



COMMONWEALTH OF PENNSYLVANIA

May 3, 2021

E-FILED

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**

Dear Secretary Chiavetta:

Enclosed please find the Reply Exceptions, on behalf of the Office of Small Business Advocate (“OSBA”), in the above-captioned proceeding.

Copies will be served on all known parties in this proceeding, as indicated on the attached Certificate of Service.

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

Sincerely,

/s/ Steven C. Gray

Steven C. Gray
Senior Supervising
Assistant Small Business Advocate
Attorney ID No. 77538

Enclosures

cc: Robert D. Knecht
Commission’s Office of Special Assistants
Parties of Record

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

**REPLY EXCEPTIONS
ON BEHALF OF THE
OFFICE OF SMALL BUSINESS ADVOCATE**

**Steven C. Gray
Senior Supervising
Assistant Small Business Advocate
Attorney ID No. 77538**

**For: Commonwealth of Pennsylvania
Office of Small Business Advocate**

**Office of Small Business Advocate
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(717) 783-2525
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Date: May 3, 2021

I. Introduction

On April 12, 2021, the Recommended Decision (“RD”) of Deputy Chief Administrative Law Judge (“DCALJ”) Christopher P. Pell was issued.

On April 26, 2021, the Office of Consumer Advocate (“OCA”) filed Exceptions to the RD.

On April 26, 2021, the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (“CAUSE-PA”) also filed Exceptions to the RD.

The OSBA submits the following Reply Exceptions in response to the Exceptions filed by the OCA and CAUSE-PA.

II. Reply Exceptions

Reply to OCA Exception No. 9 and CAUSE-PA Exception No. 5: The DCALJ properly recommended against allocating universal service costs to all customer classes. (OCA Exceptions, at 33-37; CAUSE-PA Exceptions at 23-29)

In this proceeding, PECO proposed to continue to recover the costs for its Universal Service Program (“USP”) for low-income customers from the residential class. Both the OCA and CAUSE-PA opposed PECO’s proposal, and argued for recovering the costs of the Company’s USP from all customer classes.

In his RD, the DCALJ concluded, as follows:

The COVID-19 Pandemic has had harsh economic impacts on commercial and industrial as well as small business customers. When these economic conditions will improve is in doubt. Since these customers do not derive any direct benefit from the USP programs, I don’t believe it is appropriate to change the manner in which PECO’s USP costs are allocated. Accordingly, I recommend that the Commission deny the request to allocate PECO’s USP costs to all customer classes.

RD, at 408.

In its Exceptions, the OCA set forth a Table that illustrated the serious impact upon small business customers. Specifically, in the Philadelphia-Camden-Wilmington metropolitan area (which includes the PECO service territory), the COVID-19 Pandemic has reduced small business hours by 38.9% and reduced small businesses being open by 32.5%. OCA Exceptions, at 36. The OSBA agrees with the DCALJ’s conclusion that the COVID-19 Pandemic has had a harsh impact upon PECO’s small business customers.

This issue of whether all customers should pay for a company’s USP was triggered by the Commission in its recently updated Policy Statement on Customer Assistance Programs, which opened the door for reconsideration of the Commission’s long-standing precedent to assign these costs entirely to the residential rate classes. 52 Pa. Code Sections 69.261 – 69.267 address this

updated Policy Statement on Customer Assistance Programs (“CAPs”). As the Commission is aware, policy statements do not have the binding force of a statute or a regulation but do provide guidance on issues under the Commission’s jurisdiction.

The following policy language, cited by CAUSE-PA in its Exceptions, is typically cited in support of the argument that CAP costs should be allocated to all PECO customers:

In rate cases, parties may raise the issue of recovery of CAP costs, whether specifically or as part of universal service program costs in general, from all ratepayer classes. No rate class should be considered routinely exempt from CAP and other universal service obligations.

52 Pa. Code Section 69.266(b). *See* CAUSE-PA Exceptions, 24.

However, in its Policy Statement, the Commission states the following regarding cost recovery:

In evaluating utility CAPs for ratemaking purposes, *the Commission will consider both revenue and expense impacts.*

52 Pa. Code § 69.266(a) (emphasis added).

In their respective Exceptions, neither the OCA nor CAUSE-PA provided any specifics how the USP service costs would be recovered from the non-residential classes. The OCA and CAUSE-PA also did not provide any revenue and expense impact analysis in their respective Exceptions, as required by the Commission. Addressing the only details provided by either party, Mr. Knecht explained the OCA proposal, as follows:

Mr. Colton recommends that the costs be allocated on a ‘competitively neutral’ basis, based on ‘the percentage of revenue provided by each customer class at base rates.’ In so doing:

Mr. Colton does not specify the test year magnitude of universal service costs, or even define what specific cost items would be included in his proposed allocation;

Mr. Colton does not provide any allocation calculations, or assessment of the impact of the proposed change on allocated costs;

Mr. Colton also does not offer any recommendations regarding whether the ‘flex’ rate classes with market-based rates or the negotiated rate customers should be assigned surcharges related to universal service costs;

Mr. Colton does not offer any proposal for rate recovery of the allocated costs.

OSBA Statement No. 1-R, at 25-26.

The OCA did not provide any guidance as to the impact of having non-residential customers pay for universal service costs – however, Mr. Knecht did attempt to calculate that impact. Mr. Knecht calculated that the OCA proposal would save the average residential customer 76 cents per month. OSBA Statement No. 1-R, at 26-27. In contrast, “large businesses would face a cost increase of 3 to 6 cents per mcf, while small businesses face cost increases over 15 cents per mcf.” *Id.*, at 27.

Consequently, the OCA and CAUSE-PA proposal to allocate universal service costs to all customer classes does not pass the necessary expense and revenue impact test of 52 Pa. Code § 69.266(a). Savings that are *de minimis* for the residential class, but significantly impact the rates paid by PECO’s small businesses, is not a just and reasonable result.

Furthermore, this issue of USP cost recovery has arisen in two recent base rates proceeding, namely the UGI Gas proceeding at Docket No. R-2019-3015162 and the Columbia Gas proceeding at Docket No. R-2020-3018835. The USP issues in those proceedings and the current one are essentially identical. The UGI Gas case was resolved by settlement. After the presentation of evidence in this proceeding, the Commission reached a decision on this issue in the Columbia Gas matter. In that case, the Commission determined:

In consideration of the large percentage increases to the large C&I classes, based on the Company's full requested increase, as well as the economic impacts commercial and industrial customers are experiencing due to the COVID-19 pandemic, absent more compelling evidence to the contrary, we do not find it appropriate to change the manner in which we have traditionally permitted USP costs to be allocated under the circumstances in this case.

Columbia Order, at 261.

The OSBA respectfully submits that the factual considerations which led to the Commission's decision in the *Columbia Order* are identical to those in the current proceeding. First, the COVID-19 Pandemic rages on, with major outbreaks in various states across the country. At the time of this writing, the timing, duration and effectiveness of the recovery from the COVID-19 Pandemic remain in doubt. Second, ratepayer impacts for larger customers are likely to be significant, particularly if the Commission adopts the 50/50 P&A mains cost allocation methodology it did in the *Columbia Order*. The rate increases for the TS-F and TS-I classes proposed by both the OSBA and OCA witnesses in this proceeding are well above system average and are constrained by rate gradualism concerns, resulting in rate increases that are insufficient to move revenue into line with allocated costs. Further burdening these classes with USP charges would be inconsistent with the principle established the *Columbia Order*.

Consequently, the OCA proposal to allocate universal service costs does not pass the necessary expense and revenue impact test of 52 Pa. Code § 69.266(a). Savings that are *de minimis* for the residential class, but significantly impact the rates paid by PECO's small businesses, is not a just and reasonable result. Furthermore, as only the residential class is eligible for CAP benefits, the residential class should be solely responsible for its costs.

III. Conclusion

For the reasons set forth above, the OSBA respectfully requests that the Commission deny OCA Exception No. 9 and CAUSE-PA Exception No. 5.

The OSBA respectfully requests that the Commission affirm the DCALJ's Recommended Decision on the issue of USP cost recovery.

Respectfully Submitted,

/s/ Steven C. Gray

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PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of the foregoing have been served via email (*unless otherwise noted below*) upon the following persons, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

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