two years prior to the effective date of the DSIC. If more than two years shall have elapsed between the entry of such a final order and the effective date of the DSIC, then the equity return rate used in the calculation will be the equity return rate calculated by the Commission in the most recent Quarterly Report on the Earnings of Jurisdictional Utilities released by the Commission.

DISTRIBUTION SYSTEM IMPROVEMENT CHARGE (DSIC) (CONTINUED)

C. Application of DSIC: The DSIC will be expressed as a percentage carried to two decimal places and will be applied to the total amount billed to each customer for distribution service and the State Tax Adjustment Surcharge (STAS). To calculate the DSIC, one-fourth of the annual fixed costs associated with all property eligible for cost recovery under the DSIC will be divided by the Company's projected revenue for distribution service (including all applicable clauses and riders) for the quarterly period during which the charge will be collected, exclusive of the STAS.

D. Formula: The formula for calculation of the DSIC is as follows:

$$DSIC = \frac{(DSI * PTRR)+Dep+e}{PQR}$$

Where:

DSI = Original cost of eligible distribution system improvement projects net of accrued depreciation.

PTRR = Pre-tax return rate applicable to DSIC eligible property.

Dep = Depreciation expense related to DSIC-eligible property.

e = Amount calculated under the annual reconciliation feature or Commission audit, as described below.

PQR = Projected quarterly revenues for distribution service (including all applicable clauses and riders) from existing customers plus netted revenue from any customers which will be gained or lost by the beginning of the applicable service period.

Revenue shall be based on one fourth of the projected annual revenue.

DISTRIBUTION SYSTEM IMPROVEMENT CHARGE (DSIC) (CONTINUED)

3. **Quarterly Updates.** Supporting data for each quarterly update will be filed with the Commission and served upon the Commission's Bureau of Investigation and Enforcement, the Office of Consumer Advocate, and the Office of Small Business Advocate at least ten (10) days prior to the effective date of the update.

4. **Customer Safeguards**

A. Cap: The DSIC is capped at 5.0% of the amount billed to customers for distribution service (including all applicable clauses and riders) as determined on an annualized basis.

B. Audit/Reconciliation: The DSIC is subject to audit at intervals determined by the Commission. Any cost determined by the Commission not to comply with any provision of 66 Pa C.S. §§ 1350, *et seq.*, shall be credited to customer accounts. The DSIC is subject to annual reconciliation based on a reconciliation period consisting of the twelve months ending December 31 of each year. The revenue received under the DSIC for the reconciliation period will be compared to the Company's eligible costs for that period. The difference between revenue and costs will be recouped or refunded, as appropriate, in accordance with Section 1307(e), over a one-year period commencing on April 1 of each year. If DSIC revenues exceed DSIC-eligible costs, such over-collections will be refunded with interest. Interest on over-collections and credits will be calculated at the residential mortgage lending specified by the Secretary of Banking in accordance with the Loan Interest and Protection Law (41 P.S. §§ 101, *et seq.*) and will be refunded in the same amount as an over-collection.

C. New Base Rates: The DSIC will be reset at zero upon application of new base rates to customer billings that provide for prospective recovery of the annual costs that had previously been recovered under the DSIC. Thereafter, only the fixed costs of new eligible plant additions that have not previously been reflected in the Company's rates or rate base will be reflected in the quarterly updates of the DSIC.

D. Customer Notice: Customers shall be notified of changes in the DSIC by including appropriate information on the first bill they receive following any change. An explanatory bill insert shall also be included with the first billing.

E. All customer classes: The DSIC shall be applied equally to all customer classes.

DISTRIBUTION SYSTEM IMPROVEMENT CHARGE (DSIC) (CONTINUED)

F. Earning Reports: The DSIC will also be reset at zero if, in any quarter, data filed with the Commission in the Company's then most recent Annual or Quarterly Earnings reports show that the Company would earn a rate of return that would exceed the allowable rate of return used to calculate its fixed costs under the DSIC as described in the pre-tax return section.

Statement A

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PETITION OF PECO ENERGY COMPANY TO ESTABLISH A DISTRIBUTION SYSTEM IMPROVEMENT CHARGE FOR ITS GAS OPERATIONS	:	**DOCKET NO. P-2013-2347340**

STATEMENT OF PECO ENERGY COMPANY IN SUPPORT OF THE JOINT PETITION FOR SETTLEMENT

March 4, 2016

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PETITION OF PECO ENERGY COMPANY TO ESTABLISH A DISTRIBUTION SYSTEM IMPROVEMENT CHARGE FOR ITS GAS OPERATIONS	:	**DOCKET NO. P-2013-2347340**

STATEMENT OF PECO ENERGY COMPANY IN SUPPORT OF THE JOINT PETITION FOR SETTLEMENT

TO THE HONORABLE CHRISTOPHER P. PELL AND THE HONORABLE DARLENE D. HEEP, ADMINISTRATIVE LAW JUDGES:

I. INTRODUCTION

PECO Energy Company ("PECO" or the "Company") submits this Statement in Support with respect to the Joint Petition for Settlement (Joint Petition) entered into by and among the following Joint Petitioners:

Bureau of Investigation and Enforcement ("I&E")

Office of Consumer Advocate ("OCA")

Office of Small Business Advocate ("OSBA")

Philadelphia Area Industrial Energy Users Group ("PAIEUG") (collectively, the "Joint Petitioners")

If the settlement set forth in the Joint Petition ("Settlement") is approved, it will resolve in a reasonable fashion the two narrow issues that the Pennsylvania Public Utility Commission ("PUC" or the "Commission") assigned to the Office of Administrative Law Judge ("OALJ") in its Opinion and Order entered September 11, 2015. In that Order, the Commission concluded that "the Petition of PECO for a Distribution System Improvement Charge complies with the

requirements of Act 11 and our Final Implementation Order" and authorized PECO to implement a Distribution System Improvement Charge ("DSIC") with an initial rate of zero subject to the resolution of the issues that it articulated as follows:

> a. If PECO's initial DSIC charge is 0.00% because of an over-earning situation at the time of implementation of the DSIC mechanism, can the Company recover, in its first positive DSIC charge, investment that would have been eligible had the Company not been over the [Return on Equity ("ROE")] threshold?
>
> b. Should PECO be allowed to recover costs for balancing services through distribution charges in its tariff and include balancing charges in the calculation of the 5% cap on costs recovered through the DSIC?

Following the Commission's assignment of this matter to the Administrative Law Judges and the submission of Prehearing Memoranda, a telephonic Prehearing Conference was convened on January 22, 2016. A second Prehearing Conference was scheduled for March 2, 2016 to provide the parties time to explore the possibility of reaching a stipulation or settlement of the issues in this proceeding. As previously explained, the Joint Petitioners have reached the Settlement, which provides a reasonable resolution of the two issues identified in the Commission's Order.

II. SUMMARY AND OVERVIEW OF SETTLEMENT TERMS

With respect to the first issue identified by the Commission, the Joint Petitioners have reached agreement on the level of eligible property that PECO should be authorized to include in calculating a positive DSIC rate in the first quarterly DSIC update after it is no longer earning a return on equity that is above the ceiling for the DSIC, which provides, as follows:

> For the first quarterly update setting forth a positive DSIC rate subsequent to PECO's initial DSIC charge of zero, the Company will reflect plant additions only from the first month of the quarter that its ROE is below the threshold ROE through a date 30 days before the DSIC is to become effective.

Joint Petition ¶ 7.

The same term of the Joint Petition explains how the parties reach agreement on this term and why it is reasonable:

> This term of the Settlement reflects the additional information obtained, and the clarification provided, after the Commission entered its September 11, 2015 Opinion and Order, including the affirmation that: (1) PECO's initial DSIC rate, which became effective on October 1, 2015, was zero; (2) the procedure for determining eligible plant additions to be reflected in the DSIC rate that is described above in this paragraph applies only to the first quarterly update in which PECO proposes to establish a positive DSIC rate subsequent to the initial DSIC rate of zero currently in effect; and (3) the eligible plant additions will reflect accumulated depreciation through the date that is 30 days before the DSIC is to become effective.

Joint Petition ¶ 7.

The resolution of the first issue on the terms set forth in the Joint Petition would permit the Company, after emerging from an overearnings period, to include in the calculation of its first positive DSIC rate eligible plant additions for a retrospective period that is not as long as that proposed by the Commission itself in its Tentative Supplemental Implementation Order entered November 5, 2015 ("Supplemental Implementation Order"), which provides, at page 14, as follows:

> The Commission proposes that the utility should be permitted to recover the current fixed costs of all eligible property after a successive overearnings period ceases. *DSIC recovery for quarters subsequent to the period of overearnings may include the cumulative cost impact of DSIC eligible costs since the last base rate case.* However, there would be no recovery through the

> 1307(e) reconciliation process of the otherwise DSIC eligible costs that were incurred during the period the utility experienced overearnings. (Emphasis added.)

As explained above, the Settlement provides that, after emerging from an overearnings period, the eligible property PECO would include in its DSIC will be based solely on the investment in eligible plant placed in service only since the first month of the quarter that its return on equity is below the threshold return on equity through a date 30-days before the DSIC is to become effective.[1]

As to the second issue, PECO has agreed as part of the Settlement to eliminate from DSIC revenue and from the revenue base used to calculate the DSIC "cap" all of the Balancing Service Cost and Balancing Charges set forth in its gas service tariff. Accordingly, that term provides as follows:

> Revenue from the Balancing Service Cost ("BSC") charges applicable to all Low Volume Customers (*see* PECO Tariff Gas-Pa. P.U.C. No. 2, p. 37) and Balancing Charges to Gas Transportation Service customers receiving service on Rate Schedules TS-I and TS-F (*see* PECO Tariff Gas-Pa. P.U.C. No. 2, p. 54) will not be included in the revenues used to calculate the DSIC charge or in the revenue base on which the 5% cap on the DSIC will be calculated. Upon the Commission's entry of a final order approving this Settlement, PECO will file a tariff supplement in the form attached as Exhibit 1 to implement this change.

The term of the Settlement set forth above directly addresses, and eliminates, the concern expressed by the Commission in its September 11, 2015 Order (p. 15) that "[b]alancing charges may be more appropriately characterized as Purchased Gas Cost (PGC) related supply costs."

---

[1] As noted in PECO's Prehearing Memorandum, PECO reserves the right to file a tariff supplement to adopt the methodology for calculating its DSIC rate after emerging from an overearnings period that the Commission may approve upon its final consideration and determination upon the issues set forth in the Supplemental Implementation Order.

III. THE SETTLEMENT IS IN THE PUBLIC INTEREST

The resolution of the two narrow issues referred to the Administrative Law Judges and addressed by the Joint Petitioners was reached after careful consideration by the Joint Petitioners of the Commission's concerns, the relevant authorities and the additional clarifying information developed after the issuance of the September 10, 2015 Order through a technical/settlement conference and other exchanges among the parties. The Settlement is a reasonable resolution of the issues identified by the Commission and, therefore, is in the public interest.[2] The Settlement is in the public interest for the following additional reasons:

- ***Substantial Litigation And Associated Costs Will Be Avoided***. The Settlement amicably and expeditiously resolves a number of important and contentious issues. The administrative burden and costs to litigate these matters to conclusion would be substantial.[3]
- ***The Settlement Is Consistent With Commission Policies Promoting Negotiated Settlements***. The Settlement terms and conditions constitute a carefully considered package representing negotiated positions designed to achieve an outcome that is lawful, reasonable and addresses fully the concerns expressed in the September 11, 2015 Order. Thus, the Settlement is consistent with the Commission's rules and practices

---

[2] The Commission has held that, to approve a settlement, it must determine that the proposed terms and conditions, viewed in the context of the settlement as a whole, are in the public interest. *See Pa. P.U.C. v. CS Water & Sewer Assoc.*, 74 Pa. P.U.C. 767, 771 (1991); *Pa. P.U.C. v. Philadelphia Electric Co.*, 60 Pa. P.U.C. 1, 22 (1985)

[3] *See Pa. P.U.C. v. PECO Energy Co.*, Docket No. R-2010-2161575 (Recommended Decision issued November 2, 2010), p. 12 (Settlements lessen the time and expense the parties must expend litigating a case and at the same time conserve administrative hearing resources. The Commission has indicated that settlement results are often preferable to those achieved at the conclusion of a fully litigated proceeding. 52 Pa. Code § 69.401." The Recommended Decision was approved and adopted by the Commission in its final order entered December 21, 2010.

encouraging negotiated settlements (*see* 52 Pa. Code §§ 5.231 and 69.391), and is supported by substantial record evidence.

IV. CONCLUSION

For all the foregoing reasons, the Settlement set forth in the Joint Petition should be approved by the Administrative Law Judges and the Commission and PECO should be authorized to file, on one day's notice, a tariff supplement in the form attached as Exhibit 1 to the Joint Petition to implement the terms of the Settlement.

Respectfully submitted,

Romulo L. Diaz, Jr. (Pa. No. 88795)
Jack R. Garfinkle (Pa. No. 81892)
PECO Energy Company
2301 Market Street
P.O. Box 8699
Philadelphia, PA 19101-8699
Phone: 215.841.4608
Fax: 215.568.3389
romulo.diaz@exeloncorp.com
jack.garfinkle@exeloncorp.com

Thomas P. Gadsden (Pa. No. 28478)
Anthony C. DeCusatis (Pa. No. 25700)
Catherine G. Vasudevan (Pa. No. 210254)
Morgan, Lewis & Bockius LLP
1701 Market Street
Philadelphia, PA 19103-2921
Phone: 215.963.5234
Fax: 215.963.5001
tgadsden@morganlewis.com
adecusatis@morganlewis.com
cvasudevan@morganlewis.com

Counsel for PECO Energy Company

Dated: March 4, 2016

Statement B

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission	:	
	:	
v.	:	Docket No. P-2013-2347340
	:	
PECO Energy Company	:	

BUREAU OF INVESTIGATION AND ENFORCEMENT
STATEMENT IN SUPPORT OF JOINT PETITION FOR SETTLEMENT

TO ADMINISTRATIVE LAW JUDGES PELL AND HEEP:

The Bureau of Investigation and Enforcement ("I&E") of the Pennsylvania Public Utility Commission ("Commission"), by and through its Prosecutor, Phillip C. Kirchner, hereby submits that the terms and conditions of the foregoing *Joint Petition for Settlement* ("Joint Petition" or "Settlement") are in the public interest and represent a fair, just, reasonable and equitable balance of the interest of PECO Energy Company ("PECO") and its customers. In support of this position, I&E respectfully avers the following:

I. INTRODUCTION

1. I&E is charged with the representation of the public interest in proceedings relating to rates, rate-related services, and application proceedings affecting the public interest held before the Commission. "The prime determinant in the consideration of a

proposed Settlement is whether or not it is in the public interest."[1] Accordingly, it is incumbent upon I&E to ensure that the public interest is served in all matters before the Commission. The request for approval of this Joint Petition is founded on I&E's conclusion that the Settlement meets all the legal and regulatory standards necessary for approval and that the proposed settlement is in the public interest.

2. On March 20, 2015, PECO filed its Petition of PECO Energy Company to Establish a Distribution System Improvement Charge for Its Gas Operations.

3. The Philadelphia Area Industrial Energy Users Group (PAIEUG) filed a petition to intervene on March 27, 2015.

4. The Office of Consumer advocate filed an answer and complaint on this matter on April 7, 2015.

5. The Office of Small Business Advocate filed a notice of intervention and answer on April 9, 2015.

6. On September 11, 2015, the Commission entered an Opinion and Order referring two issues to the Office of Administrative Law Judge for the parties to address via on-the-record proceedings. The two issues put before this court are:

a. If PECO's initial DSIC charge is 0.00% because of an over-earning situation at the time of implementation of the DSIC mechanism, can the Company recover, in its first positive DSIC charge, investment that would have been eligible had the Company not been over the [Return on Equity ("ROE")] threshold?

[1] *Pennsylvania Public Utility Commission v. Philadelphia Electric Company*, 60 PA PUC 1, 22 (1985).

b. Should PECO be allowed to recover costs for balancing services through distribution charges in its tariff and include balancing charges in the calculation of the 5% cap on costs recovered through the DSIC?

7. On January 22, 2016, a prehearing conference was held and a second prehearing conference was scheduled for March 2, 2016 to allow the parties the opportunity to discuss settlement or stipulation.

8. In accordance with the Commission's policy favoring settlements over costly and time consuming litigation[2], a full and complete settlement of all issues was achieved in this matter and is hereby respectfully submitted to Judges Pell and Heep.

9. On February 23, 2016 the parties informed Judges Pell and Heep that a settlement in principle had been reached on all issues, resulting in a suspension of the pending Prehearing Conference.

9. I&E now affirms that the proposed Settlement is in the public interest and should be approved by the ALJ and adopted by the Commission.

II. ANALYSIS

10. Prior to agreeing to the terms presented in the Joint Petition, I&E conducted a thorough review of the filings and relevant legislation. Based on this review, I&E is satisfied that the Settlement does not violate any regulatory standards and contains adequate protections for ratepayers.

[2] 52 Pa. Code §5.231.

11. The parties mutual understanding, as reflected in the joint petition, is that "the procedure for determining eligible plant additions to be reflected in the DSIC rate that is described above in this paragraph applies only to the first quarterly update in which PECO proposes to establish a positive DSIC rate subsequent to the initial DSIC rate of zero currently in effect."[3]

12. I&E maintains that this calculation methodology is just, reasonable and not in contravention to 66 Pa.C.S. §§ 1353 & 1357-8 (addressing DSIC generally and computation of DSIC), which warrants its approval.

13. Through this agreement, the parties mutually agree that Balancing Service Cost charges shall not be included in the revenue total used to calculate DSIC charges.[4]

14. This term protects ratepayers from higher payments by delineating that PECO's Balancing Charges will not be in the revenue base used to calculate PECO's DSIC, thereby lowering the DSIC charge that customers will pay.

III. CONCLUSION

15. Based upon I&E's analysis of the filing, acceptance of this proposed Settlement is in the public interest because the provisions adequately protect the interests of all affected parties including the signatories to this Settlement Agreement.

WHEREFORE, the Commission's Bureau of Investigation and Enforcement, by and through undersigned Prosecutor, avers that it supports the *Joint Petition for Settlement*

---

[3] Joint Statement - Paragraph 7

[4] Joint Statement – Paragraph 8

as being in the public interest and respectfully requests that Administrative Law Judges Pell and Heep recommend, and the Commission subsequently approve, the foregoing Settlement, including all terms and conditions contained therein.

Respectfully Submitted,

Phillip C. Kirchner
Prosecutor
PA Attorney I.D. #313870

Bureau of Investigation and Enforcement
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265
(717) 787-1976

Dated March 3, 2016

Statement C

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of PECO Energy Company for Approval to Establish a Distribution System Improvement Charge for its Gas Operations	: : :	P-2013-2347340

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

The Office of Consumer Advocate (OCA), one of the signatory parties to the Joint Petition for Settlement (Joint Petition or Settlement) in the above-captioned Distribution System Improvement Charge (DSIC) proceeding, respectfully requests that the terms and conditions of the Settlement be approved by the Pennsylvania Public Utility Commission (Commission). This request is based upon the OCA's finding that the proposed Settlement is in the public interest and is in the interest of the customers of PECO Energy Company (PECO or the Company).

I. INTRODUCTION AND HISTORY OF THE PROCEEDING

On February 8, 2013, PECO filed a Long Term Infrastructure Improvement Plan (LTIIP) for its gas operations pursuant to Section 1352 of the Public Utility Code, 66 Pa. C.S. § 1352. The LTIIP was approved by Order entered May 9, 2013. On February 4, 2015, PECO filed a Petition to modify its LTIIP, which was approved by Commission Order entered May 7, 2015.

On March 20, 2015, pursuant to Section 1353 of the Public Utility Code, 66 Pa. C.S. § 1353, PECO filed a Petition for Approval to establish a Distribution System Improvement Charge (DSIC) for its gas operations. On March 27, 2015, the Philadelphia Area Industrial

Energy Users Group filed a Petition to Intervene and an Answer to PECO's Petition. On April 7, 2015, the OCA filed a Public Statement, an Answer, and a Formal Complaint to PECO's Petition. The OCA's Answer identified several preliminary concerns with the calculation of PECO's initial positive DSIC charge.

On April 9, 2015, the Office of Small Business Advocate filed a Notice of Intervention, Public Statement, and Answer to PECO's Petition. The Bureau of Investigation and Enforcement filed a Notice of Appearance on January 20, 2016.

By Order entered September 3, 2015 (the September 3 Order), the Commission approved the Company's proposed DSIC, subject to recoupment and/or refund pending final resolution of certain issues raised in the parties' Petitions and Answers.[1] The Commission referred two issues to the Office of Administrative Law Judge for disposition, as set forth herein:

1. If PECO's initial DSIC charge is 0.00% because of an over-earning situation at the time of implementation of the DSIC mechanism, can the Company recover, in its first positive DSIC charge, investment that would have been eligible had the Company not been over the ROE threshold?

2. Should PECO be allowed to recover costs for balancing services through distribution charges in its tariff and include balancing charges in the calculation of the 5% cap on costs recovered through the DSIC?

An initial Prehearing Conference before Administrative Law Judges (ALJs) Christopher P. Pell and Darlene Heep was held on January 22, 2016. On January 28, 2016, the ALJs issued a Prehearing Order that consolidated the OCA's Formal Complaint with this docket. The ALJs also scheduled a further prehearing conference on March 2, 2016 to provide the parties time to explore settlement in the interim. The Parties participated in settlement discussions and reached a comprehensive settlement. The second Prehearing was cancelled following notice by the Joint Petitioners that the proposed Settlement would be filed by March 4, 2016.

[1] The September 3, 2015 Order did not address the OCA's Formal Complaint, which was assigned Docket No. C-2015-2475764.

The OCA submits this Statement in Support to provide its views on why the Settlement, taken as a whole, is in the public interest and in the interests of PECO's ratepayers.

II. TERMS AND CONDITIONS OF THE JOINT SETTLEMENT AGREEMENT

The following terms of the proposed Settlement address the concerns raised by the OCA:

PECO's First Positive DSIC (Settlement ¶ 7)

The Company, it its Petition, stated that it was seeking an October 1, 2015 effective date for its DSIC and it expected that it would not be able to charge a positive DSIC at that time because its projected return on equity would exceed the statutory threshold for DSIC recovery. PECO St. No. 1 at 8-9; see also 66 Pa. C.S. § 1358(b)(3). The OCA raised two concerns with the Company's proposed calculation of its first positive DSIC.

The first is that the Company's sample DSIC calculation (Exhibit ABC-4) includes plant placed in service in April and May in a DSIC charge effective October 1. Act 11 limits DSIC recovery to eligible plant placed in service in the three months ending one month prior to the effective date of the DSIC rate, *i.e.* a DSIC rate effective October 1 should recover eligible plant placed in service in June, July and August (only). 66 Pa. C.S. §6 Pa. C.S. § 1357(a)(ii); OCA Answer at 5. The Settlement affirms that the Company's October 1 DSIC was zero and, thus, there was no improper recovery for that quarter. Settlement ¶ 7. For subsequent quarterly updates, PECO's proposed DSIC tariff limits DSIC recovery to the fixed costs of eligible plant additions placed in service during the three-month periods ending one month prior to the effective date of each DSIC update. DSIC Tariff, Section 2.A. This correctly limits recovery to three months of plant additions, consistent with Section 1357(a)(ii).

The OCA's second concern is what period of plant additions will be included in PECO's first positive DSIC. OCA Answer at 6. This is an issue particular to PECO because the

Company's initial DSIC became effective while it was overearning for DSIC purposes, *i.e.* PECO has never charged a positive DSIC. To address this unique situation, the Settlement provides that the Company's first positive DSIC will reflect plant additions only from the first month of the quarter that its return on equity (ROE) is below the threshold ROE through a date 30 days before the positive DSIC is to become effective. Settlement ¶ 7. Importantly, the Settlement also provides that eligible plant additions will reflect accumulated depreciation through the date that is 30 days before the DSIC is to become effective. *Id.*

As discussed, Section 1357 limits DSIC recovery to the quarter ending one month prior to the effective date of the DSIC update. 66 Pa. C.S. § 1357(a)(ii). The timing of PECO's DSIC filings and its quarterly and annual financial earnings report filings are not aligned, however, creating a lag between the utility filing an earnings report and the utility's first opportunity to file a positive DSIC. DSIC Tariff, Section 2.A; 52 Pa. Code § 71.3(a). In the OCA's view, the Settlement provisions reasonably mitigate the effect of the lag by allowing PECO to recover the costs it would otherwise be eligible to recover under Act 11, while protecting ratepayers by recognizing depreciation of the plant additions.

Balancing Service Cost and Balancing Charges (Settlement ¶ 8)

In its September 3 Order, the Commission addressed balancing charges as follows:

> For purposes of calculating the DSIC charge, Company witness Alan B. Cohn states that distribution revenue will include distribution charges, consumer education charges, state tax adjustments, and balancing charges. Statement 1 at 8. PECO apparently recovers its costs for balancing services through distribution charges in its current tariff. Balancing charges may be more appropriately characterized as Purchased Gas Cost (PGC) related supply costs. The Commission is not certain that any other Pennsylvania NGDCs currently classify balancing services as distribution in nature or have sought inclusion of a PGC-related rate component in the DSIC cap calculation. Therefore, we will direct to the OALJ for disposition PECO's treatment of balancing charges in its tariff and proposal to include balancing charges in the calculation of the 5% cap on costs recovered through the DSIC.

As noted by the Commission, it is not clear that balancing charges are properly categorized as "distribution" rates for purposes of Act 11. See 66 Pa. C.S. §§ 1358(a), 1351. PECO recovers balancing service costs through a charge within its PGC adjustment imposed under Section 1307(f) of the Public Utility Code. See PECO Tariff Gas-Pa. P.U.C. No. 2 at 37 (Balancing Service Cost (BSC) - Section 1307(f)). Accordingly, the OCA supports Paragraph 8 of the Settlement, which provides that PECO will remove balancing charges from the calculation of the DSIC charge and the revenue base on which the 5% DSIC cap is calculated. Settlement ¶ 8. The OCA submits that this Settlement provision protects ratepayers by limiting DSIC recovery to "distribution" costs as provided by Act 11.

III. CONCLUSION

The Joint Petition for Settlement effectively resolves the issues that the Office of Consumer Advocate raised and considered in response to PECO Energy Company's Petition for Approval of a Distribution System Improvement Charge for its gas operations. For the foregoing reasons, the Office of Consumer Advocate submits that the terms and conditions of the Settlement are in the public interest and should be approved.

Respectfully Submitted,

/s/ Brandon J. Pierce
Brandon J. Pierce
Assistant Consumer Advocate
PA Attorney I.D. #307665
E-Mail: BPierce@paoca.org

Erin L. Gannon
Senior Assistant Consumer Advocate
PA Attorney I.D. #83487
E-Mail: EGannon@paoca.org

Counsel for:
Tanya J. McCloskey
Acting Consumer Advocate

Office of Consumer Advocate
555 Walnut Street 5th Floor, Forum Place
Harrisburg, PA 17101-1923
Phone: (717) 783-5048
Fax: (717) 783-7152

Dated: March 3, 2016

00217715

Statement D

BEFORE THE PENNSYLVANIA
PUBLIC UTILITY COMMISSION

PETITION OF PECO ENERGY COMPANY TO ESTABLISH A DISTRIBUTION SYSTEM IMPROVEMENT CHARGE FOR ITS GAS OPERATIONS	: : : : :	**DOCKET NO. P-2013-2347340**

STATEMENT IN SUPPORT OF JOINT PETITION FOR SETTLEMENT OF THE OFFICE OF SMALL BUSINESS ADVOCATE

I. INTRODUCTION

The Small Business Advocate is authorized and directed to represent the interests of small business consumers in proceedings before the Pennsylvania Public Utility Commission ("Commission") under the provisions of the Small Business Advocate Act, Act 181 of 1988, 73 P.S. §§ 399.41 - 399.50. In order to discharge this statutory duty, the Office of Small Business Advocate ("OSBA") is participating as a party to this proceeding to ensure that the interests of small commercial and industrial ("Small C&I") customers of PECO Energy Company ("PECO" or the "Company") are adequately represented and protected.

II. PROCEDURAL BACKGROUND

On March 20, 2015, PECO filed a Petition with the Commission for a distribution system improvement charge ("DSIC") for its gas operations ("Petition").

On March 27, 2015, the Philadelphia Area Industrial Energy Users Group ("PAIEUG") filed a Petition to Intervene and an Answer.

On April 7, 2015, the Office of Consumer Advocate ("OCA") filed an Answer and Formal Complaint in response to the DSIC Petition.

The OSBA filed an Answer, Notice of Intervention, and Public Statement on April 9, 2015, in response to the Petition.

The Commission entered an Order dated September 11, 2015, approving the DSIC Petition, but referring the following two issues to the Office of Administrative Law Judge for hearing and recommended decision:

> a. If PECO's initial DSIC charge is 0.00% because of an over-earning situation at the time of implementation of the DSIC mechanism, can the Company recover, in its first positive DSIC charge, investment that would have been eligible had the Company not been over the [Return on Equity ("ROE")] threshold?
>
> b. Should PECO be allowed to recover costs for balancing services through distribution charges in its tariff and include balancing charges in the calculation of the 5% cap on costs recovered through the DSIC?

Administrative Law Judge ("ALJ") Christopher P. Pell and ALJ Darlene D. Heep were assigned to this proceeding and a telephonic Prehearing Conference was held on January 22, 2016. At the Prehearing Conference, the parties agreed to delay establishing a formal procedural schedule and instead pursue a possible settlement of the issues. A second Prehearing Conference was scheduled for March 2, 2016.

Prior to the second Prehearing Conference, the parties were able to agree to a settlement of both issues.

The OSBA actively participated in the negotiations that led to the proposed settlement ("Settlement"), and is a signatory to the Joint Petition for Settlement ("Joint Petition"). The OSBA submits this statement in support of the Joint Petition.

III. STATEMENT IN SUPPORT OF JOINT PETITION

A. Recovery of Investment in First Positive DSIC

Under Paragraph 7 of the Settlement, PECO may only reflect plant additions from the first month of the applicable quarter that its return on equity ("ROE") is below the DSIC threshold through a date thirty days before a positive DSIC rate would become effective. As such, the Settlement precludes PECO from recovering costs associated with investment that would have previously been eligible for DSIC treatment had PECO's earnings not exceeded the ROE threshold. Put simply, the Settlement prohibits PECO from recovering any previously denied DSIC costs on a retroactive basis. The OSBA determines that this provision of the Settlement is beneficial to all ratepayers, including PECO's small business customers.

B. Exclusion of Balancing Service Costs and Balancing Charge Revenues from DSIC Cap Calculation

Per the terms of Paragraph 8 of the Settlement, PECO will exclude all Balancing Service Cost ("BSC") and Balancing Charge ("BC") revenues from the revenue base upon which the 5% cap on the DSIC rate will be calculated. As such, this exclusion will reduce the overall size of the denominator (*i.e.*, the revenue base) used in the Company's DSIC calculation. All else equal, the lower the Company's DSIC revenue base, the lower the 5% DSIC cap rate. Therefore, the OSBA concludes that this provision of the Settlement will benefit all ratepayers, including PECO's small business customers.

C. Judicial Efficiency

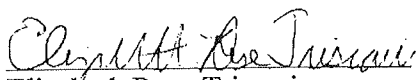
Lastly, a settlement of these issues in this proceeding avoids litigation and saves the possibly significant costs of further administrative proceedings. Such costs are borne not only by the parties, but ultimately by the Company's customers as well. Avoiding further litigation of

this matter will serve judicial efficiency, and will allow the OSBA to more efficiently employ its resources in other areas.

IV. CONCLUSION

For the reasons set forth in the Joint Petition, as well as the additional factors enumerated in this statement, the OSBA supports the proposed Joint Petition and respectfully requests that ALJ Pell, ALJ Heep, and the Commission approve the Joint Petition in its entirety without modification.

Respectfully submitted,



Elizabeth Rose Triscari
Deputy Small Business Advocate
Attorney ID #306921

For:
John R. Evans
Small Business Advocate

Office of Small Business Advocate
300 North Second Street, Suite 202
Harrisburg, PA 17101
(717) 783-2525
(717) 783-2831 (fax)

Dated: March 3, 2016

Statement E

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of PECO Energy Company to Establish a Distribution System Improvement Charge for its Gas Operations	: : :	Docket No. P-2013-2347340

PHILADELPHIA AREA INDUSTRIAL ENERGY USERS GROUP
STATEMENT IN SUPPORT OF
JOINT PETITION FOR SETTLEMENT

The Philadelphia Area Industrial Energy Users Group ("PAIEUG"), by and through its counsel, submits that the Joint Petition for Settlement ("Settlement") filed in the above-captioned proceeding is in the public interest and represents a fair, just, and reasonable resolution of PECO Energy Company's ("PECO" or "Company") Petition to establish a Distribution System Improvement Charge ("DSIC") for its natural gas distribution system. As a result of settlement discussions, PECO, PAIEUG, the Office of Consumer Advocate ("OCA"), the Office of Small Business Advocate ("OSBA"), and the Bureau of Investigation and Enforcement ("I&E") (collectively, "Settling Parties") have agreed upon the terms embodied in the foregoing Settlement. PAIEUG offers this Statement in Support to further demonstrate that the Settlement is in the public interest and should be approved without modification.

I. BACKGROUND

1. On March 20, 2015, PECO filed with the Pennsylvania Public Utility Commission ("Commission" or "PUC") the aforementioned Petition requesting approval to implement a DSIC for its gas operations.

2. On March 27, 2015, PAIEUG filed a Petition to Intervene and Answer to the Company's Petition. PAIEUG is an *ad hoc* group of energy-intensive customers receiving transportation-related services from PECO, including service under Rate TS-I (Gas

Transportation Service – Interruptible) and Rate TS-F (Gas Transportation Service – Firm). PAIEUG members consume substantial amounts of natural gas in their manufacturing and operational processes, and these costs comprise a significant portion of their respective costs of operation. Any modifications to PECO's natural gas rates may impact PAIEUG members' operational costs.

3. On September 11, 2015, the Commission issued an Opinion and Order finding that PECO's proposed DSIC generally complied with applicable laws and regulations, but referred two specific issues to Administrative Law Judges ("ALJ") Christopher P. Pell and Darlene D. Heep for parties to address through further proceedings.

4. On January 22, 2016, the Settling Parties conducted a Prehearing Conference before the ALJs. The Prehearing Conference established a litigation schedule for the proceeding.

5. A second Prehearing Conference was scheduled for March 2, 2016, in order to explore a stipulation or settlement of the issues in this proceeding.

6. On February 23, 2016, the Settling Parties informed ALJ Heep and ALJ Pell that a settlement in principle had been reached on all issues in this proceeding. ALJ Heep subsequently cancelled the March 2, 2016 Prehearing Conference and directed parties to file the Joint Petition for Settlement and Statements in Support by March 4, 2016.

II. STATEMENT IN SUPPORT

6. The Commission has a strong policy favoring settlements. As set forth in the PUC's Regulations, "[t]he Commission encourages parties to seek negotiated settlements of contested proceedings in lieu of incurring the time, expense and uncertainty of litigation." 52 Pa. Code § 69.391; *see also* 52 Pa. Code § 5.231. Consistent with the Commission's Policy, the

Settling Parties engaged in negotiations to resolve the issues raised by various members. These ongoing discussions produced the foregoing Settlement.

7. The Settling Parties agree that approval of the proposed Settlement is in the best interest of everyone involved in PECO's current DSIC proceeding.

8. The Settlement is in the public interest for the following reasons:

a. As a result of the Settlement, expenses incurred by the Settling Parties and the Commission for completing this proceeding will be substantially less than they would have been if the proceeding had been fully litigated.

b. Uncertainties regarding further expenses associated with possible appeals from the Final Order of the Commission are avoided as a result of the Settlement.

c. The Settlement results in terms and provisions that present a just and reasonable resolution of the Company's proposed DSIC.

d. The Settlement reflects compromises on all sides presented without prejudice to any position any Settling Party may have advanced so far in this proceeding. Similarly, the Settlement is presented without prejudice to any position any party may advance in future proceedings involving the Company.

9. In addition, the Settlement satisfies the specific concerns of PAIEUG by stipulating that "revenues from Balancing Service Cost charges applicable to all Low Volume Customers and Balancing Charges (*see* PECO Tariff Gas-Pa. P.U.C. No. 2, p. 37) to Gas Transportation Service Customers receiving service on Rate Schedules TS-I and TS-F (*see* PECO Tariff Gas-Pa. P.U.C. No. 2, p. 54) will not be included in the revenues used to calculate the DSIC charge or in the revenue base on which the 5% cap on the DSIC will be calculated." Settlement, ¶ 8. As indicated by the settlement language, costs incurred to balance PECO's gas deliveries with customer usage are supply-related costs, and therefore should not be incorporated in DSIC calculations.

10. PAIEUG supports the Settlement because it is in the public interest; however, in the event the Settlement is rejected by the ALJs or the Commission, PAIEUG will resume its litigation position, which may differ from the terms of the Settlement.

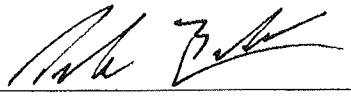
11. As set forth above, PAIEUG submits that the Settlement is in the public interest and adheres to the Commission's policies promoting negotiated settlements. The Settling Parties achieved the Settlement after settlement discussions. While the Settling Parties have invested time and resources in the negotiation of the Settlement, this process has allowed the Settling Parties, and the Commission, to avoid expending the substantial resources that would have been required to fully litigate this proceeding while still reaching a just, reasonable, and non-discriminatory result. The Settling Parties have thus reached an amicable resolution to this dispute as embodied in the Settlement. Approval of the Settlement will permit the Commission and Settling Parties to avoid incurring the additional time, expense, and uncertainty of further current litigation of issues in this proceeding. *See* 52 Pa. Code § 69.391.

III. CONCLUSION

WHEREFORE, the Philadelphia Area Industrial Energy Users Group respectfully requests that the Pennsylvania Public Utility Commission approve the Joint Petition for Settlement submitted in this proceeding.

Respectfully submitted,

McNEES WALLACE & NURICK LLC

By 

Charis Mincavage (I.D. No. 82039)
Adeolu A. Bakare (I.D. No. 208541)
100 Pine Street
P.O. Box 1166
Harrisburg, PA 17108-1166
Phone: (717) 232-8000
Facsimile: (717) 237-5300
cmincavage@mwn.com
abakare@mwn.com

Counsel to the Philadelphia Area Industrial Energy Users Group

Dated: March 3, 2016