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May 8, 2017

**VIA eFILING**

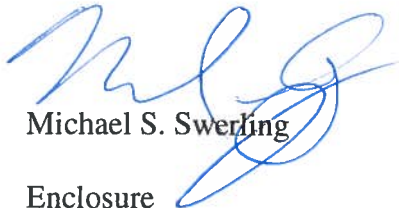
Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17105-3265

**Re: Petition of PECO Energy Company for Approval of its Electric Long Term  
Infrastructure Improvement Plan and to Establish a Distribution System  
Improvement Charge for Its Electric Operations  
Docket Nos. P-2015-2471423 & C-2015-2476587**

Dear Secretary Chiavetta:

PECO Energy Company hereby files this *Joint Petition for Complete Settlement* in the above referenced case. As evidenced by the enclosed Certificate of Service, copies of this filing are being served on all parties in this proceeding, including Administrative Law Judge Darlene D. Heep.

Very truly yours,



Michael S. Swerling

Enclosure

c: Per the Certificate of Service  
ALJ Heep

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PETITION OF PECO ENERGY :  
COMPANY FOR APPROVAL OF ITS :  
ELECTRIC LONG TERM INFRA- :  
STRUCTURE IMPROVEMENT PLAN : DOCKET NOS. P-2015-2471423  
AND TO ESTABLISH A : C-2015-2476587  
DISTRIBUTION SYSTEM :  
IMPROVEMENT CHARGE FOR ITS :  
ELECTRIC OPERATIONS :

**CERTIFICATE OF SERVICE**

I certify and affirm that I have this day served a copy of the *Joint Petition for Complete Settement*, on the following persons in the matter specified with the requirements of 52 Pa. Code § 1.54:

**VIA ELECTRONIC MAIL AND FIRST CLASS MAIL**

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*Counsel for PAIEUG*

Dated: May 8, 2017



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Phone: 215.841.4608

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of PECO Energy Company	:	
for Approval of its Electric Long Term	:	P-2015-2471423
Infrastructure Improvement Plan and to	:	C-2015-2476587
Establish a Distribution System Improvement	:	
Charge for Its Electric Operations	:	

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**JOINT PETITION FOR COMPLETE  
SETTLEMENT**

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TO ADMINISTRATIVE LAW JUDGE DARLENE D. HEEP:

**I. INTRODUCTION**

PECO Energy Company (“PECO” or the “Company”), the Office of Consumer Advocate (“OCA”), the Office of Small Business Advocate (“OSBA”) and the Philadelphia Area Industrial Energy Users Group (“PAIEUG”), hereinafter referred to individually as “Party” or collectively as “Parties” or “Joint Petitioners”, hereby submit this Joint Petition for Complete Settlement (“Joint Petition” or “Settlement”) and respectfully request that:

1. Administrative Law Judge Darlene D. Heep (“ALJ Heep” or the “ALJ”) recommend that the Pennsylvania Public Utility Commission (“Commission”) approve this Settlement and all of its terms and conditions as being in the public interest and that the Commission grant such approval, without modification;

2. Based on the information provided herein, the ALJ recommend, and the Commission make determinations that, the Settlement is in the public interest as proposed in

Sections IV and V below; and the Conditions of Settlement are reasonable as proposed in Section VI below; and

3. The Commission terminates its investigation at Docket No. P-2015-2471423 and mark the associated Complaint of the OCA at Docket No. C-2015-2476587 as satisfied and closed.

## II. BACKGROUND

4. PECO is a corporation organized and existing under the laws of the Commonwealth of Pennsylvania with its principal office in Philadelphia, Pennsylvania. PECO provides electric service to approximately 1.6 million customers and natural gas service to approximately 513,000 customers in southeastern Pennsylvania. PECO furnishes electric service within its authorized service territory in Bucks, Chester, Delaware, Montgomery and York Counties and the City of Philadelphia. PECO is a “public utility,” as defined in 66 Pa. C.S. § 102, and, with respect to its provision of electric service, an “electric distribution company,” as defined in 66 Pa. C.S. § 2083.

5. On March 27, 2015, the *Petition of PECO Energy Company for Approval of its Electric Long Term Infrastructure Improvement Plan and to Establish a Distribution System Improvement Charge for its Electric Operations*, at Docket No. P-2015-2471423, was filed with the Commission (the “Petition”). In accordance with the requirements set forth in 66 Pa. C.S. § 1352, PECO submitted a proposed distribution system improvement charge (“DSIC”) to recover \$274.3 million in projected capital investments and \$50 million for facility relocations. These investments consisted of eligible property that would improve and replace portions of PECO’s electric distribution system.

6. In order to qualify for the DSIC, PECO also was required to submit a Long Term Infrastructure Improvement Plan (“LTIIP”). According to its LTIIP (which was submitted contemporaneously with its proposed DSIC tariff), the Company would proactively implement measures related to: 1) storm hardening and resiliency; 2) underground cable replacements; and 3) substation retirements, including facility upgrades and redesigns.

7. On April 16, 2015, the OCA filed comments on PECO’s LTIIP. While the OCA did not request hearings on the LTIIP, it did request additional information to demonstrate that the enhancements, contemplated by the LTIIP, would be completed on an accelerated and cost-effective basis.

8. On April 10, 2015, the OCA filed a Formal Complaint (at Docket No. C-2015-2476587), an Answer to PECO’s Petition and a Notice of Appearance. In its Formal Complaint, the OCA requested that the Commission hold evidentiary hearings to ensure PECO’s proposed DSIC tariff and rate were not excessive, discriminatory, or otherwise contrary to the law, Commission regulations, or policy. The OCA’s Answer to PECO’s DSIC Petition similarly stated that it may be contrary to Pennsylvania law and Commission policy. As such, the OCA requested that the Commission deny the Petition as-filed, suspend the proposed DSIC tariff, and conduct a full hearing and investigation.

9. On April 15, 2015, PAIEUG filed a Petition to Intervene and an Answer. PAIEUG claimed that PECO’s DSIC was unjust, unreasonable and inconsistent with Act 11 of 2012. According to PAIEUG, the DSIC would apply to transmission voltage customers taking service on Rate HT, which is inappropriate from a cost-causation standpoint and in direct

contravention of the Commission's Final Implementation Order.<sup>1</sup> PAIEUG also reserved the right to investigate PECO's definition of "distribution revenues" to determine if non-distribution revenues from PECO's tariff riders have been appropriately excluded from the DSIC calculation.

10. On April 16, 2015, the OSBA filed a Notice of Intervention and Answer. OSBA's Answer claimed that PECO's proposal may be unjust, unreasonable, and unlawfully discriminatory in contravention of the Public Utility Code, public policy and sound ratemaking considerations. Accordingly, it requested that the Commission suspend and investigate PECO's proposed DSIC tariff.

11. On October 22, 2015, the Commission issued an Opinion and Order, which approved PECO's LTIIP, finding that it conformed to the requirements of Act 11 and the Final Implementation Order. While the Order approved PECO's LTIIP, the DSIC was approved subject to two issues that were referred to the Office of Administrative Law Judge for hearing:

- *Whether customers taking service at transmission voltage rates should be included under the DSIC charge.*
- *If revenues associated with the riders in PECO's tariff are properly included as distribution revenues.*

12. On November 24, 2015, PECO filed *Supplement No. 140 to Tariff Electric - Pa. P.U.C. No. 4* to become effective on January 1, 2016. Supplement No. 140 established an initial DSIC charge of 0.00% in PECO's tariff.

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<sup>1</sup> *Implementation of Act 11 of 2012*, Docket No. M-2012-2293611 (Final Implementation Order entered August 2, 2012) ("Final Implementation Order").

13. On May 2, 2016, a Prehearing Conference Order issued by Administrative Law Judges Darlene D. Heep and Christopher P. Pell (“ALJ Pell”) (together, the “ALJs”) and scheduled a prehearing conference to occur on May 19, 2016.

14. A telephonic prehearing conference was held on May 19, 2016. The Parties requested that a hearing date not be set in order to allow the Parties time to discuss settlement.

15. On June 14, 2016, a second Prehearing Conference Order issued and scheduled a second prehearing conference for July 11, 2016. This would provide an opportunity for the Parties to have at least two meetings to negotiate stipulation or settlement of the issues in this case.

16. On July 6, 2016, the Parties submitted an email to the ALJs asking to cancel the July 11, 2016 prehearing conference because the Parties were making progress toward settlement. By email on July 7, 2016, the ALJs granted the request to cancel the July 11, 2016 prehearing conference.

17. In December 2016, the Parties indicated to the ALJs that they were unable to resolve all issues.

18. By email to the ALJs dated January 6, 2017, the Parties proposed a procedural schedule and hearing date for consideration. By email issued that same day, the Parties were informed by the ALJs that the proposed schedule was acceptable. An evidentiary hearing was scheduled for March 21, 2017.

19. On January 17, 2017, PECO submitted the Direct Testimony of Alan B. Cohn and accompanying exhibits.



20. On February 27, 2017, the Parties requested a continuance in order to allow time for additional settlement discussions. The Parties also proposed a revised procedural schedule. The Parties were informed by the ALJs that the proposed schedule was acceptable.

21. By *Judge Change and Hearing Cancellation/Reschedule Notice* dated March 13, 2017, the matter was assigned solely to ALJ Heep and the evidentiary hearing was rescheduled for April 26, 2017.

22. The Parties engaged in settlement discussions and informal discovery in this proceeding. Pursuant to these discussions, the Joint Petitioners reached a Settlement in Principle prior to the hearing date. On April 7, 2017, the Parties notified ALJ Heep that a Settlement in Principle had been reached on all issues and requested suspension of the litigation schedule.

23. On April 10, 2017, a hearing Cancellation Notice was issued.

24. This Settlement substantively addresses all of the issues that were referred to the Office of Administrative Law Judge for hearing as well as an additional issue, related to the inclusion of Accumulated Deferred Income Taxes (“ADIT”) and flow-through of state income tax deductions and credits in the DSIC calculation, which developed during settlement discussions between the Parties. The Parties agree that this Settlement is in the public interest and should be approved without modification.<sup>2</sup> The terms and conditions of the Settlement, for which the Parties seek Commission approval, are set forth below.

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<sup>2</sup> See 52 Pa. Code § 5.231(a).

### III. STIPULATION OF FACTS

25. The Parties have agreed to stipulate to certain facts, which provide the basis upon which the Settlement Terms in Section IV should be adopted. Part of the Stipulation centers on the application of PECO's DSIC to one of PAIEUG's members, Kimberly-Clark Corporation ("K-C"), a PECO Rate HT customer whose service configuration is unique within the PECO system.

26. The Stipulation is comprised of the following facts:

- a) Per the Commission's Final Implementation Order, "DSIC surcharges are to be applied to any customers served from higher voltage facilities which are included within the EDC's distribution plant for ratemaking purposes."
- b) PAIEUG member K-C takes electric service under PECO's Rate HT from PECO's 69 kV transmission line.
- c) K-C's predecessor (Scott Paper) paid for and constructed a 69 kV high voltage Tap ("Paper Tap Substation") before dedicating the assets to PECO.
- d) PECO owns the 69 kV Paper Tap Substation serving K-C.
- e) K-C owns, constructed, and paid for the 69 kV substation connected to PECO's 69 kV Paper Tap.
- f) The Cost of Service Study prepared for PECO's 2015 Electric Base Rate Case allocated costs for distribution plant such as substations, poles, towers, fixtures, overhead conductors, and underground conduit/conductors to Rate HT.
- g) The Cost of Service Study prepared for PECO's 2015 Electric Base Rate Case did not identify specific distribution facilities serving K-C.
- h) Pursuant to PECO's 2015 Electric Base Rate Case Settlement, the parties agreed, in part, as follows:

*In the period until PECO's next base rate case, it will collect additional data regarding coincident peaks of customer generation and other data issues regarding the operation of the CRR [Capacity Reservation Rider],*

*including: (1) a more granular definition of distribution system costs for customers taking service at transmission voltage levels or at or within one span of a PECO-owned substation (i.e., transmission transformation service) and for customers with intermittent renewable generation.” [Citation omitted].*

#### IV. SETTLEMENT

27. The Terms of the Settlement are as follows:

##### **Distribution Revenue**

a) For all DSIC-related purposes, PECO’s DSIC rate shall apply to the qualifying revenues set forth in the following table. The Nuclear Decommissioning Charge will be removed from base rates for the DSIC calculation. Additionally, the Non-Bypassable Transmission Charge and the State Tax Adjustment Surcharge (“STAS”) will not be included in the DSIC calculation.

b) The Projected Quarterly Revenue component of the DSIC rate shall include the qualifying revenues set forth in the following table.

##### **Qualifying Revenues For DSIC Rate**

<b>Qualifying Charges (Included in the DSIC)</b>	<b>Non-Qualifying Charges (Excluded from the DSIC)</b>
Fixed Charge	Nuclear Decommissioning Cost (will be removed from base rates for the DSIC calculation)
Variable Distribution Charge	Non-Bypassable Transmission Charge
High Voltage Discount	State Tax Adjustment
Applicable Riders <sup>3</sup>	
Consumer Education Charge	

<sup>3</sup> Includes the Capacity Reservation Rider Charges, CAP Rider, Commercial and Industrial Direct Load Control Rider, Economic Development Rider, Investment Guarantee Rider Charges, Residential Direct Load Control Rider, and Night Service Rider (GS, PD and HT rates).

Energy Efficiency & Conservation Charge	
Universal Service Fund Charge	
Tax Accounting Repair Credit	

**Transmission Voltage**

PECO will charge the DSIC to K-C according to the following terms and conditions:

a) K-C’s responsibility to pay the DSIC will be capped at a DSIC rate of 1.5% (of qualifying revenues set forth above in the *Qualifying Revenues for DSIC Rate* table) for K-C’s Rate HT account.

b) If PECO’s DSIC goes above 1.5% while K-C is capped at 1.5%, PECO will forego surcharge recovery of amounts that would otherwise be charged to K-C, *i.e.* those amounts would not be recovered from other ratepayers through the DSIC. However, PECO would only forego surcharge recovery from K-C for amounts that exceed the cap (the DSIC rate of 1.5%). The full amount of PECO’s DSIC-eligible plant investment will be rolled into base rates in the Company’s next base rate case proceeding.

c) The 1.5% cap for K-C will remain in effect until the implementation of new rates following PECO’s next electric distribution base rate case proceeding.

d) Additionally, the Parties agree that the issue of whether or not any PECO customer(s) should be granted an exemption from DSIC charges under the transmission voltage provisions in the Commission’s Final Implementation Order may be fully addressed, without prejudice, in PECO’s next base rate case proceeding.<sup>4</sup>

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<sup>4</sup> Paragraph 26(h) of Section III, Stipulation of Facts, explains the context under which this issue could be addressed in the Company’s next electric base rate case proceeding.

e) The Direct Testimony submitted by PECO in the above-captioned docket shall not be offered into the record in this proceeding.

f) The Parties acknowledge that (notwithstanding the agreement to allow limited DSIC surcharge recovery in this proceeding for K-C) their actions pursuant to this agreement are undertaken to resolve a disputed claim and made without admission against, or prejudice to, any factual or legal position which any Party has asserted previously in connection with this proceeding. Specifically, this agreement does not result in concessions by any Party regarding the application of PECO's transmission and distribution system to K-C. The Parties reserve their rights to argue their respective positions on the application of PECO's transmission and distribution system as well as the quantitative application of the DSIC to K-C in a future base rate case or other litigated proceeding.

#### **Application of ADIT to the DSIC**

a) The Parties recognize that issues raised by OCA regarding the impact of 66 Pa. C.S. § 1301.1 on the treatment of income tax deductions and credits in the DSIC calculation are currently being litigated before the Commission.<sup>5</sup> The Parties agree that in future DSIC filings, PECO will follow Commission directives regarding the inclusion of ADIT and adjustment of pre-tax rate of return ("PTRR") to flow-through state income tax deductions and credits (as those directives are relevant to PECO's specific rate calculations).

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<sup>5</sup> See *Pa. Pub. Util. Comm'n, et al. v. Met. Ed. Co.*, Docket No. R-2016-2537349 (and all associated complaint dockets) (Opinion and Order issued January 19, 2017) in which the Commission determined that the application of Section 1301.1 of the Code regarding the inclusion of ADIT in the calculation of the DSIC Riders should be addressed in the DSIC proceeding. Furthermore, the Commission found it appropriate to consider the OCA's ADIT argument interpreting Act 40 within the active DSIC proceedings at Docket Nos. P-2015-2508942, P-2015-2508936, P-2015-2508931 and P-2015-2508948, to which the First Energy Companies and the OCA are also parties.

## V. THE SETTLEMENT IS IN THE PUBLIC INTEREST

28. This Settlement fully addresses all issues related to PECO's DSIC. The Commission's policy is to encourage settlements. *See* 52 Pa. Code § 5.231. Settlements lessen the time and expense the parties must expend litigating a case and, at the same time, conserve valuable administrative resources. The Commission also has referenced that settlement results are often preferable to those reached at the conclusion of a fully litigated proceeding. *See* 52 Pa. Code § 69.401. In order to accept a settlement, the Commission must first determine that the proposed terms and conditions are in the public interest. *Pa. Pub. Util. Comm'n v. York Water Co.*, Docket No. R-00049165 (Order entered Oct. 4, 2004); *Pa. Pub. Util. Comm'n v. C.S. Water and Sewer Assocs.*, 74 Pa. P.U.C. 767 (1991). The Joint Petitioners assert that this Settlement is in the public interest for the following reasons.

29. The Settlement provides that the DSIC is just and reasonable because it only applies to distribution charges. Accordingly, this resolves all questions about which riders should be included in the DSIC.

30. The Settlement also resolves the transmission voltage issue, as applicable to K-C, until PECO's next base rate case proceeding. This permits the appropriateness and impact of a possible DSIC exemption to be decided within the overall context of full base rate case proceeding.

31. The Settlement further provides that PECO's treatment of ADIT and state income tax deductions and credits in calculating the DSIC will comply with the Commission's directives on those issues (as those directives are relevant to PECO's specific rate calculations).<sup>6</sup>

32. Substantial litigation and associated costs will be avoided by this Settlement, which resolves a number of important issues fairly, by balancing the interests of the Parties. If

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<sup>6</sup> Refer to note 3, *supra*, which identifies the applicable cases in which the Commission is determining this issue.

approved, the Settlement will eliminate the possibility of further Commission litigation and appeals, along with their attendant costs.

33. This Settlement is consistent with the Commission's policies promoting negotiated settlements. The Joint Petitioners arrived at this Settlement after a number of discussions and negotiations. 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, 69.391, and 69.1201.

34. The reasons set forth in the Statements in Support filed by the Joint Petitioners at the above-referenced docket support approval of this Settlement.

## **VI. CONDITIONS OF SETTLEMENT**

35. The Parties acknowledge and agree that this Settlement shall have the same force and effect as if the Parties fully litigated this proceeding.

36. This Settlement is conditioned upon the Commission's approval of the terms and conditions contained herein without modification. If the Commission modifies the Settlement, any Party may elect to withdraw from this Settlement and may proceed with litigation, and in such event, this Settlement shall be void and of no effect. Such election to withdraw must be made in writing, filed with the Secretary of the Commission, and served upon all Parties within five (5) business days after the entry of an order modifying the Settlement. This Settlement is proposed by the Parties to settle all issues in the instant proceeding and is made without any admission against, or prejudice to, any position which any Party to this Settlement may adopt during any subsequent litigation of this or any other proceeding if the Commission fails to approve or otherwise modifies this Settlement.

37. If the Commission does not approve the Settlement and the proceedings continue to hearing, the Parties reserve their respective rights to present additional testimony and to conduct full cross-examination, briefing, and argument.

38. The Commission's approval of this Settlement shall not be construed to represent approval of any Party's position on any issue, except to the extent required to effectuate the terms and agreements of this Settlement in this, and future, proceedings involving PECO.

39. It is understood and agreed among the Parties that this Settlement is the result of compromises and does not necessarily represent the position(s) that would be advanced by any Party if this proceeding were fully litigated.

40. This Settlement is being presented only in the context of this proceeding in an effort to resolve outstanding issues in a manner that is fair and reasonable. The Settlement is the product of compromise. With the exception of matters identified in Sections III and IV, for the specific time periods set forth therein, 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.

41. PECO, OCA, OSBA and PAIEUG prepared and attached to this Settlement, as Appendices A-D respectively, statements in support setting forth the bases upon which they believe the Settlement is fair, just and reasonable and is, therefore, in the public interest.

WHEREFORE, the Parties, by their respective counsel, respectfully request that Administrative Law Judge Heep and the Commission approve this Settlement, including all terms and conditions thereof, and that the Commission enters an order consistent with this Settlement resolving and terminating the proceeding and resolving all outstanding complaints.





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Dated: May 8, 2017

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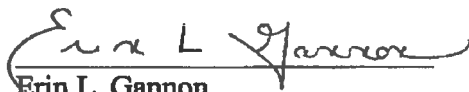
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Dated: May 8, 2017

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of PECO Energy Company	:	
for Approval of its Electric Long Term	:	P-2015-2471423
Infrastructure Improvement Plan and to	:	C-2015-2476587
Establish a Distribution System Improvement	:	
Charge for Its Electric Operations	:	

**PECO ENERGY COMPANY'S STATEMENT IN SUPPORT OF  
JOINT PETITION FOR SETTLEMENT**

**TO ADMINISTRATIVE LAW JUDGE DARLENE D. HEEP:**

**I. INTRODUCTION**

PECO Energy Company ("PECO" or the "Company") submits this Statement in Support, which is unopposed by the Joint Petitioners,<sup>1</sup> with the Pennsylvania Public Utility Commission (the "Commission") with respect to the Joint Petition for Settlement ("Joint Petition" or "Settlement") in the above-captioned proceeding. For the reasons stated herein, PECO believes that the Settlement embodied in the Joint Petition is fair, just, reasonable and in the public interest. Therefore, PECO respectfully requests that Administrative Law Judge Darlene D. Heep and the Commission approve the Settlement in its entirety without modification.

The Settlement resolves all issues raised in this proceeding related to the calculation and application of PECO's Distribution System Improvement Charge ("DSIC"). Specifically, the Settlement resolves: 1) the extent to which charges contained in PECO's tariff riders should be included in distribution revenues for DSIC purposes; 2) the manner in which the DSIC is applied to customers taking service at transmission voltage levels; and 3) the method by which the

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<sup>1</sup> The Joint Petitioners are PECO, the Office of Consumer Advocate ("OCA"), the Office of Small Business Advocate ("OSBA") and the Philadelphia Area Industrial Energy Users Group ("PAIEUG"), (hereinafter referred to individually as "Party" or collectively as "Parties").

Accumulated Deferred Income Taxes (“ADIT”) will be addressed in the Company’s DSIC. This Settlement was reached after extensive reviews of these issues, informal discovery exchanges and numerous settlement discussions between the Parties that ultimately culminated in this Settlement. Accordingly, the Joint Petition should be approved without modification for the reasons set forth herein.

## **II. BACKGROUND**

The background for this proceeding is set forth in Paragraphs 4-24 of the Joint Petition and is incorporated herein by reference.

## **III. THE COMMISSION FAVORS SETTLEMENTS**

According to 52 Pa. Code § 5.231, the Commission’s policy is to promote settlements because they reduce the time and expense associated with litigation. Settlement results achieved in advance of litigation are often preferable to those achieved at the conclusion of a fully litigated proceeding. 52 Pa. Code § 69.401. For the reasons set forth below, the Settlement aligns with the Commission’s policy on settlements and therefore should be approved without modification.

## **IV. THE SETTLEMENT IS IN THE PUBLIC INTEREST**

In order to accept a settlement, the Commission must first determine that the proposed terms and conditions are in the public interest. *Pa. Pub. Util. Comm’n v. York Water Co.*, Docket No. R-00049165 (Order entered Oct. 4, 2004); *Pa. Pub. Util. Comm’n v. C.S. Water and Sewer Assocs.*, 74 Pa. P.U.C. 767 (1991). The Joint Petitioners assert that this Settlement is in the public interest because it resolves: 1) the Distribution Revenue Issue; 2) the Transmission Voltage Issue; and 3) the Application of ADIT to the DSIC Issue (as described in more detail below).

Additionally, substantial litigation and associated costs will be avoided by this Settlement, which resolves a number of important issues fairly, by balancing the interests of the Parties. If approved, the Settlement will eliminate the possibility of further Commission litigation and appeals, along with their attendant costs. Moreover, the issues discussed below were considered and/or addressed by the Parties to the proceeding, and all are resolved by the Joint Petition.

**A. Distribution Revenue Issue**

After performing a comprehensive review of the applicable distribution revenues for purposes of calculating the DSIC, the Parties agreed that PECO would remove charges that were not distribution in nature. PECO's Nuclear Decommissioning Charge will be removed from base rates for the DSIC calculation. Additionally, the Non-Bypassable Transmission Charge and the State Tax Adjustment Surcharge ("STAS") will not be included in the DSIC calculation. Furthermore, the DSIC rate and its Projected Quarterly Revenue component shall include the qualifying revenues set forth in the following table because these revenues are distribution in nature.

### Qualifying Revenues For DSIC Rate

Qualifying Charges (Included in the DSIC)	Non-Qualifying Charges (Excluded from the DSIC)
Fixed Charge	Nuclear Decommissioning Cost (will be removed from base rates for the DSIC calculation)
Variable Distribution Charge	Non-Bypassable Transmission Charge
High Voltage Discount	State Tax Adjustment
Applicable Riders <sup>2</sup>	
Consumer Education Charge	
Energy Efficiency & Conservation Charge	
Universal Service Fund Charge	
Tax Accounting Repair Credit	

Accordingly, this Settlement completely resolves all of the issues and questions concerning which riders should be included as qualifying distribution revenues for calculating the DSIC and ensures that the qualifying revenues applicable to the DSIC comply with the Commission’s Final Implementation Order.<sup>3</sup>

#### **B. Transmission Voltage Issue**

After performing a comprehensive review of the transmission voltage issue, the Parties agreed that Kimberly-Clark (“K-C”) has a service configuration that is unique within the PECO system. Therefore, K-C’s responsibility to pay the DSIC will be capped at a DSIC rate of 1.5% (of the qualifying revenues discussed above) for K-C’s Rate HT account. If PECO’s DSIC goes above 1.5% while K-C is capped at 1.5%, PECO will forego surcharge recovery of amounts that would otherwise be charged to K-C, i.e. those amounts would not be recovered from other

<sup>2</sup> Includes the Capacity Reservation Rider Charges, CAP Rider, Commercial and Industrial Direct Load Control Rider, Economic Development Rider, Investment Guarantee Rider Charges, Residential Direct Load Control Rider, and Night Service Rider (GS, PD and HT rates).

<sup>3</sup> *Implementation of Act 11 of 2012*, Docket No. M-2012-2293611 (Final Implementation Order entered August 2, 2012) (“Final Implementation Order”).



ratepayers through the DSIC. However, PECO would only forego surcharge recovery from K-C for amounts that exceed the cap (the DSIC rate of 1.5%). The full amount of PECO's DSIC-eligible plant investment will be rolled into base rates in the Company's next base rate case proceeding.

The 1.5% cap for K-C will remain in effect until the implementation of new rates following PECO's next electric distribution base rate case proceeding. Additionally, the Parties agree that the issue of whether or not any PECO customer(s) should be granted an exemption from DSIC charges under the transmission voltage provisions in the Commission's Final Implementation Order may be fully addressed, without prejudice, in PECO's next base rate case proceeding.

The Settlement resolves the transmission voltage issue, as applicable to K-C, until PECO's next base rate case proceeding. This ensures that other DSIC-paying customers would not subsidize K-C if the DSIC rate goes above 1.5%. It also permits the appropriateness and impact of a possible DSIC exemption to be decided within the overall context of a full base rate case proceeding.

**C. Application of ADIT to the DSIC Issue**

The Parties recognize that the issue regarding the impact of 66 Pa. C.S. § 1301.1 on the treatment of income tax deductions and credits in the DSIC calculation is currently being litigated before the Commission.<sup>4</sup> Accordingly, the Parties agreed that in future DSIC filings, PECO will follow Commission directives regarding the inclusion of ADIT and adjustment of

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<sup>4</sup> See *Pa. Pub. Util. Comm'n, et al. v. Met. Ed. Co.*, Docket No. R-2016-2537349 (and all associated complaint dockets) (Opinion and Order issued January 19, 2017) in which the Commission determined that the application of Section 1301.1 of the Code regarding the inclusion of ADIT in the calculation of the DSIC Riders should be addressed in the DSIC proceeding. Furthermore, the Commission found it appropriate to consider the OCA's ADIT argument interpreting Act 40 within the active DSIC proceedings at Docket Nos. P-2015-2508942, P-2015-2508936, P-2015-2508931 and P-2015-2508948, to which the First Energy Companies and the OCA are also parties.

pre-tax rate of return (“PTRR”) to flow-through state income tax deductions and credits (as those directives are relevant to PECO’s specific rate calculations). This permits the ADIT issue to be resolved in this proceeding with an understanding that the outcome in the First Energy proceedings may apply to future PECO DSIC filings.

**V. CONCLUSION**

This Settlement is consistent with the Commission’s policies promoting negotiated settlements. The Joint Petitioners arrived at this Settlement after extensive discussions and negotiations. 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, is in the public interest and should be approved without modification. See 52 Pa. Code §§ 5.231, 69.391, and 69.1201.

Date: May 8, 2017



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BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of PECO Energy Company	:	
for Approval of its Electric Long Term	:	P-2015-2471423
Infrastructure Improvement Plan and to	:	C-2015-2476587
Establish a Distribution System Improvement	:	
Charge for Its Electric Operations	:	

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OCA STATEMENT IN SUPPORT OF  
JOINT PETITION FOR COMPLETE SETTLEMENT

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The Office of Consumer Advocate (OCA), one of the signatory parties to the Joint Petition for Settlement of All Issues (Settlement) 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 conclusion that the proposed Settlement is in the public interest and is in the interest of the customers of PECO Energy Company - Electric (PECO or Company).

I. INTRODUCTION

1. On March 27, 2015, PECO filed a Petition for Approval of an initial Long-Term Infrastructure Improvement Plan (LTIIIP) and to Establish a Distribution System Improvement Charge for its Electric Operations. On April 10, 2015, the OCA filed a Formal Complaint, an Answer to PECO's Petition and a Notice of Appearance. The OCA filed comments on PECO's LTIIIP on April 16, 2015. On October 22, 2015, the Commission entered an Opinion and Order, which approved PECO's LTIIIP and DSIC Petitions, subject to refund and referred two issues

raised by the Philadelphia Area Industrial Energy Users Group (PAIEUG) to the Office of Administrative Law Judge for hearing:

Whether customers taking service at transmission voltage rates should be included under the DSIC charge.

If revenues associated with the riders in PECO's tariff are properly included as distribution revenues.

The matter was assigned to Administrative Law Judges Darlene D. Heep and Christopher P. Pell. The parties also participated in informal discovery and settlement discussions and provided periodic status reports on those discussions to the ALJs. On April 7, 2017, the Parties notified ALJ Heep that a Settlement in Principle had been reached on all issues.

In addition to the two issues referred for hearings, the Settlement also addresses a third issue raised by the OCA in the course of settlement discussions, regarding the impact of Act 40, codified at 66 Pa. C.S. § 1301.1, on the calculation of federal and state income tax deductions in the DSIC calculation. The statute took effect on August 12, 2016 and states that it shall apply to all cases where the final order is entered after its effective date.

The OCA submits this Statement in Support to provide its views on why the proposed Settlement is in the public interest.

## II. TERMS AND CONDITIONS OF JOINT PETITION FOR SETTLEMENT

The following terms of the proposed Settlement directly address the OCA's concerns raised in its Answer and in response to Act 40:

### Settlement ¶ 27a)-b): Inclusion of Rider Revenues in the DSIC Calculation

One of issues raised by PAIEUG was whether revenues associated with the riders in PECO's tariff are properly included as distribution revenues. The Settlement removes the

Nuclear Decommissioning Charge from base rates for the DSIC calculation and clarifies that the Non-Bypassable Transmission Charge and the State Tax Adjustment Surcharge (STAS) will not be included in the DSIC calculation. It also lists the rider revenues that will be included in the DSIC rate. As such, the Settlement provides that only revenues derived from distribution service will be included in the DSIC calculation. This settlement provision resolves the OCA's concern.

Settlement ¶ 27: Application of the DSIC to All Customers

PAIEUG also raised an issue regarding whether PECO's DSIC rate should be applied to one of PAIEUG's members that is a PECO Rate HT customer. Settlement ¶ 26.b. The Commission has stated that "DSIC surcharges are to be applied to any customers served from higher voltage facilities which are included within the EDC's distribution plant for ratemaking purposes." Implementation of Act 11 of 2012, Docket No. M-2012-2293611, Final Implementation Order at 46 (Aug. 2, 2012). The Cost of Service Study prepared for PECO's 2015 Electric Base Rate Case allocated costs for distribution plant such as substations, poles, towers, fixtures, overhead conductors, and underground conduit/conductors to Rate HT. Settlement ¶ 26.f. While the OCA recognizes there are facts that distinguish K-C from other Rate HT customers on PECO's system (Settlement ¶ 26.c-e, h), the OCA's position is that the DSIC rate should apply to K-C. Consistent with that, the Settlement provides that the DSIC rate will be applied to K-C. The parties have agreed to cap the DSIC rate applied to KC at 1.5%. This is acceptable to the OCA because PECO has agreed to forego surcharge recovery of amounts that would otherwise be charged to K-C. Given this guarantee that those amounts would not be recovered from other ratepayers through the DSIC, the OCA does not object to the agreement between PECO and K-C. In addition, the limitation on DSIC recovery from K-C will only remain in effect until the implementation of new rates following PECO's next electric

distribution base rate case. The Settlement reserves the OCA's right to argue its position in a future base rate case or other proceeding.

Settlement ¶ 27: Federal and State Income Tax Deductions Generated by DSIC Investment

Act 40 took effect on August 11, 2016. 66 Pa. C.S. § 1301.1. The statute provides:

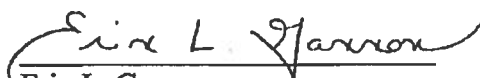
If an expense or investment is allowed to be included in a public utility's rates for ratemaking purposes, the related income tax deductions and credits shall also be included in the computation of current or deferred income tax expense to reduce rates.

Id. (emphasis added). A final order in this proceeding will be entered after the effective date of Act 40. As noted in the Settlement, the impact of Act 40 on the treatment of federal and state income tax deductions in the DSIC calculation has been raised in the First Energy Companies' consolidated DSIC proceeding at Docket Nos. P-2015-2508942, P-2015-2508936, P-2015-2508931, and P-2015-2508948. Rather than litigate the issue again here, the Settlement provides that PECO will follow the Commission's directives regarding the effect of Act 40 on the DSIC calculation. The OCA submits that it is in the interest of all parties, the Commission and the public to reduce or avoid litigation of this legal question. Thus, OCA submits that this provision of the Settlement should be approved.

III. CONCLUSION

The Settlement effectively resolves the issues that the Office of Consumer Advocate raised and considered in response to the initial DSIC Petition filed by PECO Energy Company. 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,



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Dated: May 8, 2017

232797

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of PECO Energy Company	:	
for Approval of its Electric Long Term	:	P-2015-2471423
Infrastructure Improvement Plan and to	:	C-2015-2476587
Establish a Distribution System Improvement	:	
Charge for Its Electric Operations	:	

**STATEMENT IN SUPPORT OF JOINT PETITION FOR COMPLETE  
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 27, 2015, PECO filed a Petition with the Commission for approval of a Long Term Infrastructure Improvement Plan (“LTIIP”) and to establish a distribution system improvement charge (“DSIC”) for its electric operations (“Petition”).

On April 10, 2015, the Office of Consumer Advocate (“OCA”) filed an Answer and Formal Complaint in response to the Petition.



On April 15, 2015, the Philadelphia Area Industrial Energy Users Group (“PAIEUG”) filed a Petition to Intervene and an Answer.

Also on April 15, 2015, the OCA filed Comments to PECO’s LTIP.

The OSBA filed an Answer, Notice of Intervention, and Public Statement on April 16, 2015, in response to the Petition.

The Commission entered an Order dated October 22, 2015, approving PECO’s LTIP and DSIC, subject to referral of the following two issues to the Office of Administrative Law Judge for hearing and recommended decision:

1. Whether customers taking service at transmission voltage rates should be included under the DSIC charge.
2. If revenues associated with the riders in PECO’s tariff are properly included as distribution revenues.

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 May 19, 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 July 11, 2016, but was subsequently canceled at the parties’ request to allow for further settlement discussions.

The parties’ informed the ALJs in December 2016 that a settlement had not been able to be reached and on January 6, 2017 proposed a procedural schedule with an evidentiary hearing set for March 21, 2017.

PECO submitted Direct Testimony on January 17, 2017.

On February 27, 2017, the parties requested that the procedural schedule be suspended to again allow for settlement discussions and proposed a revised procedural schedule setting a new hearing date for April 26, 2017.

Prior to the evidentiary hearing, the parties were able to agree to a settlement of all issues and notified ALJ Heep of such on April 7, 2017.

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

### **III. STATEMENT IN SUPPORT OF JOINT PETITION**

#### **A. Qualifying Distribution Revenues for DSIC**

Pursuant to the Settlement, the Nuclear Decommissioning Charge Adjustment, the Non-Bypassable Transmission Charge, and the State Tax Adjustment Surcharge (“STAS”) will not be included in the DSIC calculation. The Fixed Charge, Variable Distribution Charge, High Voltage Discount, Applicable Riders,<sup>1</sup> Consumer Education Charge, Energy Efficiency & Conservation Charge, Universal Service Fund Charge, and Tax Accounting Repair Credit will be included.

The settlement properly distinguishes between applicable and non-applicable riders by limiting applicable riders to those that impact PECO’s distribution margin revenues. While the DSIC is capped at 5.0%, the inclusion of any non-distribution revenues in the denominator of the underlying DSIC calculation would artificially inflate the maximum amount of DSIC revenue permissible for collection under the 5% cap. This outcome would be equivalent to extending the

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<sup>1</sup> Includes the Capacity Reservation Rider Charges, CAP Rider, Commercial and Industrial Direct Load Control Rider, Economic Development Rider, Investment Guarantee Rider Charges, Residential Direct Load Control Rider, and Night Service Rider (GS, PD and HT rates).

statutory cap above 5%. By excluding the Nuclear Decommissioning Charge Adjustment, the Non-Bypassable Transmission Charge, and the STAS from the DSIC calculation, the settlement ensures that ratepayers are not charged a DSIC that exceeds the statutory cap of 5%.

The OSBA determines that this provision of the Settlement is beneficial to all ratepayers, including PECO's small business customers.

**B. Transmission Voltage Rate Customers**

The Parties have agreed to cap the responsibility of one of PAIEUG's members, Kimberly-Clark Corporation ("K-C"), to pay the DSIC at a rate of 1.5% for K-C's Rate HT account. However, if PECO's DSIC goes above 1.5%, PECO will forego surcharge recovery of amounts that would otherwise be charged to K-C. Because those amounts would not be recovered from other ratepayers through the DSIC, and because whether or not any PECO customer(s) should be granted an exemption from DSIC charges under the transmission voltage provisions in the Commission's Final Implementation Order may be fully addressed, without prejudice, in PECO's next base rate case proceeding, 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 Heep and the Commission approve the Joint Petition in its entirety without modification.

Respectfully submitted,



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Dated: May 8, 2017

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of PECO Energy Company : P-2015-2471423  
for Approval of its Electric Long-Term : C-2015-2476587  
Infrastructure Improvement Plan and to Establish :  
a Distribution System Improvement Charge for Its :  
Electric Operations :

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**STATEMENT IN SUPPORT OF  
THE PHILADELPHIA AREA INDUSTRIAL ENERGY USERS GROUP**

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The Philadelphia Area Industrial Energy Users Group ("PAIEUG") by and through their counsel, submits this Statement in Support ("Statement") of the Joint Petition for Complete Settlement ("Joint Petition" or "Settlement"), filed in the above-captioned proceeding with the Pennsylvania Public Utility Commission ("PUC" or "Commission"). This Joint Petition reflects settlement with respect to the Petition of PECO Energy Company for Approval of its Electric Long-Term Infrastructure Improvement Plan and to Establish a Distribution System Improvement Charge for its Electric Operations ("DSIC Petition").

As a result of settlement discussions, PAIEUG, PECO Energy Company ("PECO" or "Company"), the Office of Consumer Advocate ("OCA"), and the Office of Small Business Advocate ("OSBA") (collectively, "Parties" or "Joint Petitioners") have agreed upon the terms embodied in the foregoing Joint Petition. PAIEUG offers this Statement to further demonstrate that the Settlement is in the public interest and should be approved without modification.

**I. BACKGROUND**

1. On March 27, 2015, PECO filed with the PUC its DSIC Petition.
2. On April 15, 2015, PAIEUG filed a Petition to Intervene and an Answer to PECO's DSIC Petition.

3. On October 22, 2015, the PUC entered an Order finding that, although PECO's DSIC Petition complied with Act 11 of 2012 ("Act 11") and its Final Implementation Order,<sup>1</sup> the following issues should be reviewed by the Office of Administrative Law Judge ("OALJ"): (1) whether customers taking service at transmission voltage rates should be included under the distribution system improvement charge ("DSIC"); and (2) if revenues associated with the riders in PECO's tariff are properly included as distribution revenues.

4. On May 17, 2016, PAIEUG filed a Prehearing Memorandum with the PUC outlining its concerns with PECO's DSIC Petition, namely: (1) PECO's proposal to apply the DSIC to transmission voltage customers; and (2) PECO's calculation of the 5% cap on costs recovered through the DSIC, including the proper treatment of revenues collected through the Company's various riders.

5. On May 19, 2016, Administrative Law Judge ("ALJ") Christopher P. Pell and ALJ Darlene Heep held an initial Prehearing Conference for May 19, 2016 at 10:00 a.m.<sup>2</sup>

6. By Prehearing Order #1 dated June 14, 2016, the ALJs approved the parties' proposed course of action, adopted the modifications to the PUC's discovery rules, and established rules for service of documents. In addition, through Prehearing Order #1, the ALJs also granted the parties' request to hold a second Prehearing Conference on July 11, 2016, so that the parties could have at least two meetings to explore the possibility of stipulation or settlement of the issues in this case.

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<sup>1</sup> *Implementation of Act 11 of 2012 – Final Implementation Order*, Docket No. M-2012-2293611 (August 2, 2012) ("Final Implementation Order").

<sup>2</sup> By Judge Change and Hearing Cancellation/Reschedule Notice dated March 13, 2017, this matter was subsequently assigned only to ALJ Heep.

7. On July 6, 2016, the Parties submitted an email to the ALJs requesting cancellation of the July 11, 2016, prehearing conference because discussions among the Parties indicated progress toward settlement. On July 7, 2016, the ALJs granted that request by email.

8. In December 2016, the Parties indicated to the ALJs that they were unable to resolve all issues. By email to the ALJs dated January 6, 2017, the Parties proposed a procedural schedule and hearing date for consideration. By email issued that same day, the ALJs informed the Parties that the proposed procedural schedule was acceptable and organized an evidentiary hearing for March 21, 2017.

9. On January 17, 2017, PECO served the Direct Testimony of Alan B. Cohn and accompanying exhibits to the ALJs and the Parties.

10. On February 27, 2017, the Parties requested a continuance in order to allow time for additional settlement discussions. The Parties also proposed a revised procedural schedule. The ALJs subsequently informed the Parties that they accepted the proposed schedule.

11. After several rounds of settlement discussions, on April 7, 2017, the Joint Petitioners informed the ALJ that a settlement in principle had been reached on all issues and requested suspension of the litigation schedule. That settlement in principle was memorialized as the Joint Petition.

## **II. STATEMENT IN SUPPORT**

12. 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(a); *see also* 52 Pa. Code § 5.231. Consistent with the Commission's policy, the Joint

Petitioners engaged in negotiations to resolve the issues raised by various parties. These ongoing discussions produced the foregoing Settlement.

13. The Joint Petitioners agree that approval of the proposed Settlement is in the best interests of the Parties involved.

14. The Joint Petitioners agree that PECO should be authorized to file tariff supplements to reflect implementation of a DSIC consistent with the terms and conditions of the Joint Petition.

15. The Joint Petition is in the public interest for the following reasons:

- a. As a result of the Joint Petition, expenses incurred by the Joint Petitioners and the Commission for completing this proceeding will be 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 regarding the issues in this Settlement are avoided as a result of the Joint Petition; and
- c. The Joint Petition reflects compromises on all sides presented without prejudice to any position any Joint Petitioner may have advanced so far in this proceeding. Similarly, the Joint Petition is presented without prejudice to any position any party may advance in future proceedings involving PECO.

16. In addition, the Joint Petition specifically satisfies the concerns of PAIEUG in the following ways:

- a. The DSIC formula only includes the qualifying revenues listed in Paragraph 27(b) of the Joint Petition. The DSIC calculation appropriately excludes the Nuclear Decommissioning Cost, the Non-Bypassable Transmission Charge, and the State Tax Adjustment, as such charges are not linked to distribution revenues. *See* Joint Petition, pp. 8-9.
- b. Prior to its next base rate case, PECO will focus on including a more granular definition of distribution system costs for customers taking service at transmission voltage levels or at or within one span of a PECO-owned substation (*i.e.*, transmission-transformed service). *See* Joint Petition, pp. 7-8. This information is important because it will enable the parties to address appropriate application of the DSIC in PECO's next base rate case. This research ensures that sufficient information is available to determine whether the DSIC should be applied to all customers (or whether some customers should be excluded from the DSIC because



they receive service from transmission assets). Moreover, the Joint Petition provides the parties the opportunity to address these issues as part of PECO's next base rate proceeding. *See* Joint Petition, p. 9.

- c. The Joint Petition appropriately limits how PECO's DSIC may apply to Kimberly-Clark Corporation ("K-C"), a PAIEUG member. Because of Act 11 and the unique factual circumstances surrounding PECO's provision of service to K-C,<sup>3</sup> applying a 1.5% cap to K-C's DSIC and reexamining this issue further in PECO's next base rate case (when more granular information is available) is a reasonable and just means by which to ensure that K-C's service is adequately addressed under the terms of Act 11. Joint Petition, pp. 7, 9.

17. PAIEUG supports the Joint Petition because it is in the public interest; however, in the event the Joint Petition is rejected by the ALJ or the Commission, PAIEUG will resume its litigation position, which differs from the terms of the Joint Petition.

18. As set forth above, PAIEUG submits that the Settlement is in the public interest and adheres to Commission policies promoting negotiated settlements. The Settlement was achieved after several negotiations. Although the Joint Petitioners have invested time and resources in the negotiation of the Joint Petition, this process has allowed the parties, and the Commission, to avoid expending the substantial resources that would have been required to fully litigate the current issues in this proceeding while still reaching a just, reasonable, and non-discriminatory result. The Joint Petitioners have thus reached an amicable solution to this dispute as embodied in the Settlement. Approval of the Settlement will permit the Commission and Joint Petitioners to avoid incurring the additional time, expense, and uncertainty of further litigation of a number of major issues in this proceeding. *See* 52 Pa. Code § 69.391.

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<sup>3</sup> These unique factual circumstances are set forth more fully in Section III Stipulation of Facts. *See* Joint Petition, p. 9.

III. CONCLUSION

WHEREFORE, PAIEUG respectfully requests that ALJ Heep and the Commission approve the Joint Petition without modification.

Respectfully submitted,

McNEES WALLACE & NURICK LLC

By 

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Dated: May 8, 2017