



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

BUREAU OF
INVESTIGATION
&
ENFORCEMENT

April 26, 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 Exceptions

Dear Secretary Chiavetta:

Enclosed for electronic filing please find the ***Non-Proprietary Exceptions of the Bureau of Investigation and Enforcement (I&E)*** for the above-captioned proceeding. The Proprietary version of the document has been submitted to the Secretary's Bureau via its Sharefile.

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,

A handwritten signature in black ink that reads 'Scott B. Granger'.

Scott B. Granger
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SBG/jfm
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	:	Docket Nos.:	R-2020-3018929
	:		C-2020-3022400
v.	:		C-2020-3022414
	:		C-2020-3022745
PECO Energy Company – Gas Division	:		

**EXCEPTIONS
OF THE
BUREAU OF INVESTIGATION & ENFORCEMENT**

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: April 26, 2021

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I. INTRODUCTION

Pursuant to 66 Pa. C.S. § 332(h) of the Public Utility Code and 52 Pa. Code § 5.533 of the Public Utility Commission regulations, the Bureau of Investigation and Enforcement (“I&E”) of the Pennsylvania Public Utility Commission (“Commission”) respectfully submits these Exceptions to the Recommended Decision of Deputy Chief Administrative Law Judge Christopher P. Pell (“ALJ” or “ALJ Pell”) issued on April 12, 2021 (“Recommended Decision” or “R.D.”)

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. 4¹ 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 Commission.

The parties in this PECO Gas base rate proceeding are I&E; the Office of Consumer Advocate (“OCA”); the Office of Small Business Advocate (“OSBA”); the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (“CAUSE-PA”); 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 and the matter was assigned to the Office of Administrative Law Judge, ALJ Pell presiding, for the scheduling of hearings culminating in the issuance of a Recommended Decision.

¹ See PECO Gas Vol. I of IX, Exh. 2, PECO Gas Tariff No. 4 – Proposed.

NON-PROPRIETARY

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.

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.”) was created and distributed to the parties.

The active parties submitted briefs according to the briefing schedule. I&E submitted its Main Brief on March 3, 2021 (“I&E MB”) as did the other active parties. Then, I&E submitted its Reply Brief on March 15, 2021 (“I&E RB”) as did the other active parties.

As stated previously, on April 12, 2021, ALJ Pell issued his Recommended Decision. All though I&E supports certain determinations made by the ALJ in the RD, I&E requests

that the Commission revise the RD in response to the exceptions and arguments raised by I&E as set forth below.

II. EXCEPTIONS

A. I&E Exception No. 1: The ALJ erred in not recommending the I&E modifications regarding PECO's Distribution Integrity Management Program for monitoring and reducing risk to the PECO distribution system. R.D. at 269.

In his Recommended Decision, ALJ Pell erroneously relies on the testimony of PECO Gas witness Ronald Bradley and concluded that the I&E recommendations regarding PECO's Distribution Integrity Management Program ("DIMP") for both monitoring and reducing risk to the PECO distribution system should be rejected.² ALJ Pell also commented that there was a lack of argument to the contrary regarding Mr. Bradley's testimony.³ I&E excepts to this conclusion.

The ALJ concluded that *** **BEGIN CONFIDENTIAL** ***

*** **END**

CONFIDENTIAL ***

² R.D., p. 269.

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*, p. 269, *citing* PECO St. 1-R, p. 7-9.

However, through these exceptions, I&E continues to assert that the recommendations made by I&E witness Elena Bohzko⁷ regarding PECO's Distribution Integrity Management Program should have been accepted and recommended by the ALJ. Specifically, ***

BEGIN CONFIDENTIAL ***

***** END CONFIDENTIAL *****

The I&E recommendations are supported by the record evidence presented in I&E witness Bohzko's PROPRIETARY direct and surrebuttal testimony.¹² Specifically, I&E witness Bohzko noted a review of the historical data reveals that PECO's DIMP may not be effectively guiding efforts to proactively reduce system risks and might be inefficiently prioritizing the replacement projects to mitigate the riskiest threats in the distribution system.¹³ *** **BEGIN CONFIDENTIAL *****

⁷ See I&E St. No. 4 PROPRIETARY, pp. 2-19; I&E St. No. 4-SR PROPRIETARY, pp. 3-9.

⁸ I&E St. No. 4 PROPRIETARY, pp. 19, 23.

⁹ I&E St. No. 4 PROPRIETARY, p. 23.

¹⁰ *Id.*

¹¹ *Id.*

¹² See I&E St. No. 4 PROPRIETARY, pp. 2-19; I&E St. No. 4-SR PROPRIETARY, pp. 3-9.

¹³ I&E St. No. 4 PROPRIETARY, p. 6.

¹⁴ *Id.*, pp. 6-7.

*** END CONFIDENTIAL *** I&E stressed that it is very important to consider material type, age, environment, size, pressure, location, leak history, and other information in order to mitigate risks through pipeline replacement.¹⁷ Ms. Bohzko concluded that a more granular asset category approach, including the division of asset groups into smaller measurable categories to more representatively measure performance would allow PECO to increase the effectiveness of its threat remediation pursuant to 49 CFR § 192.1007(e).¹⁸

B. I&E Exception No. 2: The ALJ erred in not recommending the I&E modifications to PECO's methodology for both monitoring and reducing open leaks and excavation damage to the PECO distribution system. R.D. at 270.

In his Recommended Decision, ALJ Pell erroneously relies on the testimony of PECO Gas witness Ronald Bradley and concluded that the I&E recommendations to improve PECO's methodology for monitoring and reducing open leaks and excavation damage to the PECO distribution system should be rejected.¹⁹ ALJ Pell also commented that there was a lack of argument to the contrary from I&E regarding Mr. Bradley's testimony.²⁰ I&E excepts to this conclusion.

¹⁵ *Id.*, p. 7, citing I&E Exh. No. 4 PROPRIETARY, Sch. No. 3 – Confidential

¹⁶ *Id.*, p. 7.

¹⁷ *Id.*, p. 8.

¹⁸ *Id.*

¹⁹ R.D., p. 270.

²⁰ *Id.*

The ALJ recognized that I&E averred that two of the main causes of reportable incidents are pipeline leaks caused by corrosion and damage to pipelines caused by third parties.²¹ The ALJ noted further, as with the DIMP, I&E proposed recommendations to monitor and reduce leaks and damages to the PECO distribution system.²² The ALJ then concluded ***** BEGIN CONFIDENTIAL *****

***** END CONFIDENTIAL *****

However, through these exceptions, I&E continues to assert that the recommendations made by I&E witness Bohzko regarding reducing risks associated with open leaks and excavation damage²⁷ should have been recommended by the ALJ in his RD. These I&E

²¹ *Id.*, p. 269. *See* I&E St. No. 4 PROPRIETARY, p. 4.

²² *Id.*, p. 269.

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.*, pp. 269-270.

²⁷ I&E St. No. 4 PROPRIETARY, pp. 14-24.

recommendations include recommending *** BEGIN CONFIDENTIAL ***

*** END CONFIDENTIAL ***

The I&E recommendations are supported by the record evidence presented in I&E witness Bohzko's PROPRIETARY direct and surrebuttal testimony.³⁰ Specifically, I&E witness Bohzko noted *** BEGIN CONFIDENTIAL ***

*** END CONFIDENTIAL *** In the end, I&E witness Bohzko concluded

*** BEGIN CONFIDENTIAL ***

²⁸ *Id.*, p. 22.

²⁹ *Id.*, pp. 22-23.

³⁰ *See* I&E St. No. 4 PROPRIETARY, pp. 14-24; I&E St. No. 4-SR PROPRIETARY, pp. 3-9.

³¹ I&E St. No. 4 PROPRIETARY, p. 20, *citing* I&E Exh. No. 4 PROPRIETARY, Sch. No. 11 – Confidential.

³² *Id.*, p. 21, *citing* I&E Exh. No. 4 PROPRIETARY, Sch. No. 12 – Confidential.

³³ *Id.*, p. 21, *citing* I&E Exh. No. 4 PROPRIETARY, Sch. No. 13 – Confidential.

*** END CONFIDENTIAL ***

III. CONCLUSION

Wherefore, I&E respectfully submits that for all the foregoing reasons, the Bureau of Investigation and Enforcement respectfully requests that the Recommended Decision of Deputy Chief Administrative Law Judge Christopher P. Pell, issued on April 12, 2021, be modified as discussed above, and that the Commission order the following:

1. PECO study and re-evaluate its DIMP asset groups *** BEGIN
CONFIDENTIAL ***

*** END CONFIDENTIAL ***

2. PECO develop *** BEGIN CONFIDENTIAL ***

³⁴ *Id.*, p. 21.

³⁵ *Id.*, p. 21, *citing* I&E Exh. No. 4 PROPRIETARY, Sch. No. 13 – Confidential.

³⁶ *Id.*, p. 21.

³⁷ *Id.*, p. 21, *citing* I&E Exh. No. 4 PROPRIETARY, Sch. No. 11 – Confidential.

***** END CONFIDENTIAL *****

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Scott B. Granger". The signature is written in a cursive style with a large, prominent initial "S".

Scott B. Granger

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Dated: April 26, 2021

**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 **Exceptions** dated April 26, 2021, in the manner and upon the persons listed below.

Served via Electronic Mail Only

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