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

BUREAU OF
INVESTIGATION
&
ENFORCEMENT

March 3, 2021

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

Re: Pennsylvania Public Utility Commission v.
PECO Energy Company – Gas Division
Docket No.: R-2020-3018929
I&E Main Brief

Dear Secretary Chiavetta:

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

Copies are being served on parties of record per the attached Certificate of Service. *Due to the temporary closing of the PUC's offices, I&E is only providing electronic service.* Should you have any questions, please do not hesitate to contact me.

Sincerely,

Scott B. Granger

Scott B. Granger
Prosecutor
Bureau of Investigation and Enforcement
PA Attorney ID No. 63641
(717) 425-7593
sgranger@pa.gov

SBG/ac
Enclosures

cc: Honorable Christopher P. Pell – Office of Administrative Law Judge (*via email*)
Pamela McNeal, Legal Assistant – Office of Administrative Law Judge (*via email)*
Per Certificate of Service

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission	:	
	:	
v.	:	Docket Nos. R-2020-3018929
	:	C-2020-3022400
PECO Energy Company – Gas Division	:	C-2020-3022414
Base Rates	:	C-2020-3022745

MAIN BRIEF
OF
THE BUREAU OF INVESTIGATION & ENFORCEMENT

Allison C. Kaster
Deputy Chief Prosecutor
PA Attorney ID No. 93176

Scott B. Granger
Prosecutor
PA Attorney ID No. 63641

Bureau of Investigation & Enforcement
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

Dated: March 3, 2021

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I. INTRODUCTION

A. Description of Company

Mr. Ronald A. Bradley, PECO Gas, Vice President of Gas, has provided a description of the PECO Gas operations in his direct testimony.[1]

B. Procedural History

On September 30, 2020, PECO Energy Company – Gas Division ("PECO" or "PECO Gas" or the "Company") filed its proposed Tariff Gas - Pa. P.U.C. No. 4[2] to supersede Tariff Gas – Pa. P.U.C. No. 3 and all Supplements thereto with a proposed effective date of November 29, 2020 with the Pennsylvania Public Utility Commission ("Commission"). The rates as proposed in Tariff Gas – Pa. P.U.C. No. 4, if approved by the Commission, would increase its annual gas distribution rates by approximately $68.7 million, or 8.9% on the basis of total Pennsylvania jurisdictional gas operating revenue. PECO Gas stated that in accordance with Section 1308 of the Public Utility Code, the tariff setting forth the Company's proposed rates bears an effective date of November 29, 2020. However, PECO Gas noted that the Company anticipates that its requested increase will be suspended and investigated by the Commission and, therefore, the Company does not expect that new Commission-approved rates will become effective until approximately July 1, 2021.

The parties in this PECO Gas base rate proceeding are the Commission's Bureau of Investigation and Enforcement ("I&E"); the Office of Consumer Advocate ("OCA");

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1 *See* PECO Gas St. No. 1, pp. 2-5.

2 *See* PECO Gas Vol. I of IX, Exh. 2, PECO Gas Tariff No. 4 – Proposed.

the Office of Small Business Advocate ("OSBA"); the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania ("CAUSE-PA"); and, the Philadelphia Area Industrial Energy Users Group ("PAIEUG").

By Order entered on October 29, 2020, the Commission instituted an investigation into the lawfulness, justness, and reasonableness of the proposed rate increase. Pursuant to Section 1308(d) of the Public Utility Code, 66 Pa. C.S.A. § 1308(d), PECO Tariff Gas-Pa. P.U.C. No. 4 was suspended by operation of law until June 29, 2021, unless permitted by Commission Order to become effective at an earlier date. In addition, the Commission ordered that the investigation include consideration of the lawfulness, justness and reasonableness of PECO Gas' existing rates, rules, and regulations.

The matter was assigned to the Office of Administrative Law Judge, Deputy Chief Administrative Law Judge Christopher P. Pell, for the prompt scheduling of hearings culminating in the issuance of a Recommended Decision. A Call-in Telephonic Prehearing Conference was held on November 9, 2020.

Pursuant to the established litigation schedule, I&E filed the following pieces of direct and surrebuttal testimony on December 22, 2020 and February 9, 2021 respectively:

D.C. Patel	I&E Statement No. 1; I&E Exhibit No. 1; I&E Statement No. 1-SR; I&E Exhibit No. 1-SR.
Christopher Keller	I&E Statement No. 2 Proprietary and Non-Proprietary; I&E Exhibit No. 2 Proprietary and Non-Proprietary; I&E Statement No. 2-SR.

Ethan Cline	I&E Statement No. 3; I&E Exhibit No. 3; I&E Statement No. 3-SR Proprietary and Non-Proprietary; I&E Exhibit No. 3-SR; Errata Sheet to I&E Statement No. 3-SR.
Elena Bozhko	I&E Statement No. 4 Proprietary and Non-Proprietary; I&E Exhibit No. 4 Proprietary and Non-Proprietary; I&E Statement No. 4-SR Proprietary and Non-Proprietary; I&E Exhibit No. 4-SR Proprietary and Non-Proprietary.

During the course of this proceeding the parties held a series of settlement conferences but were unable to amicably resolve the issues presented in PECO Gas' base rate filing. On February 17, 2021, at the time and place set for the evidentiary hearing, the parties appeared telephonically before ALJ Pell. The parties presented certain witnesses and rejoinder testimony subject to cross examination; and, also stipulated to the admission of the remaining pre-served written testimony and waived cross-examination. I&E moved the pieces of I&E testimony and exhibits identified above into evidence. A court reporter was present, and a Hearing Transcript ("Hrg. Tr.") for February 17, 2021, was distributed to the parties.

I&E now submits this Main Brief ("I&E MB") in support of the arguments made by the I&E witnesses in the record-evidence presented.

C. Overview of PECO Gas Filing

Mr. Ronald A. Bradley, PECO Gas, Vice President of Gas, has provided an overview of the PECO Gas base rate filing in his direct testimony.[3]

[3] *See* PECO Gas St. No. 1, pp. 5-9.

D. Burden of Proof

It is axiomatic that the burden of proof in any proceeding involving a utility's existing or proposed rates is on the utility.[4] PECO must satisfy its burden of proof by presenting a preponderance of evidence.[5] A preponderance of the evidence is such evidence that is more convincing, by even the smallest amount, than that presented by another party.[6] If a preponderance of evidence is submitted, the burden of going forward with competing evidence shifts to opposing parties to produce credible evidence of at least equal weight.

While the burden of going forward and producing evidence may shift back and forth between the parties, the ultimate burden of persuasion remains with the Company. Further, the Commission must ensure that any adjudication is supported by substantial evidence. "Substantial evidence" is such relevant evidence that a reasonable mind might accept as adequate to support a conclusion.[7]

I&E asserts that PECO Gas has failed to meet its burden and therefore I&E respectfully requests that the Administrative Law Judges and the Commission adopt the adjustments and the overall revenue requirement set forth in the record evidence presented by I&E and as asserted in this I&E Main Brief.

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[4] *See* 66 Pa. C.S. §§1301, 315(a); *Brockway Glass Co. v. Pa. P.U.C.,* 437 A.2d 1067 (Pa. Commw. 1981); *Lower Frederick Twp. v. Pa. P.U.C.,* 409 A.2d 505 (Pa. Commw. 1980).

[5] *Samuel J. Lansberry, Inc. v. Pa. P.U.C.*, 578 A.2d 600 (Pa. Commw. 1990).

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

[7] *Norfolk & Western Ry. Co. v. Pa. P.U.C.*, 413 A.2d 1037 (Pa. 1980).

II. SUMMARY OF ARGUMENT

PECO Energy Company **-** Gas Division has failed to present substantial credible record evidence to support its request for a $68.7 million revenue requirement increase. Based upon I&E's adjustments following hearings and the creation of a full evidentiary record on all issues, the record evidence proves that only a revenue increase of $26.3 million is warranted. This recommendation is based upon the adjustments offered by I&E, as set forth more fully herein and summarized in Table I (Income Summary), Table II (Summary of I&E Adjustments), and Table III (Rate of Return) collectively attached hereto as Appendix "A."

RATE BASE **-** In summary, rate base is the depreciated original cost of a utility's investment in plant a utility has in place to serve customers plus other additions and deductions that the Commission determines to be necessary in order to keep the utility operating and providing safe and reliable service to its customers. The Company's total revised rate base claim for the FPFTY ending June 30, 2022, is $2,463,555,000. The Company's revised rate base claim is based on the acceptance of certain rate base adjustments recommended by I&E witness Cline as well as those of OCA witness Morgan. I&E's total rate base recommendation, not including the adjustments accepted by the Company, is to reduce the Company's revised rate base by $46,821,000 from $2,463,555,000 to $2,416,734,000.

Regarding accumulated depreciation, and to remain consistent with the plant in service and annual depreciation expense adjustments, I&E recommends the accumulated depreciation claim be reduced by approximately $804,000 from $892,383,000 to $891,579,000 which are also contingent upon I&E's adjustments to the plant in service.

I&E recommends the Commission accept I&E's calculation that the Natural Gas Reliability project is 28% completed with $33,888,385 spent to date. As the Company is unlikely to spend 94.6% of the remaining project costs in the FPFTY ($82,481,428 / $87,141.561 x 100%), I&E recommends an allowance of the linearly determined remaining cost share in the FPFTY, or $34,856,625. Therefore, I&E recommends that the Company's claim for plant additions in the FPFTY be reduced by $47,624,803 from $82,481,428 to $34,856,625.

Further, I&E recommends the disallowance of the Company's $35,059,000 pension asset claim and a reduction of $35,059,000 to the Company's rate base claim.

I&E recommended that the Company's materials and supplies, gas in storage, customer deposits, and customer advances for construction claims in the FPFTY be determined using an updated thirteen-month average ended September 2020 as shown on I&E Exhibit No. 3, Schedule 1, and the Company did not object. Additionally, I&E recommended the Company provide periodic updates to the Commission's Bureaus of Technical Utility Services and Investigation and Enforcement regarding actual capital expenditures, plant additions, and retirements by month.

REVENUES - I&E recommends that the Company include revenue under proposed rates from forfeited discounts equal to 0.195% of Gas Service Revenues upon determination of the total revenue granted by the Commission.

EXPENSES - It is well settled that a utility is entitled to recover its reasonably and prudently incurred expenses. To the extent that expenses are not incurred, imprudently incurred, or abnormally overstated during the test year, they should be disallowed and found not recoverable through rates.

I&E recommends an allowance of $41,350,285, and accordingly, a reduction of $858,715 to PECO's claim of $42,209,000 payroll expense. Additionally, I&E recommends an allowance of $5,797,603 for employee benefits, and accordingly, a reduction of $120,397 to PECO's claim of $5,918,000. Further, I&E recommends an allowance of $32,940,000, or a reduction of $10,015,000 ($42,955,000 - $32,940,000) for contracting/materials cost.

I&E asserts and recommends that adjusting the HTY actual outside services for inflation based on the Consumer Price Index (CPI) factors of 2.75% and 2.03% to determine the FTY and FPFTY allowance is fair and reasonable despite the decline in actual outside services expense by 3.17% in 2018-19 and 15.40% in 2019-20. Therefore, I&E recommends an allowance of $13,437,856 or a reduction of $3,134,144 ($16,572,000 - $13,437,856) to the Company's claim for outside services net of the "cost to achieve" adjustment of $370,000.

I&E recommends an allowance of $270,000 and accordingly, a reduction of $780,000 to PECO's claim of $1,050,000 for OPEB expense. Further, I&E recommends a disallowance of the $370,000 ($1,111,000 ÷ 3) costs to achieve expense claim in its entirety. OCA witness Morgan made adjustments to general assessments and research and development expenses. I&E recommends an allowance of $58,469, and accordingly, a reduction of $80,933 to PECO's claim of $139,402. Additionally, I&E recommends an allowance of $862,153, and accordingly, a reduction of $169,847 to PECO's claim of $1,032,000. Further, I&E recommends an allowance of $588,135, and accordingly, a reduction of $67,762 ($655,897 - $588,135) to PECO's industry organization membership expense claim of $655,897. OCA witness Morgan made adjustments to injuries and damages, and property taxes.

I&E recommends an allowance of $2,727,500, and accordingly, a reduction of $1,772,500 to PECO's claim of $4,500,000. Further, I&E recommends a 60-month normalization period for rate case expense, and accordingly, a reduction of $208,200 to PECO's claim of $520,000. I&E recommends an updated allowance of $28,200 ($141,000 ÷ 5-year amortization), or a reduction of $18,800 ($47,000 - $28,200) to PECO's revised claim of $47,000. OCA witness Morgan recommended an adjustment to increase the period over which PECO's claimed manufactured gas plant remediation expenses are to be amortized for rate making purposes. Further, OCA witness Morgan recommended an adjustment to depreciation expense to be consistent with the recommended plant in service adjustment.

Finally, I&E's updated recommendation for CWC is $3,135,234 or a reduction of $301,766 ($3,437,000 - $3,135,234) to the Company's updated claim. I&E's updated CWC recommendation is not a final recommendation, as all adjustments to the Company's claims must be continually brought together through the ratemaking process known as "iteration."

TAXES - I&E recommends an allowance of $3,699,145 for payroll tax expense, and accordingly, a reduction of $76,855 to PECO's claim of $3,776,000.

RATE OF RETURN - I&E recommends the following rate of returns for PECO Gas:

Type of Capital	Ratio	Cost Rate	Weighted Cost
Long-Term Debt	46.62%	3.84%	1.79%
Common Equity	53.38%	10.24%	5.47%
Total	100.00%		7.26%

Further, I&E recommends using the Company's claimed capital structure as it falls within the range of the I&E proxy group's 2019 capital structures, which is the most recent information available at the time of I&E's analysis. Additionally, I&E recommends using the Company's updated claimed long-term debt cost rate of 3.84% for the FPFTY.

I&E continues to recommend using the Discounted Cash Flow (DCF) method as the primary method to determine the cost of common equity, and using the results of the Capital Asset Pricing Model (CAPM) as a comparison to the DCF results. I&E recommends a cost of common equity of 10.24%.

I&E asserts that true management effectiveness is earning a higher return through its efficient use of resources and cost cutting measures. Further, even a modest increase in the cost of equity by an additional 25 basis points translates to an additional $3,285,458 that would flow through to the ratepayers. I&E urges that PECO Energy should not be awarded additional basis points for doing what they are required to do by the Public Utility Code and the Commission regulations in order to provide adequate, efficient, safe, and reasonable service.

PECO and the parties raised multiple issues regarding I&E's cost of common equity calculations and recommendation that have been addressed and rejected in I&E witness Keller's surrebuttal testimony. Finally, I&E recommends that the Company should be afforded the opportunity to earn an overall rate of return of 7.26% based on the calculated weighted averages.

CUSTOMERS PROGRAMS AND MISCELLANEOUS ISSUES - The Company states that it has experienced increases in various costs during the COVID-19 pandemic, however it has not created a regulatory asset and was not making a claim in this case to recover its expenses and lost revenues.

Regarding PECO's Neighborhood Gas program, I&E recommends allowing up to 40 feet of main line per contracted residential customer at no cost with certain limitations. Further, I&E also recommends an annual allowance of $5,000,000 ($25,000,000 ÷ 5 years) for the capital costs associated with the proposed change to the Neighborhood Gas program, or a reduction of $2,500,000 ($7,500,000 - $5,000,000).

Regarding quality of service, I&E made recommendations regarding PECO's Distribution Integrity Management Program, and PECO's methods of monitoring and reducing risk and damages to PECO's distribution system, in I&E witness Bozhko's PROPRIETARY direct and surrebuttal testimony.

RATE STRUCTURE – PECO provided an updated cost-of-service study ("COSS") and I&E based its customer cost analysis on the updated COSS. I&E believes the Company's revised COSS is reasonable except for the calculation of the relative rate of return as discussed in revenue allocation. The customer cost analysis is a part of the analysis of a COSS that is used to determine the appropriate fixed customer charges for the various classes and meter sizes; and it includes customer costs only.

Regarding revenue allocation, I&E identified several issues regarding the Company's proposed rate allocation methodology, finding that the Company's proposed revenue allocation is not reasonable and should be rejected. Based on I&E's proposed revenue allocation schedule and taking into consideration the issues brought forth by the OCA and OSBA, I&E developed its recommended revised revenue allocation. Further, I&E recommends that only the rates of those rate classes that receive an increase be scaled back proportionately based on the COSS ultimately approved by the Commission; and, I&E continues to recommend that the customer charges be included in the scale back of rates. Finally, I&E mentions the concept of gradualism as one of the tools of discretion in the Commissions tool box.

Regarding customer charges, I&E notes that the Company's proposed $16.00 customer charge is supported by the customer cost analysis, the $4.25 increase from $11.75 to $16.00, or 36%, is a significant increase that cannot be ignored, and I&E recommends that the customer charge be included in the scale back of rates if the Commission grants less than the full requested increase. Additionally, any analysis regarding the setting of non-residential customer charges should include a review of the COSS; the customer cost analysis; and, the relative rate of returns regarding rate allocation. Finally, I&E recommends the Commission apply the relevant sections of the

Public Utility Code to any proposed Distribution System Improvement Charge cost allocation.

Regarding PECO's negotiated gas service, I&E recommends the Company provide an update to the competitive alternative analysis for any customer that has not had their alternative fuel source verified for a period of 5 years or more at the point at which PECO files a base rate case.

CONCLUSION – PECO Gas has not met its burden of proof as the record evidence presented by PECO Gas does not substantiate a revenue increase of $68.7 million; instead, based on the weight of the record evidence, the Commission should only grant PECO Gas the I&E recommended revenue increase of $26.3 million.

III. OVERALL POSITION ON RATE INCREASE REQUEST

I&E's total recommended revenue requirement for the Company is $616,358,000.[8] This recommended revenue requirement represents an increase of $26,344,000 to the claimed present rate revenues of $590,014,000.[9] I&E's recommended revenue increase of $26.3 million represents a $42.4 million reduction to PECO's initial request of a $68.7 million increase and a 4.46% overall increase in revenue.

IV. RATE BASE

Rate base is the depreciated original cost of a utility's investment in plant a utility has in place to serve customers plus other additions and deductions that the Commission determines to be necessary in order to keep the utility operating and providing safe and

[8] *See* I&E St. No. 1-SR, pp. 3-4; Table I, p. 4.
[9] *Id.*

reliable service to its customers.[10] Rate base includes all the utility's intangible assets (i.e., organization costs, franchise and consents costs, and land right costs) and tangible assets (i.e., facilities, equipment, and land) which have been depreciated over a period of time, or depreciated original cost plant in service, as well as the other allowed additions and deductions.[11]

Additionally, the depreciated original cost is determined by subtracting the book reserve, which is the accumulation of all prior annual depreciation expense, and other items such as salvage value from the original cost of the plant in service that is projected to be used and useful in the public service.[12] The depreciated original cost of the plant in service is determined by taking a "snapshot" look at the depreciated original cost value of used and useful utility plant in service at the end of the fully projected future test year.

A. Fair Value

The Company's total revised rate base claim for the FPTY ending June 30, 2021, is $2,463,555,000.[13] The Company's revised rate base claim is based on the acceptance of certain rate base adjustments recommended by I&E witness Cline as well as those of OCA witness Morgan.[14] I&E, however, still does not accept the Company's revised claim as it only accepted some of I&E's the recommendations.[15] Specifically, the Company accepted the adjustments I&E made to gas storage inventory, materials and

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10 I&E St. No. 3, p. 3.
11 *Id.*
12 *Id.*, p. 4.
13 *See* PECO Exh. MJT-1 Rev., Sch. A-1.
14 *See* I&E St. No. 3-SR, p. 3. See also PECO St. No. 3-R, p. 3.
15 I&E St. No. 3-SR, p. 3.

supplies, customer deposits, and customer advances.[16] However, I&E continues to assert support for I&E's remaining recommendations regarding the Company's plant additions and accrued depreciation claims.[17]

B. Utility Plant in Service

Utility plant-in-service, or rate base, includes all the utility's intangible assets (i.e., organization costs, franchise and consents costs, and land right costs) and tangible assets (i.e., facilities, equipment, and land) which have been depreciated over a period of time, or depreciated original cost plant in service, as well as the other allowed additions and deductions.[18] Moreover, for a utility plant to be included in rates, the plant must be used and useful in the provision of utility service to the customers. Therefore, by definition, only plant currently providing or capable of providing utility service to customers or plant projected to be completed and in service by the end of the FPFTY is eligible to be reflected in rates.[19]

C. Depreciation Reserve – Annual/Accumulated

I&E recommends that the overall accumulated depreciation should be decreased by approximately $804,000.[20] The $804,000 decrease corresponds with the I&E recommendation to remove a portion of the Natural Gas Reliability project plant addition as argued *infra*.[21] I&E recognizes that it's adjustment to annual depreciation expense is

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16 *Id.*
17 *Id.*
18 I&E St. No. 3, p. 3.
19 I&E St. No. 3, p. 8.
20 I&E St. No. 3, p. 13; I&E St. No. 3-SR, pp. 6-7.
21 *Id.*

contingent upon I&E's adjustment to plant additions.[22] And, because I&E is continuing to recommend the adjustment to plant additions, discussed above, I&E is therefore continuing to recommend the Company's annual depreciation expense claim be decreased by approximately $804,000.[23]

Regarding accumulated depreciation, and to remain consistent with the plant in service and annual depreciation expense adjustments, I&E recommends the accumulated depreciation claim be reduced by approximately $804,000 from $892,383,000 to $891,579,000 which are also contingent upon I&E's adjustments to the plant in service.[24]

D. Additions to Rate Base

1. Projected Plant Additions

I&E recommended the disallowance of $47,624,803 of the projected $82,481,428 in claimed plant additions for the "Natural Gas Reliability - Install 11.5 miles of OHP gas main, upgrade LNG plant and construct a new gate station" project[25] which results in the claimed $82,481,428 being reduced to $34,856,625.[26]

The Company argued the "Natural Gas Reliability project consists of three components (1) upgrades to the West Conshohocken LNG facility; (2) the construction of a new 11.5-mile gas main and (3) a new reliability station."[27] PECO further claimed that approximately 50% of the aggregate costs will be spent in 2021, the new reliability station and 11.5-mile gas main are scheduled to be in service by the end of the FPFTY, and that the

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[22] I&E St. No. 3-SR, p. 8.
[23] *Id.*
[24] I&E St. No. 3, p. 15; I&E St. No. 3-SR, p. 9.
[25] I&E St. No. 3, p. 10. *See also*, I&E Exhibit No. 3, Sch. 2, p. 3 of 3.
[26] *Id.*
[27] PECO St. No. 1-R, pp. 18-20.

entirety of the Natural Gas Reliability project is scheduled to be in service by the end of 2022.[28] PECO, however has provided conflicting information regarding the completion and in-service dates for these projects.

The Company's rebuttal testimony is not consistent with response it provided to I&E. PECO's statement that the entirety of the project is scheduled to be in service by the end of 2022 is not consistent with the in-service date of June 2023 provided in the Company's response to I&E-RB-4-D.[29] The Company provided no evidence or support for its updated claim of the end of 2022 for its in-service date for the Natural Gas Reliability project.[30] Additionally, as the FPFTY ends June 30, 2022, the Company's projection of end of 2022 for the in-service date necessarily means that the project will not be fully in-service within the FPFTY.[31] Finally, the Company's attempt to "correct" its testimony through oral rejoinder suffers from the same inconsistencies. The time to provide the Commission the complete and correct justification is in the Company's case-in-chief in the filing, which is the purpose of the Public Utility Code requirements and the Commission's regulations regarding general rate increase filings in excess of $1 million.

Therefore, I&E recommends the Commission accept I&E's calculation that the Natural Gas Reliability project is 28% completed with $33,888,385 spent to date.[32] Dividing the $33,888,385 by 28% indicates that the total project cost is $121,029,946. Therefore, the remaining cost of the project is $87,141,561 ($121,029,946 -

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28 *Id.*
29 I&E St. No. 3-SR, p. 5, *citing* I&E Exh. No. 3, Sch. 2, p. 3.
30 I&E St. No. 3-SR, p. 6.
31 *Id.*
32 I&E St. No. 3, pp. 11-12, *citing* I&E Exh. No. 3, Sch. 2, p. 3 of 3.

$33,888,385).[33] The Company further listed the completion date of this project as June 2023, or approximately 2.5 years remaining to complete the project.[34] Therefore, the Company is projecting it will spend $87,141,561 over 2.5 years, or, on a linear basis, $34,856,625 per year ($87,141,561 / 2.5 years). As the Company is unlikely to spend 94.6% of the remaining project costs in the FPFTY ($82,481,428 / $87,141.561 x 100%), I&E recommends an allowance of the linearly determined remaining cost share in the FPFTY, or $34,856,625.[35] Therefore, I&E recommends that the Company's claim for plant additions in the FPFTY be reduced by $47,624,803 from $82,481,428 to $34,856,625.[36]

2. Pension Asset

I&E recommended disallowance of the Company's $35,059,000 claim or a reduction of $35,059,000 to the Company's rate base claim.[37] The pension asset represents a mismatch from a GAAP accounting perspective (use of an accrual method for plant accounts) and a cash contribution method for the expense account in ratemaking, and these differences between GAAP expense and cash contributions in any given year should not be viewed as a valid reason to inflate the plant amounts in rate base. Therefore, for ratemaking purposes the Commission should disallow this claim.[38]

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[33] *Id.*
[34] *Id.*
[35] *Id.*
[36] I&E St. No. 3-SR, p. 6.
[37] I&E St. No. 1, p. 47.
[38] *See* I&E St. No. 1, pp. 47-50; I&E St. No. 1-SR, pp. 41-43.

This issue arose because PECO included a $35,059,000 pension asset in rate base that consists of the portion of PECO's cash pension contributions that PECO argues it will have neither recovered as an operating expense nor capitalized to utility plant because the capitalized amounts are based on costs determined pursuant to Financial Accounting Standards Codification Topic 715 or (ASC 715), which was formerly Statement of Financial Accounting Standards 87 or (SFAS 87).[39]

The Company argues the pension asset of $35.1 million is investor-supplied capital that was actually contributed to PECO's pension fund and assumed for ratemaking purposes to be included in PECO's plant accounts to recover the previously unrecovered associated carrying cost and PECO is not seeking their recovery in this case.[40] But, I&E disagrees and asserts that the pension asset of $35.1 million should not be included in PECO's plant accounts to recover the previously unrecovered associated carrying cost.[41] Rather, fundamentally, the pension asset is created due to mismatch in GAAP accounting and ratemaking treatment of pension costs (an accounting journal entry), and there is no real infusion of capital or funds by the investors/stockholders that is eligible for return on investment.[42] Additionally, the accumulated balance of the pension asset should not be categorized or described as a utility asset that is used and useful in providing utility services to ratepayers, and therefore, should not be included as an eligible asset in the rate base claim to recover the associated carrying cost (earning a return on it).[43]

[39] PECO St. No. 3, pp. 5-6.
[40] PECO St. No. 3-R, pp. 11-12.
[41] I&E St. No. 1-SR, p. 41.
[42] I&E St. No. 1-SR, pp. 41-42.
[43] I&E St. No. 1, pp. 47-48.

The Company also argues that the Commission's method to reflect pension costs in operating expenses for ratemaking purposes causes a real and material difference between the amounts the Commission assumes will be capitalized (based on cash pension contributions) and the amounts that are actually capitalized (based on GAAP rules that public companies follow).[44] But this argument is just an acknowledgment of the fact that the pension asset represents a mismatch in GAAP accounting and ratemaking treatment of the pension costs.[45]

PECO also argues that the conceptual basis for including a pension asset in rate base was adopted and affirmed in the black-box settlements of three consecutive rate cases of Duquesne Light Company (Duquesne) filed in 2010, 2013, and 2018 and I&E did not appear to oppose this.[46] "Black box" settlements allow the parties to reach an amicable agreement which is by definition a negotiated compromise on the part of all parties and does not necessarily represent the positions the parties would have adopted during litigation.[47] The purpose is to avoid the expense of litigation and at the same time preserve all arguments raised during the litigation for future litigation if the parties ever deem it necessary to litigate a contested issue.

Finally, the Company argues the calculation of the pension asset is not a one-way street.[48] PECO added, the pension fund contributions used to calculate pension expense for ratemaking have thus far been more than the pension accruals under SFAS 87, used to

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[44] PECO St. No. 3-R, p. 12.
[45] I&E St. No. 1, p. 47.
[46] PECO St. No. 3-R, pp. 19-20.
[47] I&E St. No. 1-SR, p. 43.
[48] PECO St. No. 3-R, p. 19.

calculate the amount of pension costs included in plant accounts.[49] However, that relationship could change over time, and if that occurs, PECO will reflect the net cumulative pension liability as a reduction to rate base for ratemaking purposes.[50] Nevertheless, I&E asserts that it is I&E's understanding that over time, differential amounts (positive/negative) between the sum amount recorded for accrual accounting purposes per GAAP and the sum amount of annual cash contributions shall match or change to a liability account.[51] Therefore, these differences between GAAP expense and cash contributions in any given year should not be viewed as a valid reason to inflate the plant amounts in rate base.

Therefore, in consideration of all of the above and the record evidence presented by I&E, I&E recommends the disallowance of the Company's $35,059,000 pension asset claim and a reduction of $35,059,000 to the Company's rate base claim.[52]

3. Uncontested Items

I&E recommended that the Company's materials and supplies, gas in storage, customer deposits, and customer advances for construction claims in the FPFTY be determined using an updated thirteen-month average ended September 2020 as shown on I&E Exhibit No. 3, Schedule 1.[53] The Company did not object to updating these claims to reflect data for the 13-months ended September 30, 2020.[54]

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[49] *Id.*
[50] PECO St. No. 3-SR, pp. 19-10.
[51] I&E St. No. 1, p. 49; I&E St. No. 1-SR, p. 43.
[52] I&E St. No. 1-SR, p. 43.
[53] I&E St. No. 3, pp. 16-18, 20-21, *citing* I&E Exh. No. 3, Sch. 1.
[54] PECO St. No. 3-R, pp. 2-3, *citing* PECO Exh. MJT-1 Rev. Sch. C-4 thru C-13.

Additionally, I&E recommended that the Company provide the Commission's Bureaus of Technical Utility Services and Investigation and Enforcement with an update to PECO Exhibits MJT-1 and MJT-2, Schedule C-2, no later than October 31, 2021, which should include actual capital expenditures, plant additions, and retirements by month from July 1, 2020 through June 30, 2021.[55] I&E also recommended an additional update be provided comparing projected additions and retirements with actual additions and retirements through June 30, 2022, no later than October 1, 2022.[56] And, the Company agreed with the I&E recommendation regarding the FPFTY reporting requirements.[57]

E. Conclusion

I&E's total rate base recommendation, not including the adjustments accepted by the Company discussed *supra*, is to reduce the Company's revised rate base by $46,821,000 from $2,463,555,000 to $2,416,734,000.[58]

V. REVENUES

A. Forfeited Discounts

I&E recommended that the revenue from forfeited discounts be increased by approximately $358,000 from $926,000 to $1,284,000 under proposed rates for the FPFTY ending June 30, 2022.[59] The $1,284,000 represents 0.195% of $658,591,000 of

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55 I&E St. No. 3, pp. 8-9.
56 *Id.*
57 PECO St. No. 3-R, p. 10.
58 I&E St. No. 3-SR, p. 10, *citing* I&E Exh. No. 3-SR, Sch. 1.
59 I&E St. No. 3, p. 24.

proposed Gas Service Revenues for the year ending June 30, 2022.[60] I&E further recommended that the forfeited discount amount should be decreased if the Commission grants less than a full increase and recommended that the Company include revenue under proposed rates from forfeited discounts equal to 0.195% of Gas Service Revenues upon determination of the total revenue granted by the Commission.[61]

PECO argued that forfeited discounts should be projected for the FPFTY based on their relationship to past due accounts receivables rather than total revenues.[62] The Company argued further that the Company determined that a period from January 2012 through December 2019 was appropriate to address short term variations in data such as the impact of the COVID-19 pandemic in 2020 claiming that the "best fit" trend lines shown on PECO Exhibit RJS-1-R confirms that forfeited discounts have a much stronger relationship with past due accounts receivable than with overall revenues.[63]

Nevertheless, I&E argues that the Company's explanation of how it calculates its projected forfeited discount revenue illustrated why that projection is understated.[64] Specifically, the time period shown on PECO Exhibit RJS-1-R does not include a year in which the Company increased its rates.[65] Furthermore, PECO's explanation of its methodology does not indicate that the increase in rates from the present base rate proceeding was factored into the analysis.[66] Based on the information provided by the

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[60] *Id.*, *citing* PECO Exh. MJT-1, Sch. D-1, ln. 11.
[61] I&E St. No. 3, p. 25.
[62] PECO St. No. 2-R, pp. 7-9.
[63] PECO St. No. 2-R, pp. 8-9, *citing* PECO Exh. RJS-1-R, p. 2.
[64] I&E St. No. 3-SR, p. 12.
[65] *Id.*
[66] *Id.*

Company, it is not possible to determine the level of Accounts Receivable the Company will experience as a result of the base rate increase and, as such, an accurate projection of forfeited discounts cannot be projected based on the Company's methodology.[67] Further, I&E believes it is reasonable to expect that forfeited discounts revenues will increase when a utility's base rates are increased as a result of a base rate proceeding.[68] Therefore, a three-year average of the historic relationship of forfeited discounts and total revenue applied to the projected revenue at proposed rates remains the most reasonable method of projecting forfeited discounts.[69]

In consideration of the above and the record evidence presented by I&E, I&E recommends that the Company include revenue under proposed rates from forfeited discounts equal to 0.195% of Gas Service Revenues upon determination of the total revenue granted by the Commission.[70]

VI. EXPENSES

It is well settled that a utility is entitled to recover its reasonably and prudently incurred expenses.[71] Operating and maintenance expenses, if properly and prudently incurred, are allowed as part of the overall rate computation. As such, a public utility is entitled to recover all reasonable and normal operating and maintenance expenses incurred by providing regulated service.[72] To the extent that expenses are not incurred,

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67 *Id.*
68 I&E St. No. 3, p. 25.
69 I&E St. No. 3-SR, p. 13.
70 *Id.*
71 *UGI Corp. v. Pa. P.U.C.*, 410 A.2d 923, 932 (Pa. Commw. 1980).
72 *Western Pennsylvania Water Company v. Pa. P.U.C.*, 422 A.2d 906 (Pa. Commw. 1980).

imprudently incurred, or abnormally overstated during the test year, they should be disallowed and found not recoverable through rates. The public utility requesting a rate increase and seeking to recover expenses has the burden of showing that the rate requested, including all claimed expenses, is just and reasonable.[73]

A. Payroll and Payroll Related Expense

I&E recommended an allowance of $41,350,285 for payroll expense, or a reduction of $858,715 ($42,209,000 - $41,350,285) to the Company's claim.[74] I&E's recommendation is based on employees' unfilled (vacant) positions (that are budgeted in the FPFTY claim), calculated based on PECO's historic average annual vacancy rate of 2.10% as experienced in the fiscal years ended June 30, 2018; June 30, 2019; and June 30, 2020.[75] The Company's claim, based on the assumption that it will maintain a 100% full staffing level as budgeted in the FPFTY throughout the whole year, is simply unrealistic since there will always be a certain number of normal vacancies due to retirements, resignations, transfers, layoffs, etc. on a day-to-day operational basis.[76] These vacancies are unpredictable and there will always be search and placement time involved in filling vacancies.[77]

PECO argued that the FPFTY claim for payroll expense of 639 budgeted employee positions did not include any positions that were vacant at the end of the

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[73] 66 Pa. C.S. § 315(a); *See also Cup v. Pa. P.U.C.*, 556 A.2d 470 (Pa. Commw. 1989).
[74] I&E St. No. 1, p. 12.
[75] *Id.*, pp. 12-15.
[76] *Id.*, pp. 14-15.
[77] *Id.*, pp. 12-15.

historic test year (HTY) as of June 30, 2020.[78] In short, the Company argues its FPFTY payroll expense claim reflects 602 filled positions as of June 30, 2020 and 37 new positions to be filled by end of the FPFTY totaling 639 positions.[79] Additionally, the Company put forward an irrelevant and unsupported argument that if I&E's recommended employee vacancy rate of 2.10% is applied only to the proposed 37 additional/new positions (to be filled by end of the FPFTY), payroll expense will merely be reduced by $46,200 instead of $858,715.[80]

In response, I&E notes that, PECO did experience normal employee vacancies when the monthly actual filled positions are compared to the budgeted monthly positions during the last three fiscal years,[81] which I&E summarized in the table on page 9 of I&E witness Patel's surrebuttal testimony.[82] Secondly, PECO's assertion that the FPFTY 639 budgeted positions do not include vacant positions is not reliable nor acceptable because PECO's FPFTY payroll expense claim is calculated based on the total budgeted 639 positions to be maintained/filled throughout the FPFTY.[83] Additionally, PECO's FPFTY budgeted positions were calculated based on 602 filled positions as of June 30, 2020, which is subject to change every month due to unpredictable normal vacancies; therefore, the average monthly vacancies should be reflected in payroll expense.[84] Therefore, adjusting payroll expense by applying PECO's average annual normal vacancy rate of

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[78] PECO St. No. 2-R, p. 9-11.
[79] *Id.*, p. 10.
[80] *Id.*, pp. 10-11.
[81] *See* I&E St. No. 1, pp. 12-13.
[82] *See* I&E St. No. 1-SR, p. 9.
[83] I&E St. No. 1-SR, p. 10.
[84] *Id.*

2.10% to the 639 budgeted positions to determine the FPFTY payroll expense allowance represents a fair and reasonable adjustment to PECO's payroll expense claim.[85]

Finally, I&E disagrees with PECO's irrelevant and unsupported statement that the vacancy rate of 2.10% should only apply to the 37 new positions, thereby producing a reduction of $46,200 to payroll expense.[86] More correctly, I&E's method of applying the vacancy rate of 2.10% to the total 639 budgeted positions because normal vacancies will occur across the board in the total budgeted positions and not merely with respect to the proposed new positions should be adopted by the Commission.

In consideration of the above and the record evidence presented by I&E, I&E recommends an allowance of $41,350,285, and accordingly, a reduction of $858,715 to PECO's claim of $42,209,000 payroll expense.[87]

I&E further recommended an allowance of $5,797,603 for employee benefits expense, or a reduction of $120,397 ($5,918,000 - $5,797,603) to the Company's claim.[88] I&E's recommendation was based on the reduction to payroll expense for the vacancy adjustment discussed *supra*. And, because I&E rejected the Company's arguments regarding the payroll expense adjustments, I&E continues to recommend an allowance of $5,797,603 for employee benefits, and accordingly, a reduction of $120,397 to PECO's claim of $5,918,000.[89]

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[85] *Id.*
[86] *Id.*, p. 11.
[87] I&E St. No. 1, p. 12.
[88] I&E St. No.1, p. 16.
[89] I&E St. No. 1-SR, p. 12.

B. Contracting and Materials Expense

I&E recommended an allowance of $32,940,000, or a reduction of $10,015,000 ($42,955,000 - $32,940,000) for contracting/materials cost.[90] I&E's recommendation is based on an average of the last three years' expense because PECO's peculiar and significant increase in the FTY and FPFTY claims are unsupported and speculative; and, the Company has experienced budgeted underspent expense levels in the prior three fiscal years.[91]

PECO disagreed and argued the increase in the FTY and FPFTY budgeted claims can be attributed three factors: (1) PECO is enhancing its mapping system to improve the Company's ability to locate and track gas distribution facilities and PECO will increase its investment in the gas mapping project in the FTY; (2) PECO's FTY forecast includes additional contracting and materials expense related to PECO's planned activity to reduce the Company's non-emergent leak backlog; and (3) PECO expects to incur additional expenses related to increased security services for crews working in high crime areas during the FTY.[92]

The Company's claims, however, are unsupported. In PECO's discovery responses the Company stated that the increase in its FTY expense claim was due to lower than expected spending in the HTY driven by the impact of COVID-19 pandemic-related restrictions.[93] The Company mentions additional planned activities for the FTY

[90] I&E St. No. 1, p. 39.
[91] *See* I&E St. No. 1, pp. 39-40.
[92] PECO St. No. 2-R, p. 18.
[93] *See* I&E St. No. 1-SR; I&E Exh. No. 1, Sch.9., p. 2.

that increase the FTY claim;[94] but, the Company, did not provide the projected FTY and FPFTY spending for each of the planned additional activities, such as, a breakdown of contracting and materials expenses by category, and the basis of projection for these expenses to be incurred in the FTY and FPFTY.[95] Further, in the absence of a detailed explanation and support for the significant increase of 51.09% from the HTY to the FTY expense claim, neither the FTY nor the FPFTY expense claim are reasonable, prudent or reliable because the FTY increase is reflected in the FPFTY claim.[96] The Company has provided no substantial evidence to support the claim that all the projected expense increases in the FTY for new planned activities will continue to be incurred in the FPFTY.[97]

Finally, I&E notes that the Company's actual contracting and materials expenses were underspent by 11.42% in 2017-18, 2.76% in 2018-19, and 24.46% in 2019-20 as compared to the budgeted expense in the respective fiscal years.[98] Further, it is speculative to assume that the impact of COVID-19 18 related restrictions will diminish completely in the FTY and FPFTY and the Company will be able to spend entire budgeted amount in those periods.[99] Therefore, in the absence of information about COVID-19 related impacts on contracting and material expenses in 2019-20 and the potential impact of COVID-19 on the FTY and FPFTY expenses, I&E asserts that its

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94 PECO St. No. 2-R, p. 19.
95 I&E St. No. 1-SR, p. 34.
96 *Id.*
97 *Id.*
98 I&E St. No. 1, p. 39.
99 I&E St. No. 1-SR, p. 34.

recommendation based on an average of the last three years' expense is reasonable and an appropriate basis for determining the FPFTY allowance for the contracting and materials expense.[100]

In consideration of the above and the record evidence presented by I&E, I&E recommends an allowance of $32,940,000, or a reduction of $10,015,000 ($42,955,000 - $32,940,000) for contracting/materials cost.[101]

C. Outside Services (including Exelon Business Service Company Charges)

I&E recommended an allowance of $13,437,856 or a reduction of $3,134,144 ($16,572,000 - $13,437,856) to the Company's claim for outside services net of the "cost to achieve" adjustment of $370,000.[102] I&E's recommendation for outside services is based on forecasted CPI inflation factors for the FTY and FPFTY in contrast to the Company's speculative and unsupported significant increase of 26.55% from the HTY to the FTY claim, and an additional 4.57% increase from the FTY to the FPFTY claim.[103]

The Company argues that the FPFTY claim for total Exelon Business Services Co. (EBSC) charges is $22,000,000 and the FTY claim of $21,000,000 is lower than the historic three-year average; therefore, the FPFTY claim for EBSC is consistent with the historic three-year average.[104] Then, PECO clarifies that the FPFTY outside services expense claim of $16,572,000 (FERC Account 923) represents a combination of: (a)

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[100] I&E St. No. 1, p. 40; I&E St. No. 1-SR, pp. 34-35.
[101] I&E St. No. 1, p. 39.
[102] I&E St. No. 1, p. 20; I&E St. No. 1-SR, p. 17.
[103] *See* I&E St. No. 1, pp. 20-22.
[104] *See* PECO St. No. 2-R, pp. 16-17.

EBSC contracting charges (a subset of total EBSC charges); and (b) PECO contracting charges, allocated to FERC Account 923.[105] Finally, the Company argues the Commission has repeatedly accepted the use of inflation factors as a reasonable method to derive the pro forma levels of operating expense items that were not otherwise separately adjusted for specifically known changes in costs or activity levels.[106]

In response, I&E asserts that the Company is attempting to justify the unsupported significant increase of 26.55% in the FTY over the HTY (2019-20) actual expense, and an additional 4.57% increase up to the FPFTY claim for outsides services expense, by comparing the FPFTY total EBSC cost with the historic three-year average of EBSC costs. But the reality is that PECO had been experiencing a declining trend in both the EBSC costs and the contracting service costs for the three years prior to the FTY.[107] The FPFTY EBSC claim of $15,290,000 is higher by 15.53% over the historic three-year average of $13,234,000.[108] Similarly, the FPFTY contracting service claim of $726,000 is higher by 15.79% over the historic three-year average of $627,000.[109] Additionally, PECO's FPFTY outside services (Account 923) claim of $16,572,000 ($16,942,000 - $370,000 (cost to achieve)) is unchanged and is a part of the total O&M expense claim of $466,639,000 shown in the computation of the revised revenue requirement.[110] Therefore, the Company's assertion of reasonableness is not convincing.

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105 *See* PECO St. No. 2-R, p. 17.
106 *Id.*
107 *See* I&E St. No. 1-SR, pp. 15-16 (*See also* Table, p. 16).
108 *Id.*
109 *Id.*
110 I&E St. No. 1-SR, p. 16, *citing* PECO Exh. MJT-1 Rev., Sch. A-1, p. 1 and Sch. D-4, p. 56.

I&E also notes that it is not disputing the use of inflation factors, in general, to determine a proforma expense allowance. But, in this instance, the Company neither specified what inflation factors were used, nor provided calculations, to justify and support the 26.55% increase in the FTY and the additional 4.57% increase in the FPFTY claims for outside service.[111]

In consideration of the above and the record evidence presented by I&E, I&E asserts and recommends that adjusting the HTY actual outside services for inflation based on the Consumer Price Index (CPI) factors of 2.75% and 2.03% to determine the FTY and FPFTY allowance is fair and reasonable despite the decline in actual outside services expense by 3.17% in 2018-19 and 15.40% in 2019-20.[112]

D. Other Post-Employment Benefits Expense

I&E recommended an allowance of $270,000, or a reduction of $780,000 ($1,050,000 - $270,000) for OPEB expense.[113] I&E's recommendation is based on the continuing the FTY claim as the FPFTY allowance because the Company's projected increases in the FTY and FPFTY claims are based on assumptions, which are not supported.[114] Therefore, the significant increase of 74.28% in the FPFTY expense claim over the FTY expense claim is not supported, nor reasonable, or reliable.[115]

The Company argues that the OPEB plan design change resulted in a re-measurement of the Company's OPEB obligation, which resulted in a prior service credit

111 I&E St. No. 1-SR, p. 17.
112 I&E St. No. 1, pp. 20-22; I&E St. No. 1-SR, p. 17.
113 I&E St. No. 1, p. 43.
114 I&E St. No. 1-SR, p. 37.
115 *See* I&E St. No. 1, pp. 43-44; I&E St. No. 1-SR, p. 37.

recorded to other comprehensive income.[116] The prior service credit was then amortized over the remaining service life of the active plan participants (approximately seven years).[117] The increase in OPEB costs from the HTY to FTY is due to the expiration of the prior service credit in 2021, along with the attendant amortization (PECO Statement No. 2-R, p. 27).[118] Concluding, I&E's use of an FTY expense level for the FPFTY is unreasonable as the FTY expense reflects a prior service credit.[119]

The Company's arguments, however, are not supported by the information provided by the Company.[120] The Company's assertion that the prior service credit amortization reduced OPEB expense in the historic fiscal years 2017-18, 2018-19, 2019-20, and partially in the FTY, but the Company's discovery responses did not provide a calculation showing the amount of the prior year service credit adjusted in the historic years and in the FTY projection.[121] Additionally, the projected OPEB expense claims of $270,000 in the FTY and $1,050,000 (a 74.28% increase over the FTY claim) in the FPFTY were derived from the calendar year OPEB cost assumption and the Company's responses did not include the basis of the cost assumption, nor its calculation, or the service credit adjustment in the historic fiscal years and in the FTY and FPFTY for gas operations.[122] Further, the actuarial report of Willis Towers Watson, provided by the Company to support the OPEB claim, does not specify a service credit adjustment.[123] In

[116] PECO St. No. 2-R, p. 27.
[117] *Id.*
[118] *Id.*
[119] *Id.*, p. 28.
[120] *See* I&E St. No. 1-SR, pp. 38-39.
[121] I&E St. No. 1-SR, pp. 38-39, *citing* I&E Exh. No. 1, Sch. 10, pp. 1-5.
[122] *Id.*
[123] I&E St. No. 1-SR, p. 39, *citing* PECO Exh. RJS-4-R Confidential, p. 16.

the absence of detailed information about the service credit adjustments reflected in the OPEB costs of the last three fiscal years and the adjustments made in the FTY and FPFTY OPEB claims, I&E's recommendation based on the FTY claim amount is appropriate and reasonable.[124]

In consideration of the above and the record evidence presented by I&E, I&E recommends an allowance of $270,000 and accordingly, a reduction of $780,000 to PECO's claim of $1,050,000 for OPEB expense.[125]

E. Costs to Achieve Exelon/PHI Merger

I&E recommended disallowance of the $370,000 cost to achieve expense adjustment in its entirety, which was included in the FPFTY outside services expense claim.[126] I&E makes this recommendation because the Company's claim for recovery of historic merger cost results in a retroactive recovery in rates in the absence of the Commission's prior permission to defer the merger related costs for ratemaking purposes.[127] Additionally, the merger costs were incurred during 2016 through 2018, prior to the HTY and the offsetting merger related savings were also realized in prior years.[128] Furthermore, and telling, the Company has not proposed retroactive sharing of those savings with ratepayers.[129]

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[124] I&E St. No. 1-SR, p. 39.
[125] *See* I&E St. No. 1pp. 43-44; I&E St. No. 1-SR, p. 39.
[126] I&E St. No. 1, p. 24.
[127] I&E St. No. 1, pp. 23-25; I&E St. No. 1-SR, p. 18.
[128] *Id.*
[129] *Id.*

The Company argued that I&E's assertion regarding prohibition for claiming an amortization of prior period merger costs (cost to achieve) unless PECO first obtained permission to "defer" such costs is a legal issue.[130] Second, PECO argued that there are exceptions to the rule against retroactive and single-issue ratemaking that could permit PECO to make its claim without having to rely upon a pre-approved "deferral" of historic period costs.[131] Lastly, the Company asserted that the cost to achieve represents an investment that will produce significant merger-related savings in PECO's distribution costs, which would continue to benefit its customers.[132]

I&E disagrees with the Company's assertions and reiterates that the Company did not request or receive permission to defer the prior period merger related costs for ratemaking purposes and all those costs were incurred during 2016 through 2018 prior to the HTY.[133] Therefore, the recovery of these costs in this proceeding is inappropriate and would result in a retroactive ratemaking.[134] Further, PECO's claim in this instance does not fall within any exception to the general rule against retroactive ratemaking as it was not unanticipated or extraordinary.[135]

Additionally, I&E reiterates that the merger related savings of approximately $4.30 million were already realized in prior years and the Company has not proposed

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130 I&E St. No. 1-SR, p. 18-19, *citing* PECO St. No. 2-R, pp. 13-14.
131 *Id.*
132 *Id.*
133 I&E St. No. 1-SR, p. 19, *citing* I&E St. No. 1, p. 24; I&E Exh. No. 1, Sch. 5, pp. 1-2.
134 *See generally, National Fuel Gas Distribution Corporation v. Pa. P.U.C.*, 76 Pa. Commw. 102, 464 A.2d 546 (1983) (A utility may not receive retroactive rate relief on account of expense items which are greater than anticipated or of revenue items which are lesser. It is sensible because consideration of expense items in isolation and the requirement of refunds based only on such narrow consideration could result in the setting of confiscatory rates. *Id.*, at 147, 464 A.2d 567).
135 *Id.*

retroactive sharing of those savings with the ratepayers.[136] Most importantly, the Company has already saved, at a minimum, \$0.5 million in 2016, \$0.9 million in 2017, \$0.9 million in 2018, \$1.00 million in 2019, and \$1.00 million in 2020, aggregating \$4.30 million in the last five years[137], which is enough money to cover the entire cost to achieve merger savings.[138] However, the Company is seeking recovery of prior period total merger cost of \$1,111,000 over a three-year amortization period, which is unsupported, inappropriate and unreasonable.[139]

In consideration of the above and the record evidence presented by I&E, I&E recommends a disallowance of the \$370,000 (\$1,111,000 ÷ 3) costs to achieve expense claim in its entirety.[140]

F. General Assessments

OCA witness Lafayette Morgan challenged the Company's claim for general assessments, or regulatory commission expenses, which include assessments for the Commission, the OCA, the OSBA, and the Commission's Damage Prevention Committee.[141] OCA witness Morgan proposed an adjustment to reflect the HTY level of general assessments resulting in a \$462,000 reduction in the Company's claim because Mr. Morgan argues that adjustments based on inflation factors are inappropriate.[142]

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[136] I&E St. No. 1-SR, p. 19.
[137] *See* I&E St. No. 1, p. 24, *citing* I&E Exh. No. 1, Sch. 5, pp. 3-4.
[138] I&E St. No. 1-SR, p. 19.
[139] I&E St. No. 1, p. 24; I&E St. No. 1-SR, p. 19.
[140] I&E St. No. 1, pp. 24-25; I&E St. No. 1-SR, p. 20.
[141] *See* OCA St. No. 2, p. 38.
[142] *Id.*

Stated further, Mr. Morgan argued the Company could not provide a specific reason to attribute the cause of the increase.[143] When asked to explain the cause of the increase, Mr. Morgan noted the Company responded by stating that "[t]he projected increases in regulatory commission expense are generally due to inflation adjustments."[144] The Company's use of an abbreviated approach to develop the FPFTY expenses appears to contribute to the lack of data here. [145]

I&E took no position regarding the Company's claim for general assessments.

G. Research and Development Expenses

OCA witness Lafayette Morgan noted that PECO projected the FPFTY R&D Expenses to be $280,000.[146] However, Mr. Morgan also noted that when reviewed in conjunction with previous years, the FPFTY amount appeared to be abnormally high.[147] He argued that the Company could not provide a specific reason to attribute the cause of the increase.[148] Concluding that essentially, the Company admitted that it does not expect to incur R&D expenses at the level it has projected.[149] Therefore, Mr. Morgan stated, PECO's budgeted R&D expense does not reflect the anticipated expenses and are inconsistent with the Company's claim that the annual budgeting and planning process is designed "to integrate and align PECO's operational, regulatory, and financial plans."[150]

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143 *Id.*
144 *Id.*
145 *Id.*
146 OCA St. No. 2, p. 37.
147 *Id.*
148 *Id.*
149 *Id.*
150 *Id.*

I&E took no position regarding the Company's claim for research and development expenses.

H. Employee Activity Costs

I&E recommended an allowance of $58,469, or a reduction of $80,933 ($139,402 - $58,469) to the Company's claim for employee activity costs.[151] I&E recommended disallowance of the Company's sponsored employee picnic and celebration expenses of $80,933 from the total claim of $139,402 because these expenses are not necessary for the provision of safe and reliable gas service to ratepayers.[152]

The Company argued that PECO's annual picnic claim is based on a range of activities that are relatively modest cost expenditures, which have significant benefits in terms of employee morale and productivity.[153] PECO argued that at the annual gathering of employees and other events, they celebrate workforce accomplishments, strategic goals, and initiatives for the upcoming year.[154] Therefore, the Company believes these expenses help PECO make an attractive workplace to recruit and retain talented professionals.[155]

I&E disagrees and asserts that the Company is claiming other allowable employee activities related expenses: Employee Recognition Awards of $36,146, Employee Service Awards - Pin and small gifts of $20,884, and Employee Network Groups of $1,439

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[151] I&E St. No. 1, p. 26.
[152] *Id.*
[153] PECO St. No. 2-R, p. 21.
[154] *Id.*
[155] *Id.*

amounting in total $58,469, which I recognized and accepted.[156] I&E however does not believe employee picnics and celebrations are factors or tools to attract and retain talented employees.[157] Further ratepayers should not be required to fund the Company's decisions to offer special events to its employees and their families as it is not a reasonable or prudent expense.[158]

In consideration of the above and the record evidence presented by I&E, I&E recommends an allowance of $58,469, and accordingly, a reduction of $80,933 to PECO's claim of $139,402.[159]

I. Travel, Meals and Entertainment

I&E recommended an allowance of $862,153, or a reduction of $169,847 ($1,032,000 - $862,153) for travel, meals, and entertainment expense.[160] I&E's recommendation was based on applying the CPI inflation factor of 16 2.03% to the FTY claim to determine a FPFTY allowance, and the rejection of PECO's significant increase of 22.13% in the FPFTY claim as unsupported, speculative, and inconsistent with the Company's assertion for an increased claim due to general inflation.[161]

The Company argued, that PECO's budgeted data for the FTY and FPFTY is more representative of the current and future conditions than the HTY (2019-20) data.[162] The Company stated the HTY data reflects COVID-19 travel restrictions that were put in

156 I&E St. No. 1, p. 26.
157 I&E St. No. 1-SR, p.21.
158 *Id.*
159 I&E St. No. 1, p. 26; I&E St. No. 1-SR, p. 22.
160 I&E St. No. 1, p. 41.
161 *See* I&E St. No. 1, pp. 41-42.
162 PECO St. No. 2-R, pp. 22-23.

place, which will be alleviated by the availability of a COVID-19 vaccine and other measures to mitigate the impact of COVID-19.[163]

Nevertheless, I&E asserts that the Company claimed that the increase in the FPFTY claim of $1,032,000 from the FTY expense of $845,000 is due to inflation.[164] However, the Company's FPFTY claim is higher by 22.13% over the FTY expense, which is not consistent with the current inflation trend and the Company did not provide any additional information to support its claim.[165] Additionally, the travel restrictions due to COVID-19 pandemic would limit the employees travel-related expenses in the FTY and FPFTY.[166] I&E, therefore, calculated its recommendation by applying a CPI inflation factor of 2.03% to the FTY expense to determine the FPFTY allowance.[167] Therefore, I&E's recommendation based on the FTY claim of $845,000 plus an inflation adjustment of 2.03% for the FPFTY expense allowance is fair and reasonable during the uncertain pandemic environment. [168]

In consideration of the above and the record evidence presented by I&E, I&E recommends an allowance of $862,153, and accordingly, a reduction of $169,847 to PECO's claim of $1,032,000.[169]

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163 *Id.*
164 I&E St. No. 1, p. 41.
165 *Id.*, p. 42; I&E Exh. No. 1, Sch. 9, p. 2.
166 *Id.*
167 *See* I&E St. No. 1, p. 42; I&E St. No. 1-SR, pp. 36-37.
168 I&E St. No. 1-SR, p. 37.
169 I&E St. No. 1, p. 41; I&E St. No. 1-SR, p. 37.

J. Membership Dues

In Direct Testimony, I&E recommended an allowance of $559,304, or a reduction of $96,593 ($655,897 - $559,304) for industry organization memberships expense.[170] I&E's recommendation was based on applying the CPI inflation factor of 2.75% to the HTY actual expense of $533,505 to determine the FTY allowance of $548,176 and an additional 2.03% to the FTY allowance to determine the recommended FPFTY allowance of $559,304.[171]

The Company argued that a significant increase in the organization memberships expense from the HTY to the FTY was due to an inadvertent omission of certain membership expenses in the HTY number that was provided in PECO's original discovery responses.[172] PECO then included these previously omitted HTY membership expenses in a revised discovery response.[173] Based on the revised response, the Company states that its industry organization memberships expense of $647,000 in the FTY and $656,000 in the FPFTY are slightly higher than the Company's historic three-year average of $612,000 for memberships.[174] However, the Company did not categorically deny or reject I&E's application of CPI inflation factors to determine the FTY and FPFTY expense allowance.[175]

[170] I&E St. No. 1, p. 28.
[171] *See* I&E St. No. 1, pp. 28-29.
[172] PECO St. No. 2-R, p. 23.
[173] *Id.*
[174] *Id.*
[175] *See* I&E St. No. 1-SR, pp. 23-25.

In response, I&E provides that it appears the Company provided the corrected industry organization memberships expense of $689,986 (in lieu of $595,986) and $561,005 (in lieu of $533,505) incurred in the fiscal years 2018-19 and 2019-20 respectively in its revised response.[176] Further, PECO states that its budgeted claims for the FTY and FPFTY are largely based on general inflationary increases to industry organization memberships cost, which is not acceptable in the absence of specific information about inflation factors applied in the budgeting process to determine the FTY and FPFTY claims.[177] The result is, PECO claimed a 15.31% increase in the FTY over the HTY expense and a 1.39% increase in the FPFTY over the FTY expense.[178] But, these increases are speculative and unreliable because they are not consistent with acceptable inflation rates.[179]

Based on PECO's revised HTY expense, I&E calculated its updated recommendations for the FTY and FPFTY membership expense;[180] and, in consideration of the above and the record evidence presented by I&E, I&E recommends an updated allowance of $588,135, and accordingly, a reduction of $67,762 ($655,897 - $588,135) to PECO's industry organization membership expense claim of $655,897.[181]

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[176] *See* I&E St. No. 1-SR, p. 23; I&E Exh. No. 1-SR, Sch. 1, pp. 1-2.
[177] *See* I&E St. No.1, p. 28.
[178] I&E St. No.1-SR, p. 24.
[179] *Id.*
[180] I&E St. No. 1-SR, p. 24.
[181] I&E St. No. 1, pp. 28-29; I&E St. No. 1-SR, p. 25.

K. Injuries and Damages

OCA witness Lafayette Morgan noted that in the Company's cost of service, PECO proposed to include FPFTY budget amount for Injuries and Damages.[182] However, Mr. Morgan commented that the amount included in the cost of service for Injuries and Damages is significantly higher than previous years.[183] Mr. Morgan argued the nature of Injuries and Damages is one that fluctuates from year to year; hence, no single year is representative of the normal level of this expense.[184] Therefore, Mr. Morgan concluded it is appropriate to normalize the Injuries and Damages expenses to avoid an over-recovery of costs.[185] Mr. Morgan normalized Injuries and Damages based on the most recent 3 years of actual expenses, resulting in a decrease in expenses of $464,000.[186]

I&E took no position regarding the Company's claim for injuries and damages.

L. Property Taxes

OCA witness Lafayette Morgan noted that according to PECO, the FPFTY real estate tax claim is based on the FTY real estate tax including a 2.5% inflation rate escalation.[187] Mr. Morgan disagreed, with the use of adjustments based on inflation escalations because they are not actually known and measurable.[188] Further, Mr. Morgan argued, they do not reflect the anticipated cost of expenses and are inconsistent with the

[182] OCA St. No. 2, p. 30.
[183] *Id.*
[184] *Id.*
[185] *Id.*
[186] *Id.*
[187] OCA St. No. 2, p. 41.
[188] *Id.*

Company's claim that the annual budgeting and planning process is designed "to integrate and align PECO's operational, regulatory, and financial plans."[189] Inflation adjustments, noted Mr. Morgan, are typically blanket adjustments or increases which do not directly relate to actual costs expected to be incurred by the Company in the period in which rates are to be set.[190] Instead, costs should be based upon evidence or documentation that supports the Company's adjustments.[191] Therefore, Mr. Morgan recommended an adjustment to remove the effect of the inflation escalation on the property tax expense resulting in an adjustment to reduce Taxes Other Than Income by $112,000.[192]

I&E took no position regarding the Company's claim for property taxes.

M. Energy Efficiency and Conservation Program Costs

I&E recommended an allowance of $2,727,500, or a reduction of $1,772,500 ($4,500,000 - $2,727,500) to the expanded EE&C program cost.[193] I&E's recommendation was primarily based on the limited historic success rate of PECO's current rebate programs and other reasons discussed by I&E witness Patel.[194]

The Company acknowledged that past customer participation levels have not met projections and that program expenditures have been less than the budgeted amounts.[195] The Company then argued that the Company's proposed budget will support both the

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[189] *Id.*, pp. 41-42.
[190] *Id.*, p. 42.
[191] *Id.*
[192] *Id.*
[193] I&E St. No. 1, p. 34.
[194] I&E St. No. 1, pp. 34-37.
[195] PECO St. No. 9-R, p 4.

expanded program offerings as well as the development and execution of campaigns to promote natural gas efficiency rebates. Adding that the campaigns will focus on the economic benefits of purchasing more-efficient equipment and will be directed to rebate programs, targeted customer markets, and engaging trade allies.[196] Further, PECO states that there has been a 9% increase in Energy Star™ rebates from 2019 to 2020 and comparing the fourth quarter of 2019 with the fourth quarter of 2020, the Company has seen a 16% increase in Energy Star™ rebates.[197]

In response, I&E offers that it continues to recommend that the Company should accommodate new program costs within I&E's recommended allowance of $2,727,500 for the expanded EE&C program cost because the PECO has experienced significant unspent EE&C funding at an average 43.24% of annual customer funding for the EE&C program during the last three fiscal years, which was required to be refunded back to the customers.[198] Additionally, despite the fact that the Company's EE&C program has operated since 2010-11 and with continuous customer outreach and education spending, the Company achieved merely 3,501 customers' participation (an average of the last three fiscal years) out of approximately 534,000 retail customers.[199] Further, though, the Company has projected significantly higher number of 27,739 customers' participation in the FPFTY EE&C program,[200] the Company's projected customers participation is

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196 PECO St. No. 9-R, pp. 4-5.
197 *Id.*, p. 5.
198 I&E St. No. 1, pp. 34-35.
199 I&E St. No. 1-SR, p. 30, *citing* PECO St. No. 1, p. 2.
200 *See* PECO Exh. DLM-1 Rev.; DLM-2 Rev.

speculative, unreasonable, and not supported by historic participation levels.[201] Therefore, the budgeted/expanded EE&C program cost is flawed and not prudent nor reliable.[202]

Additionally, natural gas prices are at historic lows; thus, usage reductions will not translate into significant annual savings to individuals implementing energy conservation measures and the increased cost of the higher efficiency equipment options will have long payback periods.[203] Arguably, investing in energy efficient equipment even after rebates would not incentivize additional customers to participate in the expanded EE&C program, and the Company may find it very challenging to convince ratepayers to make upgrades under the proposed expanded EE&C program.[204] Quite simply, the speculation that a 16% increase in Energy Star™ rebates in the fourth quarter of 2020, as compared with the fourth quarter of 2019, supports PECO's inflated customer participation forecasts and the Company's request for a significantly increased FPFTY claim of $4,500,000 (a 65% increase) for the expanded EE&C programs in contrast to the current program cost of $2,727,500 is not reasonable, prudent, nor supported.

In consideration of the above and the record evidence presented, I&E continues to recommend an allowance of $2,727,500, and accordingly, a reduction of $1,772,500 to PECO's claim of $4,500,000.[205]

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201 I&E St. No. 1-SR, pp. 29-32.
202 *Id*.
203 *Id.*
204 *Id.*, pp. 30-31.
205 I&E St. No. 1, p. 34; I&E St. No. 1-SR, p. 32.

N. Rate Case Expense Normalization

I&E recommended an allowance of $311,800 (($1,559,000 ÷ 60 months) x 12 months), or a reduction of $208,200 ($520,000 - $311,800) to the Company's FPFTY claim.[206] The I&E recommendation to normalize rate case expense over a period of 60 months (five years) was based on PECO's historic rate case filing frequency in contrast to PECO's request for a 36-month amortization period.[207]

The Company argued, as they are incentivized to do regardless of how long it has been since they have been in for a base rate increase, that PECO will need to file another rate case in three years (a 36-month period) because the Company will need to invest approximately $1.2 billion in new and replacement gas utility plant between July 1, 2020 and June 30, 2024.[208] Therefore, the Company used the normalization period of three years for rate case expense.[209] Further, the Company mentioned the 2012 PPL Electric Utilities Corporation (PPL Electric) and the 2017 UGI Utilities, Inc. - Electric Division (UGI Electric) rate cases in support of the Company's argument that rate case normalization periods should not be backward looking but should reflect the future expectations and suggesting the Commission affirmed that practice for determining the normalization period for rate case expense.[210]

I&E disagrees with PECO's claimed 36-month normalization period and maintains that it is not supported by the Company's historic filing frequency; and, the

206 I&E St. No. 1, p. 8.
207 *See* I&E St. No. 1, pp. 8-11.
208 PECO St. No. 3-R, p. 22.
209 *Id.*
210 PECO St. No. 3-R, p. 23.

proposed normalization period fails to properly rely upon the historic data, and the claimed period is speculative in nature.[211] Further, PECO ignores the Commission's orders in the *Emporium Water Company*[212] base rate case; the *City of DuBois*[213] base rate case, and most recently the *Columbia Gas*[214] base rate case where the Commission found in favor of I&E's recommendation for a normalization period based on the actual historic filing frequency, which is more reliable than the future speculation or simple stated intention to file a rate case.[215]

In consideration of the above and the record evidence presented, I&E continues to recommend a 60-month normalization period for rate case expense, and accordingly, a reduction of $208,200 to PECO's claim of $520,000.[216]

O. Regulatory Initiatives

I&E recommended an allowance of $451,600, or a reduction of $301,400 ($753,000 - $451,600) to the regulatory initiative cost claim.[217] The I&E recommendation is based on a five-year amortization period in contrast to the Company's claimed three-year amortization for regulatory initiative costs.[218]

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[211] *See* I&E St. No. 1, pp. 8-11.

[212] *See Pa. P.U.C. v. Emporium Water Company*, Docket No. R-2014-2402324, p. 50 (Order Entered January 28, 2015).

[213] *See Pa. P.U.C. v. City of DuBois - Bureau of Water*, Docket No. R-2016-2554150, pp. 65-66 (Order Entered March 28, 2017) and *Pa. P.U.C. v. City of DuBois - Bureau of Water*, Docket No. R-2016-2554150, p. 13 (Order Entered May 18, 2017).

[214] *Pa. P.U.C. v. Columbia Gas of Pennsylvania Inc.,* Docket No. R-2020-3018835, p. 78 (Order Entered February 19, 2021).

[215] I&E St. No. 1, p. 10; I&E St. No. 1-SR, p. 7.

[216] I&E St. No. 1, p. 8; I&E St. No. 1-SR. p. 7.

[217] I&E St. No. 1, p. 31.

[218] *See* I&E St. No. 1, pp. 29-31.

In response to I&E's recommendation, PECO revised the FPFTY claim for its regulatory initiative cost from $753,000 to $47,000 due to the elimination of gas neighborhood pilot program cost recovery of $706,000.[219] However, the Company is continuing to claim $47,000 ($141,000 ÷ 3 years) based on the amortization of gas unbundling of GPC/MFC charges deferred in prior years for future recovery.[220]

Further, the Company continues to argue that a five-year amortization of this expense is unreasonable and should be rejected because the Company's proposed three-year amortization is consistent with three-year normalization period claimed for rate case expense, which is reasonable and should be adopted.[221]

Nevertheless, I&E continues to recommend a five-year amortization period in contrast to the Company's claimed three-year amortization for this unrecovered cost.[222] A five-year amortization period is consistent with I&E's recommended normalization period of five years for rate case expense to reduce the impact of historic costs in rates.[223] Therefore, in consideration of the above and the record evidence presented, I&E recommends an updated allowance of $28,200 ($141,000 ÷ 5-year amortization), or a reduction of $18,800 ($47,000 - $28,200) to PECO's revised claim of $47,000.[224]

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219 PECO St. No. 3-R, p. 24. *See also* PECO Exh. MJT-1 Rev., Sch. D-14, p. 75.
220 *Id.*
221 PECO St. No. 3-R, p 24.
222 I&E St. No. 1, p. 31; I&E St. No. 1-SR, pp. 26-27.
223 *Id.*
224 I&E St. No. 1-SR, p. 27.

P. Manufactured Gas Plant Remediation Expense

OCA witness Lafayette Morgan recommended an adjustment to increase the period over which PECO's claimed manufactured gas plant remediation expenses are to be amortized for rate making purposes from nine years as the Company prosed to fourteen years.[225] This recommended change would reduce the annual amortization amount included in operating expenses by $287,000.[226]

I&E took no position regarding the Company's claim for its manufactured gas plant remediation expense.

Q. Depreciation Expense – Annual / Accumulated

See Section IV. RATE BASE, C. Depreciation Reserve, *supra*.

Further, OCA witness Lafayette Morgan stated summarily, that based on his adjustment to Plant in Service, he recommended an adjustment to depreciation expense to be consistent with the recommended plant in service adjustment.[227] Mr. Morgan's adjustment reduces depreciation expense by $7,827,000.[228]

R. Cash Working Capital – Iteration

I&E recommended an allowance of $2,902,236 or reduction of $320,764 ($3,223,000 22 - $2,902,236) to the Company's cash working capital ("CWC") claim.[229] I&E's recommendation included modification of the Company's claim based on all recommended adjustments to O&M expenses.[230]

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225 OCA St. No. 2, pp. 27-30. *See also* PECO St. No. 3-R, p. 25.
226 *Id.*
227 *See* OCA St. No. 2, p. 41.
228 *Id.*, *citing* OCA Sch. LMK-27.
229 I&E St. No. 1, p. 51.
230 *See generally* I&E St. No. 1, pp. 4-53.

The Company provided an updated FPFTY CWC claim from $3,223,000 to $3,437,000 based on changes made in components of the CWC calculation prompting an updated CWC claim.[231]

I&E disagrees with the Company's claim and notes all O&M expense adjustments that are cash-based expense claims are included when determining the Company's overall CWC requirement.[232] Further, based on reflecting all of I&E's recommended adjustments as discussed above, I&E's updated recommendation for CWC is $3,135,234 or a reduction of $301,766 ($3,437,000 - $3,135,234) to the Company's updated claim.[233]

Finally, I&E's updated CWC recommendation is not a final recommendation, as all adjustments to the Company's claims must be continually brought together in the Administrative Law Judge's Recommended Decision and again in the Commission's Final Order.[234] This process, known as "iteration," effectively prevents the determination of a precise calculation until all adjustments have been made to the Company's claims.[235]

VII. TAXES

Payroll Taxes – I&E recommended an allowance of $3,699,145 for payroll tax expense, or a reduction of $76,855 ($3,776,000 - $3,699,145) to the Company's claim.[236] I&E's recommendation for a reduction of payroll tax expense was based on I&E's recommended reduction to payroll expense.[237]

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231 PECO St. No. 3-R, pp.2-3; PECO Exh. MJT-1 Rev., Sch C-4, p. 23.
232 *See* I&E St. No. 1-SR, pp. 43-46.
233 I&E St. No. 1-SR, p. 46; I&E Exh. No. 1-SR, Sch. 2, p. 1.
234 I&E St. No. 1-SR, p. 46.
235 *Id.*
236 I&E St. No. 1, p. 18.
237 *Id.*

PECO disagreed with the I&E payroll tax expense adjustment based on PECO's denial of I&E's payroll expense adjustment.[238]

Inconsideration of the record evidence presented, I&E continues to recommend an allowance of $3,699,145 for payroll tax expense, and accordingly, a reduction of $76,855 to PECO's claim of $3,776,000.[239]

VIII. RATE OF RETURN

A. Introduction - Rate of Return Standards

I&E recommends the following rate of returns[240] for PECO Gas:

Type of Capital	Ratio	Cost Rate	Weighted Cost
Long-Term Debt	46.62%	3.84%	1.79%
Common Equity	53.38%	10.24%	5.47%
Total	100.00%		7.26%

In utility ratemaking, the concept of rate of return enjoys the dubious status of being at once both well-documented legally and highly disputed factually. Simply stated, rate of return is the revenue an investment generates in the form of net income; and is generally expressed as a percentage of the amount of capital invested over a given period of time. It is a controversial component of the revenue requirement formula, although, as the Commission continues to clarify its position in this regard, rate of return is becoming less and less controversial.[241]

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238 PECO St. No. 2-R, pp. 9-11.
239 *See* I&E St. No. 1-SR, pp. 13-14; I&E St. No. 1, p 18.
240 I&E St. No. 2-SR, p. 37.
241 For calculation of a utility's base rate revenue requirements, the formula used RR = E + D + T + (RB x ROR), where RR = Revenue Requirement; E = Operating Expense; D = Depreciation Expense; T = Taxes; RB = Rate Base; and ROR = Overall Rate of Return. I&E St. No. 2, p. 3.

A fair and reasonable overall rate of return is one that will allow the utility an opportunity to recover those costs prudently incurred by all classes of capital used to finance the rate base during the prospective period in which its rates will be in effect.[242]

Bluefield Water Works & Improvements Co. v. Public Service Comm. of West Virginia, 292 U.S. 679, 692-93 (1923) ("*Bluefield*"), and *Federal Power Commission v. Hope Natural Gas Co.*, 320 U.S. 591, 603 (1944) ("*Hope Natural Gas*") are the seminal cases that present the legal standards applicable to regulators calculating utility rates of return.

In *Bluefield*, the Supreme Court stated:

> A public utility is entitled to such rates as will permit it to earn a return on the value of the property which it employs for the convenience of the public equal to that generally being made at the same time and in the same general part of the country on investments in other business undertakings which are attended by corresponding risks and uncertainties; but it has no constitutional right to profits such as are realized or anticipated in highly profitable enterprises or speculative ventures. The return should be reasonably sufficient to assure confidence in the financial soundness of the utility and should be adequate, under efficient and economical management, to maintain and support its credit and enable it to raise the money necessary for the proper discharge of its public duties. A rate of return may be too high or too low by changes affecting opportunities for investment, the money market and business conditions generally.[243]

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[242] I&E St. No. 2, pp. 3-4.
[243] *Bluefield*, 262 U.S. at 692-93.

Twenty years later, in *Hope Natural Gas,* the Supreme Court reiterated:

> From the investor or company point of view it is important that there be enough revenue not only for operating expenses but also for the capital costs of the business. These include service on the debt and dividends on the stock. By that standard the return to equity owner should be commensurate with returns on investments in other enterprises having corresponding risks. That return, moreover, should be sufficient to assure confidence in the financial integrity of the enterprise, so as to maintain its credit and to attract capital.[244]

Restated, the principles generally accepted by state and federal regulators as the appropriate criteria for measuring a fair rate of return are these:

- A utility is entitled to the opportunity of a return similar to that being earned by other enterprises with corresponding risks and uncertainties, but not as high as those earned by highly profitable or speculative ventures;

- A utility is entitled to the opportunity of a return level reasonably sufficient to assure financial soundness;

- A utility is entitled to the opportunity of a return sufficient to maintain and support its credit and raise necessary capital; and,

- A fair return can change (increase or decrease) along with economic conditions and capital markets.[245]

B. Capital Structure.

I&E recommends using the Company's claimed capital structure as it falls within the range of the I&E proxy group's 2019 capital structures, which is the most recent information available at the time of I&E's analysis.[246] The 2019 range consists of long-term debt ratios ranging from 33.18% to 53.48% and equity ratios ranging from 32.78%

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[244] *Hope Natural Gas*, 320 U.S. at 603.
[245] I&E St. No. 2, pp. 4-5.
[246] I&E St. No. 2, p. 12; I&E St. No. 2-SR, p. 10.

to 59.01%, with a five-year average of 40.29% for long-term debt and 47.60% for common equity.[247]

C. Cost of Long-Term Debt

I&E recommends using the Company's updated claimed long-term debt cost rate of 3.84% for the FPFTY, which results in a weighted cost of debt of 1.79% or a decrease of 0.06% (1.85% - 1.79%) to the Company's original claim.[248] The Company's claimed cost rate of long-term debt is reasonable, as it is representative of the industry.[249] It falls within I&E's proxy group's implied long-term debt cost range of 3.14% to 5.82%, with an average implied long-term debt cost of 4.91%.[250]

D. Cost of Common Equity

I&E continues to recommend using the Discounted Cash Flow (DCF) method as the primary method to determine the cost of common equity.[251] Further, I&E recommends using the results of the Capital Asset Pricing Model (CAPM) as a comparison to the DCF results.[252] I&E's recommendation is consistent with the methodology historically used by the Commission in base rate proceedings, even as recently as 2017, 2018, and 2020.[253] And we can now add *Columbia Gas* to the list.[254]

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247 *Id.*, *citing* I&E Exh. No. 2, Sch. 2.
248 I&E St. No. 2-SR, p. 11, *citing* PECO St. No. 5-R, pp. 9-10.
249 I&E St. No. 2, p. 13.
250 *Id., citing* I&E Exh. No. 2, Sch. 3.
251 I&E St. No. 2, p. 15.
252 *Id.*
253 *Id.*, pp. 15 (citation omitted).
254 *Pa. P.U.C. v. Columbia Gas of Pennsylvania Inc.*, Docket No. R-2020-3018835 (Order Entered February 19, 2021).

In fact, this "issue" can now be relegated to the "well settled" category. The Commission noted, in *Columbia*:

> we shall adopt the position of I&E and shall base our determination of the appropriate cost of equity on the results of the DCF method and shall use the CAPM results as a comparison thereto. As I&E noted, the use of the DCF model has historically been our preferred methodology and was recently affirmed in *UGI Electric*. Like the ALJ, we find no reason to deviate from the use of this method in the instant case.[255]

The result of I&E's DCF analysis is 10.24% while the result of I&E's CAPM analysis is 9.08%; both of which are significantly lower than the Company's claim of 10.95%.[256] It is unquestioned that the DCF method is the most reliable.[257] I&E always considered the fact that no method can perfectly predict the return on equity, which is why I&E also uses the CAPM as a comparison to the DCF.[258] As a result of I&E's DCF analysis I&E recommended a cost of common equity of 10.24%.[259]

Both PECO and the OCA raised various issues relating to the cost of common equity calculations which were addressed and rejected in I&E witness Keller's surrebuttal testimony.[260] Therefore, in consideration of the above and the record evidence presented, I&E continues to recommend a cost of common equity of 10.24%.[261]

255 *Id.*, p. 131.
256 I&E St. No. 2-SR, p. 12.
257 I&E St. No. 2, pp. 16-17; I&E St. No. 2-SR, p. 12.
258 I&E St. No. 2, pp. 24-27.
259 I&E St. No. 2, p. 20, *citing* I&E Exh. No. 2, Sch. 1.
260 I&E St. No. 2-SR, pp. 3-37.
261 *Id.*, p 37.

E. Management Performance Points Request

I&E asserts that true management effectiveness is earning a higher return through its efficient use of resources and cost cutting measures.[262] The greater net income resulting from cost savings and true efficiency in management and operations is available to be passed on to shareholders.[263] PECO Energy, or any utility should not be awarded additional basis points for doing what they are required to do in order to provide adequate, efficient, safe, and reasonable service under 66 Pa. C.S.A. § 1501.[264]

The Company argues that an additional 25 basis points should be added for "superior management performance."[265] PECO argues in support of its management performance claim that it operates various programs that promote high quality and reliability of service, commitment to energy efficiency, support for community and economic development in the Company's service territory, measures taken to protect the safety of workers, its significant efforts to manage and control its operating expenses, and the high quality of customer service that was recognized by J.D. Power.[266]

I&E rejects the Company's arguments and asserts that by awarding the Company management effectiveness points, it will cost the customer money for the Company to provide the adequate, efficient, safe, and reasonable service that is required by the Public Utility Code and Commission regulations.[267] Further, even a modest increase in the cost

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[262] I&E St. No. 2, pp. 47-48; I&E St. No. 2-SR, pp. 35-36.
[263] *Id.*
[264] *Id.*
[265] PECO St. No. 5, p. 7.
[266] *See* PECO St. No. 1, pp. 14-25.
[267] I&E St. No. 2, p. 47.

of equity by an additional 25 basis points translates to an additional $3,285,458 that would flow through to the ratepayers.[268] Rather, any savings from effective operating and maintenance cost measures should flow through to ratepayers and investors.[269] These claimed savings would likely be offset by the addition of basis points for management effectiveness as ratepayers would have to fund the additional costs.[270] This defeats the purpose of cutting expenses to benefit ratepayers. Ensuring that these cost saving measures flow to ratepayers is especially important now as many have recently experienced reduced household income as a result of job loss or reduction in hours due to the global pandemic.[271]

Finally, the Commission affirmed the Administrative Law Judge's denial of management performance points in *Columbia Gas*.[272] The Commission summarized the Recommended Decision and stated:

> [The ALJ] agreed with I&E, the OCA, and the OSBA that Columbia failed to provide sufficient evidence to support its proposal for an additional twenty-basis points for "strong management performance." The ALJ reasoned that while effective operating and maintenance cost measures should flow through to ratepayers and/or investors, Columbia's proposal defeats the purpose of cutting expenses to benefit ratepayers, particularly during a pandemic when so many ratepayers have experienced reduced household income from job loss or reduction in hours. Therefore, the ALJ recommended that no upward management effectiveness adjustment be made to the Company's cost of equity.[273]

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[268] *Id.*, p. 46.
[269] I&E St. No. 2-SR, p. 35.
[270] *Id.*
[271] *Id.*, pp. 35-36.
[272] *Columbia Gas*, Docket No. R-2020-3018835, p. 134, Order Entered February 19, 2021.
[273] *Columbia Gas*, p. 134.

Therefore, in consideration of the above and the record evidence presented, I&E urges that PECO Energy should not be awarded additional basis points for doing what they are required to do by the Public Utility Code and the Commission regulations in order to provide adequate, efficient, safe, and reasonable service.[274]

F. Other Parties' Equity Cost Rate Recommendations

PECO and the parties raised multiple issues regarding I&E's cost of common equity calculations and recommendation that have been addressed and rejected in I&E witness Keller's surrebuttal testimony.[275]

Regarding the proxy group issue,[276] the Commission in *Columbia Gas* just stated its support for I&E's methodology of determining proxy groups for rate of return analysis.[277] The Commission stated:

> On consideration of the record evidence in this proceeding, we shall adopt ALJ Dunderdale's recommendation that I&E's proxy group should be utilized in setting the appropriate rate of return for Columbia. … Rather, we find that I&E's proxy group of companies is the proxy group proffered in this proceeding that most closely resembles Columbia.
>
> First, as I&E and the ALJ pointed out, a company's revenues represent the percentage of cash flow the company receives from each business line related to providing a good or service. Therefore, if less than fifty percent of revenues come from the regulated gas sector, the company is not comparable to the subject utility as it does not provide a similar level of regulated business.[278]

274 I&E St. No. 2, pp. 47-48; I&E St. No. 2-SR, p. 36.
275 I&E St. No. 2-SR, pp. 3-37.
276 *See* I&E St. No. 2, pp. 6-10; I&E St. No. 2-SR, pp. 5-9.
277 *Columbia Gas*, pp. 110-112.
278 *Columbia Gas*, p. 110.

Further, regarding the proposed leverage adjustment,[279] in *Columbia Gas* the Commission adopted the Recommended Decision which adopted I&E's position for determining the appropriate cost of equity.[280] And by adopting the Recommended Decision agreeing with I&E, the Commission rejected Columbia's proposed leverage adjustment as flawed.[281]

G. Conclusion as to Overall Rate of Return

In consideration of the above and the record evidence presented, I&E recommends that the Company should be afforded the opportunity to earn an overall rate of return of 7.26%.[282] This recommended overall rate of return is comprised of a weighted average of a 1.79% rate of return on long-term debt and a 5.47% rate of return on common equity.[283]

IX. CUSTOMERS PROGRAMS AND MISCELLANEOUS ISSUES

A. Recommendations Related to the COVID-19 Emergency

The Company states that it has experienced increases in employee-related costs (including required enhancements to employee sick-leave benefits), increased costs for personal protective equipment, and increased labor and contracting costs due to the impact on productivity of complying with social distancing and other measures designed to protect employees, customers and the general public during the COVID-19

279 *See* I&E St. No. 2, pp. 37-42; I&E St. No. 2-SR, pp. 19-24.
280 *See Columbia Gas*, pp. 137-141.
281 *Id.*, p. 141.
282 I&E St. No. 2-SR, p. 37.
283 *Id.*

pandemic.[284] PECO stated, however, that it has not created a regulatory asset for these incremental uncollectible accounts for its gas business based on current circumstances, but PECO does plan to file a notice in accordance with the Secretarial letter for its electric distribution business.[285] Further, PECO stated that it was not making a claim in this case to recover incremental COVID-19 related expenses and lost revenues because the full impact of COVID-19 is not known at this time and the Company is continuing to evaluate its effects.[286]

I&E took no position regarding this issue.

B. Universal Service Programs

The Company noted that it is proposing to expand its residential energy efficiency programs and increase its annual expenditures to $4.5 million.[287] To implement this increase, the gas USFC must be revised to reflect the new energy efficiency spending target.[288]

I&E took no position regarding this issue.

C. Neighborhood Gas Pilot Rider

I&E recommends allowing up to 40 feet of main line per contracted residential customer at no cost with certain limitations such as abnormal underground conditions or unusual permit requirements as stated by the Company.[289] I&E also continues to recommend an annual allowance of $5,000,000 ($25,000,000 ÷ 5 years) for the capital

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[284] PECO St. No. 2, pp. 22-23.
[285] *Id.*, p. 22.
[286] *Id.*, p. 23.
[287] PECO St. No. 8, p. 16.
[288] *Id.*
[289] I&E St. No. 2, pp. 49-50 PROPRIETARY; I&E St. No. 2-SR, p. 39.

costs associated with the proposed change to the NGPR or a reduction of $2,500,000 ($7,500,000 - $5,000,000) to the Company's claim.[290]

The I&E recommendation is based on the fact that the Company has only spent $15,500,000 since the beginning of the NGPR despite having a spending limit of $25,000,000.[291] I&E argues, this demonstrates the Company has not spent the amount currently allocated to the NGPR.[292] I&E's recommendation was also based on the Company's current CIAC calculation which assumes 66% of customers would take service over a 20-year period; however, only 44% of eligible customers have taken service since the inception of the NGPR.[293]

The Company stated it is revising the CIAC calculation to assume that 66% of potential customers will contract for service in the first year to better align with data from the NGPR.[294] Further, the Company suggested that there will be an increased interest in participating in the NGPR as a result of the 40 feet of main line per contracted residential customer and the revised CIAC calculation.[295] The Company notes that customers are expressing interest in participating in the NGPR but are awaiting the outcome of this proceeding and the Company expects an increase of 25 neighborhoods per year under the revised NGPR which would require the Company's initial $7,500,000 claim.[296]

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[290] *Id.*
[291] *Id.*, pp. 50-51, *citing* PECO St. No. 9, pp. 11-12.
[292] I&E St. No. 2, p. 50; I&E St. No. 2-SR, pp. 37-38.
[293] I&E St. No. 2-SR, p. 38, *citing* PECO St. No. 9, p. 11.
[294] PECO St. No. 9-R, p. 11.
[295] *Id.*
[296] *Id.*

I&E disagrees and asserts the Company may be able expand its program sufficiently to achieve its originally projected targets, but there is no data to support increasing the funding for this program at this time based on historic performance where there was a decrease in inquiries regarding the NGPR, the number of main extension projects, and number of residential customers having gas available from the NGPR from 2019 to 2020.[297] Additionally, although the Company's revised CIAC calculation assumes 66% of customers would take service in the first year, only 44% of eligible customers have taken service since the inception of the NGPR.[298]

Therefore, in consideration of the record evidence and the arguments presented in this proceeding, I&E continues to recommend allowing up to 40 feet of main line per contracted residential customer at no cost with certain limitations such as abnormal underground conditions or unusual permit requirements as stated by the Company.[299] Further, I&E also continues to recommend an annual allowance of $5,000,000 ($25,000,000 ÷ 5 years) for the capital costs associated with the proposed change to the NGPR or a reduction of $2,500,000 ($7,500,000 - $5,000,000) to the Company's claim.[300]

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297 I&E St. No. 2-SR, p. 40.
298 *Id.*
299 *Id.*, p. 39.
300 *Id.*

D. Energy Efficiency and Conservation Programs

I&E's stated positions regarding PECO's energy efficiency and conservation programs and the associated costs is set forth in Section VI. EXPENSES, M. Energy Efficiency and Conservation Program Costs *supra*.

E. Quality of Service

1. Distribution Integrity Management Program

The Distribution Integrity Management Program ("DIMP") is a performance based regulatory program applicable to gas distribution operators driven by risk management.[301] The federal Pipeline and Hazardous Materials Safety Administration ("PHMSA") created the DIMP[302] regulations to reduce the number of Department of Transportation ("DOT") reportable incidents.[303] Two of the main causes of reportable incidents are pipeline leaks caused by corrosion and damage to pipelines caused by third parties.[304]

I&E made recommendations regarding PECO's Distribution Integrity Management Program in I&E witness Elena Bozhko's PROPRIETARY direct and surrebuttal testimony.[305] For purposes of brevity and to avoid including large amounts of proprietary information in this Main Brief, I&E refers the reader to Ms. Bozhko's PROPRIETARY direct and surrebuttal testimonies where the confidential discussions and recommendations can be found.

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[301] I&E St. No. 4, p. 3.
[302] *See* Code of Federal Regulations, Chapter 49, Part 192.1001-192.1015, Subpart P.
[303] *Id.*
[304] *Id.*
[305] *See* I&E St. No. 4 PROPRIETARY, pp. 6-24; I&E St. No. 4-SR PROPRIETARY, pp. 7-9.

PECO witness Ronald Bradley provided confidential responses in rebuttal and oral rejoinder testimony regarding Ms. Bozhko's recommendations.[306]

Nevertheless, I&E continues to recommend the suggested methods to both monitor and reduce risk and damages to the PECO distribution system.

2. Leaks and Excavation Damage

As stated above, two of the main causes of reportable incidents are pipeline leaks caused by corrosion and damage to pipelines caused by third parties.[307] And, as stated above, I&E continues to recommend the suggested methods to both monitor and reduce risk and damages to the PECO distribution system as discussed in I&E witness Bozhko's PROPRIETARY direct and surrebuttal testimonies.[308]

X. RATE STRUCTURE

A utility's rate structure implements the Commission's approved revenue increase to determine how the overall increase will be allocated among the utility's various rate classes. Once a class revenue allocation is determined, development of a rate design will address how the tariffed rates and rate elements will generate the allocated revenues. A properly designed rate structure will not unduly burden one class of ratepayers to the benefit of another. Under the Public Utility Code, "[n]o public utility shall … make or grant any unreasonable preference to any person, corporation … No public utility shall establish or maintain any unreasonable difference as to rates, either as between localities

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306 *See* PECO St. No. 1-R, p. 8; Hrg. Tr.
307 I&E St. No. 4, p. 3.
308 *See* I&E St. No. 4 PROPRIETARY, pp. 6-24; I&E St. No. 4-SR PROPRIETARY, pp. 2-9.

or as between classes of service."[309] Differences in rates charged to different classes are permissible so long as there is reasonable basis for the discrepancy.[310] "Public utility rates should enable the utility to recover its cost of providing service and should allocate this cost among the utility's customers in a just, reasonable and nondiscriminatory manner."[311]

A. Cost of Service

1. PECO Revised Gas Cost of Service Study ("COSS")

PECO first provided its COSS with its original filing in PECO Exh. JD-1 through JD-6.[312] PECO then provided an updated cost-of-service study in response to discovery requests from OSBA.[313]

I&E based its customer cost analysis on the updated COSS.[314] The customer cost analysis is a part of the analysis of a COSS that is used to determine the appropriate fixed customer charges for the various classes and meter sizes; and it includes customer costs only.[315]

2. Opposing Party Recommendations

I&E agrees with using the Average and Excess methodology, as presented by the Company, as a reasonable method to allocate costs and revenues in this proceeding.[316] The OCA disagreed with I&E's position, noting I&E's support of the Peak and Average

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309 66 Pa. C.S. § 1304.
310 *See generally, Peoples Natural Gas Company v. Pa. P.U.C.*, 409 A.2d 446 (Pa. Commw.1979).
311 *See generally Pa. P.U.C. v. West Penn Power*, 73 Pa. P.U.C. 454, 510, 199 PUR 4th 110 (1990).
312 I&E St. No. 3, p. 26.
313 *Id.*
314 *See* I&E St. No. 3, pp. 26-37.
315 *Id.*, p. 26.
316 I&E St. No. 3-SR, pp. 15-16.

allocation methodology in previous rate cases, in support of OCA's objections to the Average and Excess methodology in this case.[317]

The OCA is correct in that I&E has supported the Peak and Average methodology in previous cases.[318] However, I&E has also supported the Average and Excess methodology when it was presented in other cases.[319] For example, in the *UGI Penn Natural Gas, Inc*. base rate case at Docket No. R-2016-2580030, I&E did not oppose the use of the Average and Excess methodology.[320] I&E believes that both COSS methodologies are reasonable solutions when performing a COSS for natural gas utilities.[321] Similarly, I&E has supported a 50% peak / 50% average mains allocation in previous cases and as recommended by OSBA in this case as well.[322] However, in this case, I&E determined that the Company's proposed allocation methodology is reasonable.[323]

In consideration of the Company's rebuttal testimony in addition to the opposing testimony from the other parties above and the record evidence presented, I&E believes the Company's revised COSS is reasonable except for the calculation of the relative rate of return as discussed in Revenue Allocation *infra*.[324]

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317 *Id.*, p. 16.
318 *Id.*
319 *Id.*
320 *Id.*
321 *Id.*
322 *Id.*
323 *Id.*
324 *Id.*

B. Revenue Allocation

1. PECO Revised Revenue Allocation

The Company revised its proposed revenue allocation in order to conform to its revised COSS and also to eliminate the differences between the system average rates of return for the GC and L rate classes as required under the terms of the 2008 base rate case settlement at Docket No. R-2008-2028934.[325] PECO's revised revenue allocation is discussed and analyzed by I&E witness Cline in both his direct and surrebuttal testimony.[326] I&E identified several issues regarding the Company's proposed rate allocation methodology.[327]

The Company is proposing a 389% increase for the L rate class and approximately 27% increases for the GR and TS-F classes while proposing rate decreases for the remaining classes.[328] First issue, the 389% rate increase for the L rate class is excessive and violates the concept of gradualism and could result in rate shock for those customers.[329] Second, I&E agree with the rebuttal testimony of OCA witness Watkins regarding the fairness of certain rate classes receiving rate increases while other rate classes are receiving rate decreases.[330] For these two reasons, the Company's proposed revenue allocation is not reasonable and should be rejected.[331] Ultimately, I&E recommended a revised revenue allocation as discussed *infra*.

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325 PECO St. No. 7-R, pp. 4-5.
326 I&E St. No. 3, pp. 28-33; I&E St. No. 3-SR, pp. 17-21.
327 I&E St. No. 3-SR, p. 19.
328 *Id.*
329 *Id.*
330 *Id.*
331 *Id.*

2. Opposing Party (I&E) Alternative Revenue Allocations

I&E's proposed revenue allocation is set forth in I&E witness Cline's surrebuttal testimony.[332] I&E's final proposed revenue allocation was arrived at using the data provided by the Company in PECO Exhibits JD-1R through JD-6R by first creating a schedule that shows the calculation of relative rates of return based on proposed revenue, expenses, taxes, net income and rate base by class.[333]

Then, based on I&E's proposed revenue allocation schedule and taking into consideration the issues brought forth by the OCA and OSBA, I&E developed its recommended revenue allocation.[334] It should be noted that while the MV-F class shows a revenue decrease, which is due to the DSIC being set at 0%, the Tax Reform Base Rate Impact, and the GPC reduction, not due to a reduction in rates.[335] Additionally, the revenue increases shown in I&E Exh. No. 3-SR, Sch. 4 include adjustments for the GPC and MFC reductions.[336]

3. Scale Back of Rates / Gradualism

Under I&E's original revenue allocation, I&E recommended that, if the Commission grants less than the Company's requested revenue increase, then several rate classes receive either no increase or a rate decrease.[337] Further, because Rate L remained far below its cost to serve, I&E recommended that its increase should not be scaled

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332 I&E St. No. 3-SR, p. 21.
333 *Id.*, p. 20.
334 *Id.*, pp. 20-21; I&E Exh. No. 3-SR, Sch. 4.
335 *Id.*, p. 20.
336 *Id.*
337 I&E St. No. 3, p. 37.

back.[338] Therefore, I&E originally recommended that the only rate classes that should receive a scale back, should the Commission grant less than the Company's full requested increase, were the residential, TS-I, and TS-F classes.[339]

I&E, however, revised its proposed scale-back as a result of its revised revenue allocation.[340] Therefore, in consideration of the record evidence presented, I&E recommends that only the rates of those rate classes that receive an increase be scaled back proportionately based on the COSS ultimately approved by the Commission.[341] Further, I&E continues to recommend that the customer charges be included in the scale back of rates.[342]

Finally, gradualism is a well-established ratemaking concept that seeks to limit the immediate increases customers receive when rates are increased and instead seeks to implement significant rate changes on a more gradual basis over time. If the Commission should approve a rate increase, then the Commission has the discretion[343] to apply the concept of gradualism if the Commission determines the rate increase would result in a sudden and excessive increase that would violate the concept of gradualism. For this reason, I&E mentions the concept of gradualism as one of the tools of discretion in the Commissions tool box.

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338 *Id.*, p. 37.
339 *Id.*, p. 37.
340 *See* I&E St. No. 3-SR, p. 26.
341 *Id.*
342 *Id.*
343 *See Columbia*, pp. 44-55, Docket No. R-2020- 3018835, Order Entered February 19, 2021 (for a comprehensive discussion of the Commission's discretionary authority).

C. Allocation of Universal Service Program Costs

I&E has stated its position with regard to universal service program costs and energy efficiency and conservation costs as it relates to expanding programs and passing costs along to ratepayers in Section VI. EXPENSES, M. Energy Efficiency and Conservation Program Costs, *supra*; and, Section IX. CUSTOMER PROGRAMS, B. Universal Service Programs, and D. Energy Efficiency and Conservation Programs, *supra*.

D. Tariff Structure / Rate Design

1. Residential Customer Charge

While I&E noted that the Company's proposed $16.00 customer charge is supported by the customer cost analysis, the $4.25 increase from $11.75 to $16.00, or 36%, is a significant increase that cannot be ignored.[344] I&E's analysis included the noted review of the COSS; the customer cost analysis; and the relative rate of return regarding rate allocation.[345] Therefore, I&E recommended that the customer charge be included in the scale back of rates if the Commission grants less than the full requested increase.[346]

Further, I&E disagrees with the Company that the customer charges of other natural gas distribution companies should be the determining factor for the rates of PECO customers.[347] I&E continues to argue the Company's proposed customer charge increase

[344] I&E St. No. 3, p. 28; I&E St. No. 3-SR, p 13.
[345] *See* I&E St. No. 3, pp. 26-33; I&E St. No. 3-SR, pp. 13-21.
[346] I&E St. No. 3-SR, p. 13.
[347] *Id.*, p. 14.

from $11.75 to $16.00, or 36%, is a significant increase; and, including the customer charge when rates are scaled back is reasonable.[348]

2. Non-Residential Customer Rate Design

I&E reiterates that any analysis regarding the setting of non-residential customer charges should include a review of the COSS; the customer cost analysis; and, the relative rate of return regarding rate allocation.[349]

3. DSIC Cost Allocation

Application of the Distribution System Improvement Charge ("DSIC") and related cost allocation is governed by the Public Utility Code.[350] I&E recommends the Commission apply the relevant sections of the Public Utility Code to any proposed DSIC cost allocation.

4. Negotiated Gas Service

I&E recommended that the Company provide an update to the competitive alternative analysis for any customer that has not had their alternative fuel source verified for a period of 5 years or more at the point at which PECO files a base rate case.[351] I&E also recommended that the Company cease NGS service to any customer that does not have a verified alternative supply and switch those customers to the appropriate tariffed rate.[352] Further, I&E recommended that, in future base rate cases, PECO separate the

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[348] I&E St. No. 3, p. 28.
[349] *See* I&E St. No. 3, pp. 26-33; I&E St. No. 3-SR, pp. 13-21.
[350] *See* 66 Pa. C.S. §§ 1350-1360.
[351] I&E St. No. 3, p. 36.
[352] *Id.*

costs and revenues of customers discounted or reduced rates in their own class in the cost of service study.[353]

PECO clarified its discovery response indicating that the Company does not require an alternate fuel source as a competitive alternative, but instead allows for pipeline bypass or relocation to be a viable alternative for customers applying to negotiated rates, asserting this clarification is reasonable and consistent with the policies of other Pennsylvania Gas Utilities that offer negotiated rate service.[354] The Company also stated that it disagreed with I&E's overall recommendation for periodic updates to the associated competitive analysis.[355]

Additionally, the OSBA opposed I&E's recommendation regarding the verification of competitive alternatives because it does not address the OSBA claim that the Company failed to meet the requirements necessary for most of its negotiated rate customers.[356] I&E agrees with the OSBA in that, if the Commission agrees with the OSBA that the Company has not sufficiently supported the requirements for its negotiated rate customers, then that shortfall in revenues should be borne by PECO's shareholders and not its customers; however, I&E did not address this determination in its direct testimony.[357]

Finally, I&E reiterates it is important to periodically analyze competitive alternatives to ensure that the rates of flex rate customers are not discounted lower than is

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353 *Id.*
354 PECO St. No. 7-R, p. 22.
355 *Id.*
356 *See* OSBA St. No. 1-R, pp. 14-15.
357 I&E St. No. 3-SR, pp. 24-25.

necessary to avoid the customer choosing the alternative supply.[358] Providing excessive discounts to customers would be harmful to both the Company and its customers since the other customers make up the revenue shortfall that results when flex-rate customers pay less than tariff rates.[359] The rates of non-negotiated customers will always be higher than if the negotiated customers were paying non-discounted rates whether the Company is providing service to those customers or not.[360] The only safeguard that customers have to protect them from absorbing the costs from excessively discounted rates is the verification of competitive alternatives for the negotiated rate customers.[361]

Therefore, in consideration of the above and the record evidence presented, I&E recommends that the Company provide an update to the competitive alternative analysis for any customer that has not had their alternative fuel source verified for a period of 5 years or more at the point at which PECO files a base rate case.[362]

5. Theft/Fraud Investigation Charge

The Company's existing Tariff, Rule 17.6 establishes reconnection fees for terminations associated with non-payment, as well as fees for investigation and remediation of theft or fraud.[363] In this proceeding, PECO has proposed to separate these two fees into distinct tariff rules, with the new Rule 17.7 specifically addressing fees for investigation and remediation of theft or fraud. Under Rule 17.7, PECO is proposing a

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[358] I&E St. No. 3, p. 34.
[359] *Id.*
[360] *Id.*
[361] *Id.*
[362] I&E St. No. 3-SR, p. 25.
[363] PECO St. No. 8-R, pp.1-2.

$460 fee for investigating theft/fraud, replacing the current theft/fraud reconnection fee of $370, which is consistent with the average cost that PECO incurs to investigate and remediate theft or fraud.[364]

OCA witness Roger Colton contends that the Company's proposed Rule 17.7 should be rejected because the language is vague, excessively broad, improperly applies to "applicants" and assesses a fee that improperly includes "allocated overheads and administrative costs".[365]

I&E took no position regarding this issue.

E. Summary and Alternatives

I&E's analysis included the noted review of the COSS; the customer cost analysis; and the relative rate of return regarding rate allocation. Further, I&E's proposed monthly customer charge; as well as its gradualism and scale back recommendations, are based on sound Commission ratemaking policies and precedent and should be adopted and implemented in this proceeding.

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364 *Id.*, p. 2.
365 *Id.*

XI. CONCLUSION

I&E respectfully submits that for all the reasons presented in this I&E Main Brief, PECO Gas has not met its burden of proof as the record evidence presented by PECO Gas does not substantiate a revenue increase of $68.7 million. Instead, based on the weight of the record evidence, Your Honor and the Commission should only grant PECO Gas the I&E recommended revenue increase of $26.3 million.

Respectfully submitted,

Scott B. Granger
Prosecutor
PA Attorney ID No. 63641

Dated: March 3, 2021

I&E TABLE I

TABLE I							
PECO Energy Company - Gas Division							
INCOME SUMMARY							
R-2020-3018929							
(In Thousands)							
	Pro Forma Present Rates (1)	Company Adjustments (1)	Pro Forma Present Rates (Revised) (1)	I&E Adjustments	I&E Pro Forma Present Rates	I&E Revenue Increase	Total Allowable Revenues
	$	$	$	$	$	$	$
Operating Revenue	590,014	0	590,014	0	590,014	26,344	616,358
Expenses:							
O & M Expense	370,135	0	370,135	(17,673)	352,462	91	352,553
Depreciation	88,958	0	88,958	(804)	88,154	0	88,154
Taxes, Other	7,545	0	7,545	0	7,545	81	7,626
Income Taxes:							
State	0	0	0	1,997	1,997	2,615	4,612
Federal	(10,249)	0	(10,249)	3,779	(6,470)	4,947	(1,523)
Deferred Taxes	(7,706)	0	(7,706)	0	(7,706)	0	(7,706)
ITC	(64)	0	(64)	0	(64)	0	(64)
Total Expenses	448,619	0	448,619	(12,701)	435,918	7,734	443,652
Net Inc. Available for Return	141,395	0	141,395	12,701	154,096	18,610	172,706
Rate Base	2,463,555	0	2,463,555	(84,682)	2,378,873		2,378,873
Rate of Return	5.74%		5.74%		6.48%		7.26%
(1) Company Rebuttal Position							

I&E TABLE I(A)

TABLE I(A)					
PECO Energy Company - Gas Division					
RATE OF RETURN					
R-2020-3018929					
Per PECO Energy Rebuttal:					
	Structure	Cost	After-Tax Weighted Cost	Effective Tax Rate Complement	Pre-Tax Weighted Cost Rate
Total Cost of Debt	46.62%		1.79000000%		
Long-term Debt	46.62%	3.84%	1.79000000%		1.79%
Short-term Debt	0.00%	0.00%	0.00000000%		
Preferred Stock	0.00%	0.00%	0.00000000%	0.711079	0.00%
Common Equity	53.38%	10.95%	5.85000000%	0.711079	8.23%
	100.00%		7.64000000%		10.02%
Pre-Tax Interest Coverage	5.60				
After-Tax Interest Coverage	4.27				
Per I&E recommendation:					
	Structure	Cost	After-Tax Weighted Cost	Effective Tax Rate Complement	Pre-Tax Weighted Cost Rate
Total Cost of Debt	46.62%		1.79020800%		
Long-term Debt	46.62%	3.84%	1.79000000%		1.79%
Short-term Debt	0.00%	0.00%	0.00000000%		
Preferred Stock	0.00%	0.00%	0.00000000%	1.000000	0.00%
Common Equity	53.38%	10.24%	5.47000000%	1.000000	5.47%
	100.00%		7.26000000%		7.26%
Pre-Tax Interest Coverage	4.06				
After-Tax Interest Coverage	4.06				

I&E TABLE I(B)

TABLE I(B)	
PECO Energy Company - Gas Division	
REVENUE FACTOR	
R-2020-3018929	
100%	1.00000000
Less:	
Uncollectible Accounts Factor (*)	0.00347200
PUC, OCA, OSBA Assessment Factors (*)	0.00308000
Gross Receipts Tax	0.00000000
Other Tax Factors	0.00000000
	0.99344800
State Income Tax Rate (*)	0.09990000
Effective State Income Tax Rate	0.09924500
Factor After Local and State Taxes	0.89420300
Federal Income Tax Rate (*)	0.21000000
Effective Federal Income Tax Rate	0.18778300
Revenue Factor (100% - Effective Tax Rates)	0.70642000
(*) Company Rebuttal Position	

I&E TABLE II

TABLE II							
PECO Energy Company - Gas Division							
SUMMARY OF ADJUSTMENTS							
R-2020-3018929							
(In Thousands)							
Adjustments	Rate Base	Revenues	Expenses	Depreciation	Taxes-Other	State Income Tax	Federal Income Tax
	$000's	$000's	$000's	$000's	$000's	$000's	$000's
RATE BASE:							
CWC:							
Int. & Div. (Table IV)	(IV!B38)						
Taxes (Table V)	(V!P34)						
O & M (Table VI)	(VI!B42)						
Plant Adjustment	(46,821)						
Neighborhood Gas Pilot	(2,500)						
Pension Assets	(35,059)						
CWC	(302)						
REVENUES:							
Operating Revenue						0	0
EXPENSES:							
Rate Case Expense			(208)			21	39
Payroll Expense			(859)			86	162
Employee Benefits Expense			(120)			12	23
Payroll Taxes			(77)			8	14
Outside Services			(3,134)			313	592
Merger Cost to Achieve Saving			(370)			37	70
Employee Activity Cost			(81)			8	15
Industry Org. Memberships			(68)			7	13
Regulatory Initiative Cost			(19)			2	4
Energy Efficiency & Conservation			(1,772)			177	335
Other Expenses (total of three exp. items)			(10,965)			1,095	2,073
Depreciation				(804)		80	152
TAXES:							
Interest Synchronization (Table III)						151	287
TOTALS	(84,682)	0	(17,673)	(804)	0	1,997	3,779

I&E TABLE III

TABLE III	
PECO Energy Company - Gas Division	
INTEREST SYNCHRONIZATION	
R-2020-3018929	
	Amount
	$
Company Rate Base Claim	2,463,555
ALJ Rate Base Adjustments	(84,682)
ALJ Rate Base	2,378,873
Weighted Cost of Debt	1.79000000%
ALJ Interest Expense	42,582
Company Claim (1)	44,098
Total ALJ Adjustment	1,516
Company Adjustment	0
Net ALJ Interest Adjustment	1,516
State Income Tax Rate	9.99%
State Income Tax Adjustment	151
Net ALJ Interest Adjustment	1,516
State Income Tax Adjustment	151
Net ALJ Adjustment for F.I.T.	1,365
Federal Income Tax Rate	21.00%
Federal Income Tax Adjustment	287
(1) Company Rebuttal Position	

I&E TABLE IV

ALJ Rate Base	$2,378,873	$2,378,873	ALJ Rate Base	$2,378,873
Weighted Cost of Debt	1.79000000%	0.00%	Weighted Cost Pref. Stock	0.00000000%
ALJ Annual Interest Exp.	$42,582	$0	ALJ Preferred Dividends	$0
Average Revenue Lag Days	0.0	0.0	Average Revenue Lag Days	0.0
Average Expense Lag Days	0.0	0.0	Average Expense Lag Days	0.0
Net Lag Days	0.0	0.0	Net Lag Days	0.0
Working Capital Adjustment				
ALJ Daily Interest Exp.	$117	$0	ALJ Daily Dividends	$0
Net Lag Days	0.0	0.0	Net Lag Days	0.0
ALJ Working Capital	$0	$0		$0
Company Claim (1)	$0	$0	Company Claim (1)	$0
ALJ Adjustment	$0	$0		$0
Total Interest & Dividend Adj.	$0			
(1) Company Rebuttal Position				

I&E TABLE V

TABLE V
PECO Energy Company - Gas Division
CASH WORKING CAPITAL -TAXES
R-2020-3018929

Description	Company Proforma Tax Expense Present Rates	ALJ Adjustments	ALJ Pro forma Tax Expense Present Rates	ALJ Allowance	ALJ Adjusted Taxes at Present Rates	Daily Expense	Net Lead/ Lag Days	Accrued Tax Adjustment
PUC Assessment	$0	$0	$0	$81	$81	$0.22	0.00	$0
Public Utility Realty	$0	$0	$0		$0	$0.00	0.00	$0
Capital Stock Tax	$0	$0	$0		$0	$0.00	0.00	$0
	$0	$0	$0		$0	$0.00	0.00	$0
	$0	$0	$0		$0	$0.00	0.00	$0
	$0	$0	$0		$0	$0.00	0.00	$0
	$0	$0	$0		$0	$0.00	0.00	$0
	$0	$0	$0		$0	$0.00	0.00	$0
	$0	$0	$0		$0	$0.00	0.00	$0
	$0	$0	$0		$0	$0.00	0.00	$0
	$0	$0	$0		$0	$0.00	0.00	$0
State Income Tax	$0	$1,997	$1,997	$2,615	$4,612	$12.64	0.00	$0
Federal Income Tax	$0	$3,779	$3,779	$4,947	$8,726	$23.91	0.00	$0
	$0	$5,776	$5,776	$7,643	$13,419			
						ALJ Allowance		0
						Company Claim (1)		0
						ALJ Adjustment		0

(1) Company Rebuttal Position

I&E TABLE VI

TABLE VI					
PECO Energy Company - Gas Division					
CASH WORKING CAPITAL -- O & M EXPENSE					
R-2020-3018929					
Description	Company Pro forma F.T.Y. Expense	ALJ	ALJ Pro forma Expenses	Lag Days	Lag Dollars
Service Company	$0	$0	$0	0.00	$0
Chemicals	$0	$0	$0	0.00	$0
Group Insurance	$0	$0	$0	0.00	$0
Insurance, Other	$0	$0	$0	0.00	$0
Labor	$0	$0	$0	0.00	$0
Leased Equip./Rent	$0	$0	$0	0.00	$0
Leased Vehicles	$0	$0	$0	0.00	$0
Miscellaneous	$0	$0	$0	0.00	$0
Natural Gas	$0	$0	$0	0.00	$0
Power	$0	$0	$0	0.00	$0
Purchased Water	$0	$0	$0	0.00	$0
Telephone	$0	$0	$0	0.00	$0
Waste Disposal	$0	$0	$0	0.00	$0
Post Retirement Benefits	$0	$0	$0	0.00	$0
Pensions	$0	$0	$0	0.00	$0
	$0	$0	$0	#DIV/0!	$0
ALJ Average Revenue Lag	0.0				
Less: ALJ Avg. Expense Lag	#DIV/0!				
Net Difference	#DIV/0!	Days			
ALJ Pro forma O & M Expense per Day	$0				
ALJ CWC for O & M	#DIV/0!				
Less: Company Claim (1)	$0				
ALJ Adjustment	#DIV/0!				
(1) Company Rebuttal Position					

Findings of Fact

1. On September 30, 2020, PECO Energy Company – Gas Division filed its proposed Tariff Gas - Pa. P.U.C. No. 4 and all Supplements thereto with a proposed effective date of November 29, 2020. PECO Gas Vol. I of IX, Exh. 2, PECO Gas Tariff No. 4 – Proposed

2. The rates as proposed in Tariff Gas – Pa. P.U.C. No. 4 would increase its annual gas distribution rates by approximately $68.7 million, or 8.9% on the basis of total Pennsylvania jurisdictional gas operating revenue. PECO Gas Vol. I of IX, Exh. 2, PECO Gas Tariff No. 4 – Proposed.

3. I&E's total recommended revenue requirement for the Company is $616,358,000, representing an increase of $26,344,000 to the claimed present rate revenues of $590,014,000. I&E St. No. 1-SR, pp. 3-4; Table I, p. 4.

4. The Company's total revised rate base claim for the FPFTY ending June 30, 2022, is $2,463,555,000. PECO Exh. MJT-1 Rev., Sch. A-1.

5. I&E's total rate base recommendation is to reduce the Company's revised rate base by $46,821,000 from $2,463,555,000 to $2,416,734,000. I&E St. No. 3-SR, p. 10, *citing* I&E Exh. No. 3-SR, Sch. 1.

6. Even a modest increase in the cost of equity by an additional 25 basis points translates to an additional $3,285,458 that would flow through to the ratepayers. I&E St. No. 2, p. 46.

7. The Company has only spent $15,500,000 since the beginning of the neighborhood gas pilot program despite having a spending limit of $25,000,000. I&E St. No. 2-SR, p. 39; PECO St. No. 9, pp. 11-12.

Conclusions of Law

1. Every rate made, demanded, or received by any public utility, or by any two or more public utilities jointly, shall be just and reasonable, and in conformity with regulations or orders of the commission. 66 Pa. C.S. § 1301.

2. No public utility shall … make or grant any unreasonable preference to any person, corporation … No public utility shall establish or maintain any unreasonable difference as to rates, either as between localities or as between classes of service. 66 Pa. C.S. § 1304.

3. The burden of proving the justness and reasonableness of every element of the utility's rate increase rests solely upon the public utility. 66 Pa. C.S. § 315(a); *Lower Frederick Twp. v. Pa. Pub. Util. Comm.*, 409 A.2d 505 (Pa. Commw. Ct. 1980).

4. PECO Energy Company – Gas Division, as the base rate filer, must satisfy its burden of proof by a preponderance of evidence. *Samuel J. Lansberry, Inc. v. Pennsylvania Public Utility Commission*, 578 A.2d 600 (Pa. Commw. 1990).

5. A preponderance of evidence is such evidence that is more convincing, by even the smallest amount, than that presented by another party. *Se-Ling Hosiery v. Margulies*, 70 A.2d 854 (Pa. 1950).

6. This burden of proof is comprised of two distinct burdens: the burden of production and the burden of persuasion. The burden of production tells the adjudicator which party must come forward with evidence to support a particular position. *In re: Loudenslager's Estate*, 430 Pa. 33, 240 A.2d 477 (1968). The burden of persuasion determines which party must produce sufficient evidence to convince a judge that a fact has been established, and it never leaves the party on whom it is originally cast. *Reidel v. County of Allegheny*, 633 A.2d 1325, 1329 n. 11 (Pa. Commw. 1993).

7. The Commission must ensure that any adjudication is supported by substantial evidence. "Substantial evidence" is such relevant evidence that a reasonable mind might accept as adequate to support a conclusion. *Norfolk & Western Ry. Co. v. Pennsylvania Public Utility Commission*, 413 A.2d 1037 (Pa. 1980).

8. While the burden of proof remains with the public utility throughout the rate proceeding, the Commission has stated that where a party proposes an adjustment to a ratemaking claim of a utility, the proposing party bears the burden of presenting some evidence or analysis tending to demonstrate the reasonableness of the adjustment. *Pa.*

Pub. Util. Comm. v. Aqua Pennsylvania, Inc., Docket No. R-00072711 (Opinion and Order entered July 17, 2008).

9. The Commission must consider the efficiency, effectiveness and adequacy of service of each utility when determining just and reasonable rates in exchange for customers paying rates for service, which include the cost of utility plant in service and a rate of return. 66 Pa. C.S. § 523.

10. In exchange for the utility's provision of safe, adequate and reasonable service, the ratepayers are obligated to pay rates which cover the cost of service which includes reasonable operation and maintenance expenses, depreciation, taxes and a fair rate of return for the utility's investors. *Pa. Pub. Util. Comm. v. Pennsylvania Gas & Water Co.*, 61 Pa. PUC 409, 415-16 (1986); 66 Pa. C.S. § 1501.

11. The Commission has the discretionary authority to deny a proposed rate increase, in whole or in part, if the Commission finds that the service rendered by the public utility is inadequate. 66 Pa. C.S. § 526(a); *PA PUC v. Columbia Gas of Pennsylvania Inc.*, Docket No. R-2020-3018835, Order entered February 19, 2021.

12. A Commission decision is adequate where, on each of the issues raised, the Commission was merely presented with a choice of actions, each fully developed in the record, and its choice on each issue amounted to an implicit acceptance of one party's thesis and rejection of the other party's contention. *Popowsky, et al. v. Pa. Pub. Util. Comm.*, 550 Pa. 449, 706 A.2d 1197 (1997).

13. The standard formula for determining a utility's base rate revenue requirement is:

RR = E + D + T + (RB x ROR)

RR: Revenue Requirement

E: Operating Expense

D: Depreciation Expense

T: Taxes

RB: Rate Base

ROR: Overall Rate of Return

14. A utility is entitled to recover its reasonably incurred expenses. *UGI Corp. v. Pa. Pub. Util. Comm'n*, 410 A.2d 923 (Pa. Commw. 1980). Expenses include such items as the cost of operations and maintenance (labor, fuel and administrative costs, e.g.), depreciation and taxes. *Pennsylvania Power Company v. Pa. Pub. Util. Comm.*, 561 A.2d 43, 47 (Pa. Commw. 1989).

15. The public utility requesting a rate increase and seeking to recover expenses has the burden of showing that the rate requested, including all claimed expenses, is just and reasonable. 66 Pa. C.S. § 315(a); *See also Cup v. Pa. P.U.C.*, 556 A.2d 470 (Pa. Commw. 1989).

16. To the extent that expenses are not reasonably incurred, imprudently incurred, or abnormally overstated during the test year, they should be disallowed and found not recoverable through rates. *Cup v. Pa. P.U.C.*, 556 A.2d 470 (Pa. Commw. 1989).

17. It is the historical filings, not the actual intentions of the utility, which will guide the determination of the normalization period. *Pa. Pub. Util. Comm. v. City of Lancaster*, R-2010-2179103, et al. (Opinion and Order entered July 14, 2011), 2011 Pa. PUC LEXIS 1685; *Pa. Pub. Utility Comm. v. Metropolitan Edison Company*, R-2006-00061366, et al. (Opinion and Order entered January 4, 2007), 2007 Pa. PUC LEXIS 5.

18. The return should be reasonably sufficient to assure confidence in the financial soundness of the utility, and should be adequate, under efficient and economical management…to raise the money necessary for the proper discharge of public duties. *Bluefield Waterworks & Improvement Co. v. Public Service Comm. of West Virginia*, 262 U.S. 679 (1923).

19. Establishment of a rate structure is an administrative function peculiarly within the expertise of the Commission. *Emporium Water Company v. Pa. Pub. Util. Comm.*, 955 A.2d 456, 461 (Pa. Commw. 2008); *City of Lancaster v. Pa. Pub. Util. Comm.*, 769 A.2d 567, 571-72 (Pa. Commw. 2001). The question of reasonableness of rates and the difference between rates in their respective classes is an administrative question for the Commission to decide. *Pennsylvania Power & Light Co. v. Pa. Pub. Util. Comm.*, 516 A.2d 426 (Pa. Commw. 1986); *Park Towne v. Pa. Pub. Util. Comm.*, 43 A.2d 610 (1981).

20. The basic factor in allocating revenue is to have the rates reflect the cost of service. *Lloyd v. Pa. Pub. Util. Comm.*, 904 A.2d 1010, 1020 (Pa. Commw. 2006).

21. Recovery of costs or expenses that would result in retroactive ratemaking is generally not allowed. *National Fuel Gas Distribution Corporation v. Pa. PUC*, 76 Pa. Commw. 102, 464 A.2d 546 (1983).

22. The Company's claim to recover the costs to achieve the Exelon/PHI merger does not fall within one of the exceptions to the general rule against retroactive ratemaking. *National Fuel Gas Distribution Corporation v. Pa. PUC*, 76 Pa. Commw. 102, 464 A.2d 546 (1983).

23. Rate case expense normalization should be based on the utility's actual historic filing frequency. *PA PUC v. City of DuBois - Bureau of Water*, Docket No. R-2016-2554150, pp. 65-66 (Order Entered March 28, 2017); *Columbia Gas*, Docket No. R-2020-3018835, Order entered February 19, 2021.

24. "Iteration" is an accepted ratemaking process that must be applied to the final calculation of rates as all adjustments are finalized.

25. A public utility is entitled to such rates as will permit it to earn a return on the value of the property which it employs for the convenience of the public equal to that generally being made at the same time and in the same general part of the country on investments in other business undertakings which are attended by corresponding risks and uncertainties; but it has no constitutional right to profits such as are realized or anticipated in highly profitable enterprises or speculative ventures. The return should be reasonably sufficient to assure confidence in the financial soundness of the utility and should be adequate, under efficient and economical management, to maintain and support its credit and enable it to raise the money necessary for the proper discharge of its public duties. *Bluefield Water Works & Improvements Co. v. Public Service Comm. of West Virginia*, 292 U.S. 679, 692-93 (1923).

26. From the investor or company point of view it is important that there be enough revenue not only for operating expenses but also for the capital costs of the business. These include service on the debt and dividends on the stock. By that standard the return to equity owner should be commensurate with returns on investments in other enterprises having corresponding risks. That return, moreover, should be sufficient to assure confidence in the financial integrity of the enterprise, so as to maintain its credit and to attract capital. *Federal Power Commission v. Hope Natural Gas Co.*, 320 U.S. 591, 603 (1944).

27. The Commission shall base its determination of the appropriate cost of equity on the results of the DCF method and shall use the CAPM results as a comparison thereto. The use of the DCF model has historically been our preferred methodology, the Commission should find no reason to deviate from the use of this method in the instant case. *PA PUC v. Columbia Gas of Pennsylvania Inc.*, Docket No. R-2020-3018835, Order entered February 19, 2021.

28. The Distribution Integrity Management Program ("DIMP") was created by the federal Pipeline and Hazardous Materials Safety Administration ("PHMSA") and is a performance based regulatory program applicable to gas distribution operators driven by risk management. Code of Federal Regulations, Chapter 49, Part 192.1001-192.1015, Subpart P.

29. PECO Energy Company – Gas Division did not meet the burden of proof.

Ordering Paragraphs

IT IS ORDERED:

1. That PECO Energy Company - Gas Division shall not place into effect the rules, rates and regulations contained in proposed Tariff Gas - Pa. P.U.C. No. 4 to supersede Tariff Gas - Pa. P.U.C. No. 3.

2. That PECO Energy Company - Gas Division Company is authorized to file tariffs, tariff supplements or tariff revisions containing rates, rules and regulations, consistent with the findings herein and Table 1, to produce an increase in annual operating revenues not in excess of $26,344,000.

3. That the Company's claim for "natural gas reliability" plant additions in the FPFTY be reduced by $47,624,803 from $82,481,428 to $34,856,625.

4. That the Company's claim for a "pension asset" in the FPFTY rate base be disallowed in its entirety.

5. That the Company's claim for "costs to achieve" regarding the Exelon/PHI merger be disallowed in its entirety.

6. That I&E's expense adjustments summarized in the table on page 3 of I&E Statement No. 1-SR are accepted.

7. That I&E's recommended return on equity of 10.24% is accepted.

8. That I&E's proxy group is accepted.

9. That PECO's proposed leverage adjustment is rejected.

10. That I&E's overall rate of return of 7.26% is accepted.

11. That the Company's capital structure is accepted.

12. That the Company's updated cost of long-term debt is accepted.

13. That the Company's claim for management performance points is disallowed in its entirety.

14. That I&E's recommended adjustments to the Company's neighborhood gas pilot program are accepted.

15. That the Company's proposed changes and increases in spending for its energy efficiency and conservation programs are disallowed in their entirety.

16. That I&E's recommended adjustments to the Company's DIMP monitoring and risk reduction methodology are accepted.

17. That I&E's recommended adjustments to the Company's leak and excavation damage monitoring and risk reduction methodology are accepted.

18. That the Company's proposed revenue allocation is rejected.

19. That I&E's proposed revenue allocation is accepted.

20. That any increase in customer charges is subject to a scale back and gradualism.

21. That the applicable sections of the Public Utility Code be applied Company's distribution system improvement charge and the applicable plant in service reset.

22. That I&E's recommendations be applied to the Company's negotiated gas service.

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission	:	
	:	
v.	:	Docket No.: R-2020-3018929
	:	
PECO Energy Company – Gas Division	:	

CERTIFICATE OF SERVICE

I hereby certify that I am serving the foregoing **Main Brief** dated March 3, 2021, in the manner and upon the persons listed below.

Served via Electronic Mail Only

Kenneth M. Kulak, Esq.
Mark A. Lazaroff, Esq.
Catherine G. Vasudevan, Esq.
Morgan, Lewis & Bockius, LLP
1701 Market Street
Philadelphia, PA 19103
ken.kulak@morganlewis.com
mark.lazaroff@morganlewis.com
catherine.vasudevan@morganlewis.com
Counsel for PECO

Anthony E. Gay, Esq.
Jack R. Garfinkle, Esq.
Brandon J. Pierce, Esq.
PECO Energy Company
2301 Market Street
P.O. Box 8699
Philadelphia, PA 19101
anthony.gay@exeloncorp.com
jack.garfinkle@exeloncorp.com
brandon.pierce@exeloncorp.com
Counsel for PECO

Charis Mincavage, Esq.
Adeolu A. Bakare, Esq.
Teresa Harrold, Esq.
Jo-Anne S. Thompson, Esq.
McNees Wallace & Nurick LLC
100 Pine Street
P.O. Box 1166
Harrisburg, PA 17108-1166
cmincavage@mcneeslaw.com
abakare@mcneeslaw.com
tharrold@mcneeslaw.com
jthompson@mcneeslaw.com
Counsel for PAIEUG

Elizabeth R. Marx, Esq.
John W. Sweet, Esq.
Ria M. Pereira, Esq.
Pennsylvania Utility Law Project
118 Locust Street
Harrisburg, PA 17101
pulp@palegalaid.net
Counsel for CAUSE-PA

Phillip D. Demanchick, Esq.
Christy M. Appleby, Esq.
Barrett C. Sheridan, Esq.
Laura J. Antinucci, Esq.
Darryl A. Lawrence, Esq.
Office of Consumer Advocate
Forum Place
555 Walnut Street, 5th Floor
Harrisburg, PA 17101-1923
OCAPECOGAS2020@paoca.org

Steven C. Gray
Office of Small Business Advocate
Forum Place
555 Walnut Street, 1st Floor
Harrisburg, PA 17101-1923
sgray@pa.gov

Glenn Watkins
Technical Associates, Inc.
6377 Mattawan Trail
P.O. Box 1690
Mechanicsville, VA 23116
OCAPECOGAS2020@paoaca.org
Consultant for OCA

Kevin W. O'Donnell
Nova Energy Consultants, Inc.
1350 SE Maynard Road, Suite 101
Cary, NC 27511
OCAPECOGAS2020@paoca.org
Consultant for OCA

Lafayette K. Morgan
Exeter Associates
10480 Little Patuxent Parkway, Suite 300
Columbia, MD 21044-3575
OCAPECOGAS2020@paoca.org
Consultant for OCA

Roger D. Colton
Fisher Shehan & Colton
34 Warwick Road
Belmont, MA 02478
OCAPECOGAS2020@paoca.org
Consultant for OCA

Robert D. Knecht
Industrial Economics Incorporated
2067 Massachusetts Avenue
Cambridge, MA 02140
rdk@indecon.com
Consultant for OSBA

Mitchell Miller
Mitch Miller Consulting LLC
60 Geisel Road
Harrisburg, PA 17112
mitchmiller77@hotmail.com
Witness for OSBA

Jeffrey Pollock
J. Pollock Inc.
12647 Olive Boulevard, Suite 585
St. Louis, MO 63141
jcp@jpollockinc.com
Consultant for PAIEUG

Scott B. Granger
Prosecutor
Bureau of Investigation and Enforcement
PA Attorney ID No. 63641