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File #: 2822/144815

June 7, 2010

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street – Filing Room (2<sup>nd</sup> Floor)  
PO Box 3265  
Harrisburg, PA 17105-3265

**RE: Pennsylvania Public Utility Commission et al. v. PECO Energy Company - Electric Division;  
Docket Nos. R-2010-2161575, C-2010-2178725, et al.; PREHEARING MEMORANDUM OF  
THE TRUSTEES OF THE UNIVERSITY OF PENNSYLVANIA AND THE HOSPITAL  
AT THE UNIVERSITY OF PENNSYLVANIA**

Dear Secretary Chiavetta:

Enclosed for filing with the Commission on behalf of The Trustees of the University of Pennsylvania and The Hospital at the University of Pennsylvania are an original and three (3) copies of its Prehearing Memorandum in the above-captioned proceeding. Copies of this document have been served in accordance with the attached Certificate of Service.

If you have any questions regarding this filing, please direct them to me. Please date-stamp the extra copy and return it with our messenger. Thank you for your attention to this matter.

Sincerely,

David P. Zambito  
Counsel for

*The Trustees of the University of Pennsylvania  
and The Hospital at the University of  
Pennsylvania*

DPZ/kmg

Enclosures

c: Per Certificate of Service

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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Administrative Law Judges  
Marlane R. Chestnut and Christopher Pell

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Pennsylvania Public Utility Commission, <i>et al.</i> ,	:	
	:	
Complainants	:	Docket Nos. R-2010-2161575
	:	C-2010-2167594
v.	:	C-2010-2171229
	:	C-2010-2171342
	:	C-2010-2172183
	:	C-2010-2176148
	:	C-2010-2177260
	:	C-2010-2178725
	:	
	:	
PECO Energy Company – Electric Division,	:	
	:	
Respondent	:	

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**PREHEARING MEMORANDUM OF  
THE TRUSTEES OF THE UNIVERSITY OF PENNSYLVANIA  
AND THE HOSPITAL AT THE UNIVERSITY OF PENNSYLVANIA**

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The Trustees of the University of Pennsylvania and The Hospital at the University of Pennsylvania (collectively “UPENN”), by its counsel in this matter, Post & Schell, P.C., hereby submit their Prehearing Memorandum for the above-captioned proceeding.

## **I. PROCEDURAL HISTORY**

1. On March 31, 2010, PECO Energy Company (“PECO”) filed Supplement No. 2 to Tariff Electric Pa. P.U.C. No. 4 (“Supplement No. 2”) issued March 31, 2010 and effective on May 30, 2010, containing proposed changes in rates, rules and regulations calculated to produce \$316.4 million in additional revenues. By Order entered May 20, 2010, the Pennsylvania Public Utility Commission (“Commission”) suspended Supplement No. 2 by operation of law until December 30, 2010, unless permitted by Commission Order to become effective at an earlier date. Various parties have filed formal complaints or petitions to intervene.

2. On May 28, 2010, UPENN filed a formal complaint opposing Supplement No. 2 because, *inter alia*, it proposes rates that are unjust, unreasonable, discriminatory, and in violation of the law, and will produce an excessive return on investment. Further, PECO has rendered inadequate and inefficient electric distribution service.

3. By Notice dated May 20, 2010, a Prehearing Conference before Your Honors was scheduled for 10:30 a.m. on June 9, 2010.

4. By Prehearing Conference Order, dated May 21, 2010, Your Honors directed the submission of prehearing memoranda by the parties prior to 12:00 p.m. on Monday, June 7, 2010.

## **II. LEGAL REPRESENTATION**

5. UPENN is represented in this matter by the following counsel:

David P. Zambito, Esquire  
Christopher T. Wright, Esquire  
PA Attorney ID Nos. 80017 & 203412  
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Counsel are authorized to accept service on behalf of UPENN in this matter and request a copy of each document hereafter issued by the Commission in this matter.

### III. IDENTIFICATION OF ISSUES

6. Is PECO's proposed rate increase unjust and unreasonable in violation of Section 1301 of the Code, 66 Pa. C.S. § 1301? *Suggested Answer: Yes.*

7. Will PECO's proposed allocation of its revenue increase produce rates that are unlawfully discriminatory in violation of Sections 1301 and 1304 of the Code, 66 Pa. C.S. §§ 1301, 1304? *Suggested Answer: Yes.*

8. Should PECO's request to increase its base rates be denied, in whole or part, because PECO has provided inadequate and inefficient service to its customers in violation of Section 1501 of the Code, 66 Pa. C.S. § 1501? *Suggested Answer: Yes.*

9. Are the amounts demanded by PECO for contributions in aid of construction excessive in light of the revenue that PECO would collect under its proposed rates? *Suggested Answer: Yes.*

10. Should PECO's common equity allowance be adjusted downward because of the significant government loans and grants that it has received or anticipates receiving? *Suggested Answer: Yes.*

### IV. IDENTIFICATION OF WITNESSES

11. UPENN has presently identified the following witness:

*Kenneth Ogawa, PE, LEED AP, Executive Director of Operations, University of Pennsylvania, Facilities and Real Estate, 3101 Walnut Street, Philadelphia, Pennsylvania 19104-6289.* Mr. Ogawa will testify as to the cost and quality of service currently received by UPENN from PECO and the impact that PECO's proposed rates and other tariff changes would have upon UPENN.

UPENN reserves the right to identify additional witnesses and will disclose them in a timely manner.

#### **V. ELECTRONIC SERVICE**

12. UPENN agrees to electronic service of documents in this proceeding.

#### **VI. DISCOVERY**

13. UPENN concurs with the discovery procedure modifications set forth in PECO's Prehearing Memorandum.

#### **VII. PROCEDURAL SCHEDULE**

14. UPENN concurs with the proposed procedural schedule as set forth in PECO's Prehearing Memorandum.

#### **VIII. PUBLIC INPUT HEARINGS**

15. UPENN takes no position as to whether the Commission should schedule public input hearings in this matter.

**IX. SETTLEMENT**

16. UPENN is willing to engage in settlement discussions with the other parties.

**X. PROTECTIVE ORDER**

17. The proposed Protective Order set forth as part of PECO's Prehearing Memorandum is acceptable to UPENN.

Respectfully submitted,



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DATED: June 7, 2010

**CERTIFICATE OF SERVICE**  
**Docket Nos. R-2010-2161575, C-2010-2178725, et al.**

I hereby certify that I have this day served a true copy of the foregoing Prehearing Memorandum of The Trustees of the University of Pennsylvania and The Hospital at the University of Pennsylvania upon the parties listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

**VIA FIRST CLASS MAIL AND ELECTRONIC MAIL**

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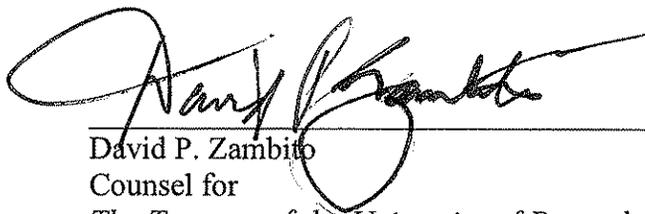
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DATED: June 7, 2010

A handwritten signature in black ink, appearing to read "David P. Zambito", is written over a horizontal line. The signature is fluid and cursive.

David P. Zambito  
Counsel for  
*The Trustees of the University of Pennsylvania and  
The Hospital at the University of Pennsylvania*