

**Legal Department**

Exelon Business Services Company  
2301 Market Street/S23-1  
PO. Box 8699  
Philadelphia, PA 19101-8699

Telephone 215.841.4000  
Fax 215.568.3389  
www.exeloncorp.com

Business Services  
Company

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JUN 07 2010

June 7, 2010

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

### VIA FEDERAL EXPRESS

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

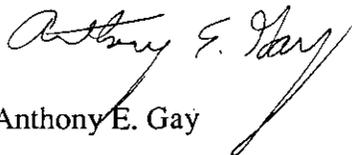
Re: **Pennsylvania Public Utility Commission v. PECO Energy Company –  
Electric Division - Docket No. R-2010-2161575**

Dear Secretary Chiavetta:

Enclosed please find an original and three (3) copies of PECO Energy Company's Prehearing Memorandum in the above-referenced matter. Copies have been served on Administrative Law Judges Marlane R. Chestnut and Christopher Pell and the parties/intervenors of record in accordance with the attached certificate of service.

Kindly time-stamp and return the extra copy of this Memorandum in the enclosed postage-paid envelope.

Sincerely,



Anthony E. Gay

Enclosures

c: Per Certificate of Service (w/encls.)

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JUN 07 2010

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU**

**PENNSYLVANIA PUBLIC UTILITY  
COMMISSION** :

v. :

**PECO ENERGY COMPANY -  
ELECTRIC DIVISION** :

**DOCKET NO. R-2010-2161575**

**PREHEARING MEMORANDUM  
OF  
PECO ENERGY COMPANY**

This memorandum is submitted in response to the Prehearing Conference Order issued by Administrative Law Judges Marlane R. Chestnut and Christopher Pell dated May 21, 2010.

**I. INTRODUCTION**

On March 31, 2010, PECO Energy Company ("PECO" or the "Company") filed with the Pennsylvania Public Utility Commission ("Commission") Supplement No. 2 to Tariff Electric – Pa. P.U.C. No. 4. Supplement No. 2 reflects an increase in annual electric operating revenues of \$316.4 million, or 7% of its total electric operating revenues. By Order issued May 20, 2010, the Commission instituted a formal investigation to determine the lawfulness, justness and reasonableness of PECO's existing and proposed rates, rules and regulations. Accordingly, Supplement No. 2 was suspended by operation of law until December 30, 2010.

Accompanying its tariff filing, PECO submitted extensive and detailed supporting information, including the prepared written testimony and exhibits of its ten initial witnesses. During the course of this case, PECO may submit additional testimony and exhibits in response to the presentations of, or cross-examination by, other parties and with respect to any specific

issues that might be raised by such parties. In addition, certain testimony and exhibits will be updated, as necessary, to reflect known changes that should be considered in this proceeding.

In support of its proposed rate increase, PECO has presented complete and separate data for the historic test year ended December 31, 2009 and the future test year ending December 31, 2010. PECO intends, however, to rely primarily on the future test year data. PECO submits that the record at the close of this proceeding will fully demonstrate that the proposed rates are just, reasonable and lawful and should be approved in full by the Commission.

As of this date, the Company has been served with Petitions to Intervene of the International Dark Sky Association (“IDA”), dated April 2, 2010; International Brotherhood of Electrical Workers Local 614, AFL-CIO (Local 614), dated April 12, 2010; Dominion Retail, Inc. (“Dominion”), dated April 16, 2010; the City of Philadelphia (“City”), dated May 21, 2010; and Citizens for Pennsylvania’s Future, Joy Bergey, Christine Knapp and Henry Rowan (collectively, “PennFuture”), dated May 26, 2010. Notices of Appearance were served on behalf of the Office of Small Business Advocate (“OSBA”) along with its Complaint on April 20, 2010; the Office of Trial Staff (“OTS”) and IDA, both dated April 22, 2010; and the Office of Consumer Advocate (“OCA”), dated April 26, 2010, along with its Complaint. In addition, formal Complaints were filed by the Tenant Union Representative Network and Action Alliance of Senior Citizens of Greater Philadelphia (“TURN/Action Alliance”), on May 14, 2010, by the Philadelphia Area Industrial Energy Users Group (“PAIEUG”) on May 20, 2010 and by the Trustees of the University of Pennsylvania/The Hospital at the University of Pennsylvania (“UPENN”) on May 28, 2010. Several Complaints have also been filed by individual residential customers.

## II. ISSUES

Generally, every rate case presents two major issues for resolution: (1) the total amount of the revenue increase to which the utility is entitled; and (2) the allocation of the increased revenues among the utility's rate classifications through a rate structure and rate design that will produce the required revenue. As discussed below, the Company's calculation of its required revenue increase and its proposed allocation of the increase to each customer classification have been developed by applying principles and procedures that the Commission has previously reviewed and approved.

A determination of the total revenue increase to which a utility is entitled involves a number of elements which may be grouped under three headings and characterized as the following major sub-issues herein:

**A. Total Return.** The total return (utility operating income) required by the utility to provide a fair rate of return on its claimed rate base. Fair rate of return involves the determination of the appropriate cost or return rate for the capital employed by the Company to furnish electric service. Such return must be sufficient to enable the Company to maintain the financial integrity of its existing capital and to attract additional capital on reasonable terms. In addition, the Company must be permitted an opportunity to earn, on the portion of its rate base financed by common equity, a return commensurate with the returns on investments in other enterprises having similar risks. The appropriate rate of return for the Company, and in particular the appropriate return rate for the Company's common equity, is an issue which is critical to the well-being of the Company and its ability to continue to provide the service that its customers have been receiving and are entitled to receive in the future.

**B. Operating Expenses.** The future or ongoing level of the utility's operating expenses to provide electric distribution service including depreciation, amortizations and taxes, which must be recovered from customers through rates.

**C. Revenues.** The electric distribution revenue normally available to the utility under present rates and the level of revenue that will be produced by the proposed rates.

By comparing the electric distribution revenue produced by the utility's present rates with its total required operating income and anticipated electric distribution operating expenses, depreciation, amortizations and taxes, the necessary increase in revenue and rate levels required to provide a fair rate of return are determined.

The allocation of the proposed revenue increase and the Company's proposed rate structure and rate design are explained in the Statement of Specific Reasons for Proposed Increase In Electric Rates submitted with the Company's initial filing and are discussed in detail in the direct testimony of Mr. Cohn and Mr. Gorman. In developing PECO's rate structure proposal, Mr. Cohn considered the results of a cost of service study performed by Mr. Gorman and the principle of gradualism that has traditionally been applied in Pennsylvania. The proposed rates were designed to mitigate the impact of the requested increase on each major rate class, to the extent practicable, while still making meaningful movement toward each class' cost of service. To that end, PECO's proposed revenue allocation moves the rates of return for each major rate class closer to the system average rate of return.

PECO is also proposing certain changes in rate design including: (1) aligning fixed distribution/customer charges with, or closer to, customer-classified costs; (2) eliminating certain rates that are legacies of PECO's "bundled" rates (i.e., rates that recovered generation costs as well as distribution costs); and (3) implementing a separate reconcilable Transmission Service

Charge (“TSC”) Rider to recover PJM-related transmission charges, thereby assuring competitive neutrality between default service and service offered by electric generation suppliers.

Further, PECO is proposing to unbundle the working capital revenue requirement associated with a portion of PECO’s default-generation supply and transmission-service costs by recovering that revenue requirement through a non-reconcilable Generation Supply Working Capital charge within its Generation Supply Adjustment (“GSA”) and a non-reconcilable Transmission Cost Working Capital charge within its TSC, which apply only to default-service customers, rather than in base rates, which are charged to all (shopping and non-shopping) customers. PECO also proposes to recover all existing meter and meter-reading costs through the reconcilable Smart Meter Cost Recovery Rider (“SMCR”) that was approved in the Company’s Smart Meter Technology Procurement and Installation Plan proceeding at Docket No. M-2009-2123944. By doing so, the savings that arise from replacing PECO’s existing metering systems with a “Smart Meter” network will flow to customers automatically

Finally, as part of its electric default service proceeding at Docket No. P-2008-2062739, PECO agreed to a number of Customer Assistance Program (“CAP”) affordability enhancements, as well as cost-containment measures to minimize the impact of increased costs on non-CAP customers. As explained by Ms. Feldhake, PECO has proposed to roll the cost of the CAP programs into base rates.

PECO notes that the Commission, in an appendix to its May 20, 2010 Order, identified seven areas to be considered in this proceeding as well. PECO will submit, by no later than tomorrow, limited supplemental testimony by Phillip S. Barnett to address issues six and seven

identified by the Commission, namely PECO's dividend payout policy and implementation of "ring-fencing" measures. PECO's initial filing fully addresses the remaining areas of concern.

### III. WITNESSES AND EVIDENCE

Listed below are the initial witnesses for PECO, together with a brief summary of the subject matter of their testimony.

1. **Craig L. Adams.** Mr. Adams is Senior Vice President and Chief Operating Officer for PECO. His direct testimony, which is identified as PECO Statement No. 1: (1) describes PECO's electric operations; (2) provides an overview of this rate filing, including an introduction of the other witnesses who present testimony in support of PECO's case-in-chief; (3) explains PECO's capital-investment process and identifies the types of projects that comprise PECO's claimed future test year plant additions; (4) discusses various measures undertaken by the Company to ensure system safety and reliability and enhance its quality of service; and (5) discusses measures taken by the Company to enhance the communities in which it operates and to promote economic development.

2. **Phillip S. Barnett.** Mr. Barnett is PECO's Senior Vice President and Chief Financial Officer. His direct testimony is identified as PECO Statement No. 2. Mr. Barnett provides an overview of PECO's principal accounting exhibits; discusses PECO's budgeting process; and describes the services that PECO receives from the Exelon Business Services Company and the estimated cost of those services during the future test year.

3. **Robert L. O'Brien.** Mr. O'Brien is a principal consultant to Black & Veatch Corporation, an engineering and management consulting firm that was retained by PECO to assist it in preparing and presenting this rate filing. His written testimony is identified as PECO

Statement No. 3. Mr. O'Brien sponsors Exhibits RLO-1 and RLO-2, which set forth PECO's revenue requirement for the future test year ending December 31, 2010 and historic test year ended December 31, 2009, respectively. He specifically supports PECO's rate base, revenue, operating expense and tax claims.

4. **Jorge Acevedo.** Mr. Acevedo is PECO's Controller. His direct testimony is identified as PECO Statement No. 4. Mr. Acevedo describes PECO's accounting processes; supports the assignment and allocation of common costs between PECO's electric and gas operations; and explains the development of the depreciated original cost of the Company's utility plant in service and its claim for annual depreciation expense.

5. **Paul R. Moul.** Mr. Moul is the Managing Consultant of P. Moul and Associates, Inc. His direct testimony is identified as PECO Statement No. 5, and the various supporting schedules discussed in his testimony are set forth in PECO Exhibit PRM-1. Mr. Moul presents expert testimony concerning the rate of return that PECO should be afforded an opportunity to earn on its rate base. He supports PECO's claimed capital structure ratios, its embedded costs of debt and preferred stock, and its requested equity allowance. On the basis of Mr. Moul's study, the Company submits that it is entitled to an opportunity to earn the following overall fair rate of return:

<b>Type of Capital</b>	<b>Ratio</b>	<b>x</b>	<b>Cost Rate</b>	<b>=</b>	<b>Weighted Cost Rate</b>
Long-Term Debt	45.19%		5.81%		2.63%
Preferred Stock	1.63%		4.38%		0.07%
Common Equity	53.18%		11.75%		<u>6.25%</u>
Overall Rate of Return					8.95%

6. **Lauren B. Feldhake.** Ms. Feldhake is Director of Customer Financial Operations for PECO. Her direct testimony is identified as PECO Statement No. 6. Ms.

Feldhake discusses important changes PECO is implementing to improve and expand the availability of its Electric CAP program and the Company's overall outreach to low-income customers.

7. **Frank J. Jiruska.** Mr. Jiruska is PECO's Director of Energy and Marketing Services. His testimony is identified as PECO Statement No. 7. Mr. Jiruska discusses the energy-efficiency and demand-management programs for electric customers that PECO has implemented or will implement in compliance with Act 129 of 2008 and the customer savings, and reduced Company revenues, the programs will bring.

8. **Howard S. Gorman.** Mr. Gorman is a Principal Consultant with Black & Veatch Corporation. His direct testimony is identified as PECO Statement No. 8, and he is sponsoring the cost of service study he performed for PECO in this case.

9. **Alan B. Cohn.** Mr. Cohn is Manager of Revenue Analysis in PECO's Regulatory and External Affairs Department. His direct testimony is identified as PECO Statement No. 9. Mr. Cohn presents PECO's proposed tariff rates and explains how the results of Mr. Gorman's class cost-of-service study, as well as the consideration of other factors, were utilized in the rate-design process. Mr. Cohn also explains and quantifies the Company's proposals to unbundle, and recover through separate reconcilable surcharge mechanisms, transmission, meter-related and certain working-capital costs.

10. **Stephen R. Xander.** Mr. Xander is the Manager of Special Projects in PECO's Regulatory and External Affairs Department. His direct testimony is identified as PECO Statement No. 10. Mr. Xander discusses various recommended changes and clarifications to PECO's tariff rules and regulations and describes proposed changes to PECO's Electric Universal Service Fund Charge mechanism.

The Company may present additional witnesses to address the direct testimony of other parties; however, such witnesses cannot be identified until the direct testimony of such parties is reviewed and evaluated.

#### IV. DISCOVERY

The parties have agreed to proposed discovery modifications, attached as Exhibit "A" hereto. These procedures are substantially the same as those previously approved by the Presiding Administrative Law Judges in PECO's recent Purchase of Receivables and Smart Meter proceedings. Accordingly, the parties respectfully request that the Administrative Law Judges approve the proposed discovery modifications.

In addition, PECO has submitted to the parties for their consideration a proposed Protective Order, which is attached as Exhibit "B" hereto. It is substantially the same form of Protective Order agreed upon by the parties and approved by the Presiding Administrative Law Judges in PECO's Purchase of Receivables and Smart Meter proceedings. PECO respectfully requests that the Administrative Law Judges enter the proposed Protective Order. In advance of the Prehearing Conference and in order to facilitate the discovery of certain confidential information, the Company also has sent Stipulated Protective Agreements to each of the statutory advocates, which address how recipients will handle information deemed confidential by a party responding to discovery. To date, the Company has executed Stipulated Protective Agreements with OTS and OCA.

To date, PECO has been served with 316 interrogatories and data requests and has responded to 216. PECO encourages informal exchanges of information and is prepared to meet with representatives of the other active parties to discuss issues of interest.

## **V. PROPOSED PROCEDURAL SCHEDULE**

The parties have jointly developed, and propose, the schedule attached as Exhibit "C" to this Memorandum for the submission of testimony, the conduct of evidentiary hearings, and the filing of briefs. PECO is currently working with the other parties to develop a specific schedule for public input hearings and anticipates having an agreed upon schedule and list of locations prior to the Prehearing Conference.

## **VI. SETTLEMENT**

PECO is willing to pursue with the parties the possible stipulation of individual issues and/or more far-ranging settlement discussions that might lead to a comprehensive resolution of this matter.

## VII. SERVICE LIST

PECO requests that the official service list entry for the Company be as follows:

Anthony E. Gay (Pa. No. 74624)  
Jack R. Garfinkle (Pa. No. 81892)  
Exelon Business Services Company  
2301 Market Street  
P.O. Box 8699  
Philadelphia, PA 19101-8699  
Phone: 215.841.4635  
Fax: 215.568.3389  
[anthony.gay@exeloncorp.com](mailto:anthony.gay@exeloncorp.com)  
[jack.garfinkle@exeloncorp.com](mailto:jack.garfinkle@exeloncorp.com)

PECO also requests that a copy of all correspondence, discovery, testimony and other materials sent to the Company be provided to:

Thomas P. Gadsden (Pa. No. 28478)  
Anthony C. DeCusatis (Pa. No. 25700)  
Catherine G. Vasudevan (Pa. No. 210254)  
Morgan, Lewis & Bockius LLP  
1701 Market Street  
Philadelphia, PA 19103-2921  
Phone: 215.963.5234  
Fax: 215.963.5001  
[tgadsden@morganlewis.com](mailto:tgadsden@morganlewis.com)  
[adecusatis@morganlewis.com](mailto:adecusatis@morganlewis.com)  
[cvasudevan@morganlewis.com](mailto:cvasudevan@morganlewis.com)

## VIII. CONCLUSION

Based on the evidence referenced above, PECO submits that the rates proposed in Supplement No. 2 to Tariff Electric – Pa. P.U.C. No. 4 are just, reasonable and lawful in all respects. Accordingly, the requested rate increase should be approved by the Administrative Law Judges and the Commission at the close of this proceeding.



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Anthony E. Gay (Pa. No. 74624)  
Jack R. Garfinkle (Pa. No. 81892)  
Exelon Business Services Company  
2301 Market Street  
P.O. Box 8699  
Philadelphia, PA 19101-8699  
Phone: 215.841.4635  
Fax: 215.568.3389  
[Anthony.Gay@exeloncorp.com](mailto:Anthony.Gay@exeloncorp.com)  
[Jack.Garfinkle@exeloncorp.com](mailto:Jack.Garfinkle@exeloncorp.com)

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[tgadsden@morganlewis.com](mailto:tgadsden@morganlewis.com)  
[adecusatis@morganlewis.com](mailto:adecusatis@morganlewis.com)  
[cvasudevan@morganlewis.com](mailto:cvasudevan@morganlewis.com)

*Counsel for PECO Energy Company*

Dated: June 7, 2010

EXHIBIT A

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JUN 07 2010

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

<b>PENNSYLVANIA PUBLIC UTILITY COMMISSION</b>	:	
	:	
	:	
v.	:	<b>DOCKET NO. R-2010-2161575</b>
	:	
<b>PECO ENERGY COMPANY - ELECTRIC DIVISION</b>	:	
	:	

**PROPOSED DISCOVERY PROCEDURE MODIFICATIONS**

1. When an interrogatory, request for production, request for admission or motion is served after 12:00 p.m. on a Friday or the day before a holiday, the appropriate response period is deemed to start on the next business day.
2. The response period for replying to written interrogatories, requests for production and requests for admissions is ten (10) calendar days of receipt. Responses may be served electronically but hard copies must follow by first-class mail, unless otherwise agreed to by the parties.
3. Objections to written interrogatories, requests for production and requests for admissions are to be communicated orally to the party serving the interrogatory within three (3) calendar days of receipt and in writing within five (5) calendar days of receipt. The parties are directed to confer, by telephone or e-mail, and attempt to resolve the objections.
4. Motions to dismiss objections and to compel response shall be filed with the Commission and served on the Administrative Law Judge and the other parties within three (3) calendar days of receipt of the written objections. Answers to such motions shall be filed and served within three (3) calendar days after filing of the motion.
5. If the objections are not resolved, counsel will alert the presiding officer by e-mail of the need for a ruling, and a conference call will be scheduled. The presiding officer will make a ruling over the telephone and not reduce it to writing unless requested to do so.

6. Interrogatories, requests for production and requests for admissions that are objected to but which are not made the subject of a motion to compel will be deemed withdrawn.
7. Requests for admission shall be deemed admitted unless objected to within five (5) calendar days of service or answered within ten (10) calendar days of service.
8. Pursuant to 52 Pa. Code §5.341(b), neither discovery requests nor responses thereto are to be served on the Commission or the Administrative Law Judge, although a certificate of service may be filed with the Commission's Secretary.
9. Discovery requests, motions to compel and responses are to be served electronically as well as on paper.

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JUN 07 2010

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

EXHIBIT B

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

<b>PENNSYLVANIA PUBLIC UTILITY COMMISSION</b>	:	
	:	
v.	:	<b>DOCKET NO. R-2010-2161575</b>
	:	
<b>PECO ENERGY COMPANY - ELECTRIC DIVISION</b>	:	
	:	

**PROTECTIVE ORDER**

Upon consideration of the Motion for a Protective Order made by PECO Energy Company (“PECO”) and the parties participating in the June 9, 2010 Prehearing Conference in this matter:

IT IS ORDERED THAT:

1. The Motion is hereby granted with respect to all materials and information identified in Paragraphs 2 and 3 below, which are or will be filed with the Commission, produced in discovery, or otherwise presented during the above-captioned proceeding and all proceedings consolidated with it. All persons now or hereafter granted access to the materials and information identified in Paragraph 2 of this Protective Order shall use and disclose such information only in accordance with this Order.
  
2. The information subject to this Protective Order is all correspondence, documents, data, information, studies, methodologies and other materials, whether produced or reproduced or stored on paper, cards, tape, disk, film, electronic facsimile, magnetic or optical memory, computer storage devices or any other devices or media, including, but not limited to, electronic mail (e-mail), furnished in this proceeding that the producing party believes to be of a proprietary

or confidential nature and are so designated by being stamped “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL” protected material. Such materials are referred to in this Order as “Proprietary Information.” When a statement or exhibit is identified for the record, the portions thereof that constitute Proprietary Information shall be designated as such for the record.

3. For purposes of this Protective Order there are two categories of Proprietary Information: “CONFIDENTIAL” and “HIGHLY CONFIDENTIAL” protected material. A producing party may designate as “CONFIDENTIAL” those materials that are customarily treated by that party as sensitive or proprietary, that are not available to the public, and that, if generally disclosed, would subject that party or its clients to the risk of competitive disadvantage or other business injury. A producing party may designate as “HIGHLY CONFIDENTIAL” those materials that are of such a commercially sensitive nature, relative to the business interests of parties to this proceeding, or of such a private or personal nature, that the producing party is able to justify a heightened level of confidential protection with respect to those materials. The parties shall endeavor to limit the information designated as “HIGHLY CONFIDENTIAL” protected material.

4. Subject to the terms of this Protective Order, Proprietary Information shall be provided to counsel for a party who meets the criteria of a “Reviewing Representative” as set forth below. Such counsel shall use or disclose the Proprietary Information only for purposes of preparing or presenting evidence, testimony, cross examination or argument in this proceeding. To the extent required for participation in this proceeding, such counsel may allow others to have access to Proprietary Information only in accordance with the conditions and limitations set forth in this Protective Order.

5. Information deemed “CONFIDENTIAL” shall be provided to a “Reviewing

Representative.” For purposes of “CONFIDENTIAL” Proprietary Information, a “Reviewing Representative” is a person who has signed a Non-Disclosure Certificate and is:

- i. An attorney for a public advocate pursuant to 52 Pa. Code § 1.8 or an attorney who has formally entered an appearance in this proceeding on behalf of a party;
- ii. An attorney, paralegal, or other employee associated for purposes of this case with an attorney described in subparagraph (i) above;
- iii. An expert or an employee of an expert retained by a party for the purpose of advising that party or testifying in this proceeding on behalf of that party; or
- iv. Employees or other representatives of a party to this proceeding who have significant responsibility for developing or presenting the party’s positions in this docket.

6. Information deemed “HIGHLY CONFIDENTIAL” protected material shall be provided to a Reviewing Representative, provided, however that a Reviewing Representative, for purposes of “HIGHLY CONFIDENTIAL” protected material, is limited to a person who has signed a Non-Disclosure Certificate and is:

- i. An attorney for a public advocate pursuant to 52 Pa. Code § 1.8 or an attorney who has formally entered an appearance in this proceeding on behalf of a party;
- ii. An attorney, paralegal, or other employee associated for purposes of this case with an attorney described in subparagraph (i);
- iii. An outside expert or an employee of an outside expert retained by a party for the purposes of advising that party or testifying in this proceeding on behalf of that party; or
- iv. A person designated as a Reviewing Representative for purposes of HIGHLY CONFIDENTIAL protected material pursuant to paragraph 11.

Provided, further, that in accordance with the provisions of Sections 5.362 and 5.431(e) of the Commission’s Rules of Practice and Procedure (52 Pa. Code §§ 5.362, 5.431(e)) any party may, by objection or motion, seek further protection with respect to HIGHLY CONFIDENTIAL

protected material, including, but not limited to, total prohibition of disclosure or limitation of disclosure only to particular parties.

7. For purposes of this Protective Order, a Reviewing Representative may not be a "Restricted Person" absent agreement of the party producing the Proprietary Information. A "Restricted Person" shall mean: (a) an officer, director, stockholder, partner, or owner of any competitor of the parties or an employee of such an entity if the employee's duties involve marketing or pricing of the competitor's products or services or advising another person who has such duties; (b) an officer, director, stockholder, partner, or owner of any affiliate of a competitor of the parties (including any association of competitors of the parties) or an employee of such an entity if the employee's duties involve marketing or pricing of the competitor's products or services or advising another person who has such duties; (c) an officer, director, stockholder, owner, agent or employee of a competitor of a customer of the parties or of a competitor of a vendor of the parties if the Proprietary Information concerns a specific, identifiable customer or vendor of the parties; and (d) an officer, director, stockholder, owner or employee of an affiliate of a competitor of a customer of the parties if the Proprietary Information concerns a specific, identifiable customer of the parties; provided, however, that no expert shall be disqualified on account of being a stockholder, partner, or owner unless that expert's interest in the business would provide a significant motive for violating the limitations of permissible use of the Proprietary Information. For purposes of this Protective Order, stocks, partnership or other ownership interests valued at more than \$10,000 or constituting more than a 1% interest in a business establish a significant motive for violation.

8. If an expert for a party, another member of the expert's firm or the expert's firm generally also serves as an expert for, or as a consultant or advisor to, a Restricted Person, that

expert must: (1) identify for the parties each Restricted Person and all personnel in or associated with the expert's firm that work on behalf of the Restricted Person; (2) take all reasonable steps to segregate those personnel assisting in the expert's participation in this proceeding from those personnel working on behalf of a Restricted Person; and (3) if segregation of such personnel is impractical, the expert shall give to the producing party written assurances that the lack of segregation will in no way adversely affect the interests of the parties or their customers. The parties retain the right to challenge the adequacy of the written assurances that the parties' or their customers' interests will not be adversely affected. No other persons may have access to the Proprietary Information except as authorized by order of the Commission.

9. Reviewing Representatives qualified to receive "HIGHLY CONFIDENTIAL" protected material may discuss HIGHLY CONFIDENTIAL protected material with their client or with the entity with which they are employed or associated, to the extent that the client or entity is not a "Restricted Person," but may not share with, or permit the client or entity to review or have access to, the HIGHLY CONFIDENTIAL protected material.

10. Proprietary Information shall be treated by the parties and by the Reviewing Representative in accordance with the terms of this Protective Order, which are hereby expressly incorporated into the certificate that must be executed pursuant to Paragraph 12(a). Proprietary Information shall be used as necessary, for the conduct of this proceeding and for no other purpose. Proprietary Information shall not be disclosed in any manner to any person except a Reviewing Representative who is engaged in the conduct of this proceeding and who needs to know the information in order to carry out that person's responsibilities in this proceeding.

11. Reviewing Representatives may not use anything contained in any Proprietary Information obtained through this proceeding to give any party or any competitor of any party a

commercial advantage. In the event that a party wishes to designate as a Reviewing Representative a person not described in paragraph 6 (i) through (iii) above, the party must first seek agreement to do so from the party providing the Proprietary Information. If an agreement is reached, the designated individual shall be a Reviewing Representative pursuant to Paragraph 6 (iv) above with respect to those materials. If no agreement is reached, the party seeking to have a person designated a Reviewing Representative shall submit the disputed designation to the presiding Administrative Law Judge for resolution.

12. (a) A Reviewing Representative shall not be permitted to inspect, participate in discussions regarding, or otherwise be permitted access to Proprietary Information pursuant to this Protective Order unless that Reviewing Representative has first executed a Non-Disclosure Certificate in the form provided in Appendix A, provided, however, that if an attorney or expert qualified as a Reviewing Representative has executed such a certificate, the paralegals, secretarial and clerical personnel under his or her instruction, supervision or control need not do so. A copy of each executed Non-Disclosure Certificate shall be provided to counsel for the party asserting confidentiality prior to disclosure of any Proprietary Information to that Reviewing Representative.

(b) Attorneys and outside experts qualified as Reviewing Representatives are responsible for ensuring that persons under their supervision or control comply with the Protective Order.

13. The parties shall designate data or documents as constituting or containing Proprietary Information by stamping the documents "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL" protected material. Where only part of data compilations or multi-page documents constitutes or contains Proprietary Information, the parties, insofar as reasonably

practicable within discovery and other time constraints imposed in this proceeding, shall designate only the specific data or pages of documents which constitute or contain Proprietary Information.

14. The Commission and all parties, including the statutory advocates and any other agency or department of state government will consider and treat the Proprietary Information as within the exemptions from disclosure provided in the Pennsylvania Right-to-Know Act (65 P.S. § 67.101 *et seq.*) until such time as the information is found to be non-proprietary.

15. Any public reference to Proprietary Information by a party or its Reviewing Representatives shall be to the title or exhibit reference in sufficient detail to permit persons with access to the Proprietary Information to understand fully the reference and not more. The Proprietary Information shall remain a part of the record, to the extent admitted, for all purposes of administrative or judicial review.

16. Part of any record of this proceeding containing Proprietary Information, including but not limited to all exhibits, writings, testimony, cross examination, argument, and responses to discovery, and including reference thereto as mentioned in paragraph 15 above, shall be sealed for all purposes, including administrative and judicial review, unless such Proprietary Information is released from the restrictions of this Protective Order, either through the agreement of the parties to this proceeding or pursuant to an order of the Commission.

17. The parties shall retain the right to question or challenge the confidential or proprietary nature of Proprietary Information and to question or challenge the admissibility of Proprietary Information. If a party challenges the designation of a document or information as proprietary, the party providing the information retains the burden of demonstrating that the designation is appropriate.

18. The parties shall retain the right to object to the production of Proprietary Information on any proper ground, and to refuse to produce Proprietary Information pending the adjudication of the objection.

19. Within 30 days after a Commission final order is entered in the above-captioned proceeding, or in the event of appeals, within thirty days after appeals are finally decided, the receiving party, upon request, shall either destroy or return to the parties all copies of all documents and other materials not entered into the record, including notes, which contain any Proprietary Information. In the event that the party elects to destroy all copies of documents and other materials containing Proprietary Information instead of returning the copies of documents and other materials containing Proprietary Information to the parties, upon request, the party shall certify in writing to the other Party that the Proprietary Information has been destroyed.

Date: \_\_\_\_\_, 2010

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Marlane R. Chestnut  
Christopher Pell  
Administrative Law Judges

APPENDIX A

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PENNSYLVANIA PUBLIC UTILITY  
COMMISSION

v.

PECO ENERGY COMPANY -  
ELECTRIC DIVISION

:  
:  
:  
:  
:  
:  
:

DOCKET NO. R-2010-2161575

TO WHOM IT MAY CONCERN:

The undersigned is the \_\_\_\_\_ of \_\_\_\_\_  
(the receiving party).

The undersigned has read and understands the Protective Order deals with the treatment of Proprietary Information. The undersigned agrees to be bound by, and comply with, the terms and conditions of said Order, which are incorporated herein by reference.

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
PRINT NAME

\_\_\_\_\_  
ADDRESS

\_\_\_\_\_  
EMPLOYER

DATE: \_\_\_\_\_

EXHIBIT C

**RECEIVED**

JUN 07 2010

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

<b>PENNSYLVANIA PUBLIC UTILITY COMMISSION</b>	:	
	:	
	:	
v.	:	<b>DOCKET NO. R-2010-2161575</b>
	:	
<b>PECO ENERGY COMPANY - ELECTRIC DIVISION</b>	:	

**PROPOSED SCHEDULE**

Rate Case Filing	March 31, 2010
Prehearing Conference	June 9, 2010
Non-Company Direct Testimony	July 7, 2010
Rebuttal Testimony (all parties)	August 3, 2010
Settlement Conference	August 5, 2010
Surrebuttal Testimony (all parties)	August 12, 2010
Rejoinder Outline	August 16, 2010 (by 9:00 am)
Evidentiary Hearings	August 16-20, 2010
Main Briefs	September 10, 2010
Reply Briefs	September 20, 2010
Recommended Decision	November 2, 2010
Commission Public Meeting	December 16, 2010
End Suspension	December 31, 2010



Johnnie E. Simms, Esquire  
Adelou A. Bakare, Esquire  
Office of Trial Staff  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120  
[josimms@state.pa.us](mailto:josimms@state.pa.us)  
[abakare@state.pa.us](mailto:abakare@state.pa.us)

Charis Mincavage, Esquire  
Barry A. Naum, Esquire  
Carl J. Zwick, Esquire  
McNees Wallace & Nurick LLC  
P.O. Box 1166  
100 Pine Street  
Harrisburg, PA 17108-1166  
[cmincavage@mwn.com](mailto:cmincavage@mwn.com)  
[bnaum@mwn.com](mailto:bnaum@mwn.com)  
[czwick@mwn.com](mailto:czwick@mwn.com)  
*Counsel to PAIEUG*

David P. Zambito, Esquire  
Christopher T. Wright, Esquire  
Post & Schell, P.C.  
17 North Second Street, 12th Floor  
Harrisburg, PA 17101  
[dzambito@postschell.com](mailto:dzambito@postschell.com)  
[cwright@postschell.com](mailto:cwright@postschell.com)  
*Counsel for UPENN*

J. Barry Davis, Esquire  
Chief Deputy City Solicitor  
Scott J. Schwarz, Esquire  
Senior Attorney, Regulatory Affairs Unit  
City of Philadelphia Law Department  
One Parkway Building  
1515 Arch Street, 16<sup>th</sup> Floor  
Philadelphia, PA 19102-1595  
[j.barry.davis@phila.gov](mailto:j.barry.davis@phila.gov)  
[scott.schwarz@phila.gov](mailto:scott.schwarz@phila.gov)  
*Counsel for City of Philadelphia*

Todd S. Stewart  
Hawke McKeon & Sniscak LLP  
P.O. Box 1778  
100 N. Tenth Street  
Harrisburg, PA 17105-1778  
[tsstewart@hmslegal.com](mailto:tsstewart@hmslegal.com)  
*Counsel for Dominion Retail, Inc.*

Thu B. Tran, Esquire  
Philip A. Bertocci, Esquire  
Community Legal Services, Inc.  
1424 Chestnut Street  
Philadelphia, PA 19102-2505  
[ttran@clsphila.org](mailto:ttran@clsphila.org)  
[pbertocci@clsphila.org](mailto:pbertocci@clsphila.org)  
*Counsel for TURN, et al.*

Leo Smith  
Northeast Regional Director  
International Dark Sky Association  
1060 Mapleton Avenue  
Suffield, CT 06078  
[leo@smith.net](mailto:leo@smith.net)  
*Counsel for International Dark Sky Association*

Gary A. Jeffries  
Assistant General Counsel  
Dominion Retail, Inc.  
501 Martindale Street, Suite 400  
Pittsburgh, PA 15212-5817  
[Gary.A.Jeffries@dom.com](mailto:Gary.A.Jeffries@dom.com)  
*Counsel for Dominion Retail, Inc.*

Charles T. Joyce  
Spear Wilderman, P.C.  
230 South Broad Street, Suite 1400  
Philadelphia, PA 19102  
[ctjoyce@spearwilderman.com](mailto:ctjoyce@spearwilderman.com)  
*Counsel for International Brotherhood of  
Electrical Workers Local 614, AFL-CIO*

C. Stanley Stubbe  
Pennsylvania Section Leader  
International Dark Sky Association  
1438 Shaner Drive  
Pottstown, PA 19465  
[csstubbe@cs.com](mailto:csstubbe@cs.com)  
*Counsel for International Dark Sky Association*

Richard N. Lipow  
629 Swedesford Road  
Malvern, PA 19355  
[richard@lipowlaw.com](mailto:richard@lipowlaw.com)  
*Counsel for International Dark Sky Association*

Charles McPhedran  
Law Staff Chair  
John Baillie, Senior Attorney  
PennFuture  
1518 Walnut Street, Suite 1100  
Philadelphia, PA 19102  
[mcphebran@pennfuture.org](mailto:mcphebran@pennfuture.org)  
[baillie@pennfuture.org](mailto:baillie@pennfuture.org)  
*Counsel for PennFuture*

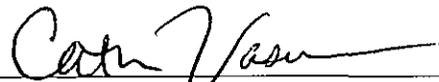
VIA FIRST CLASS MAIL

Cynthia Gallagher  
1130 Fanshawe Street  
Philadelphia, PA 19111

Ryan Miller  
9912 Medway Road  
Philadelphia, PA 19115

Craig Vorwald  
600 Exmoor Drive  
Collegeville, PA 19426

Date: June 7, 2010



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Anthony E. Gay (Pa. No. 74624)  
Jack R. Garfinkle (Pa. No. 81892)  
Exelon Business Services Company  
2301 Market Street  
P.O. Box 8699  
Philadelphia, PA 19101-8699  
Phone: 215.841.4635  
Fax: 215.568.3389  
E-mail: [anthony.gay@exeloncorp.com](mailto:anthony.gay@exeloncorp.com)

Thomas P. Gadsden (Pa. No. 28478)  
Anthony C. DeCusatis (Pa. No. 25700)  
Catherine G. Vasudevan (Pa. No. 210254)  
Morgan, Lewis & Bockius LLP  
1701 Market Street  
Philadelphia, PA 19103-2921  
Phone: 215.963.5234  
Fax: 215.963.5001  
E-mail: [tgadsden@morganlewis.com](mailto:tgadsden@morganlewis.com)

*Counsel for PECO Energy Company*

FZ  
PT 205  
1  
4670  
06.08

ORIGIN ID: REDA (215) 963-5317  
MAILROOM  
MORGAN LEWIS & BOCKIUS LLP  
1701 MARKET STREET

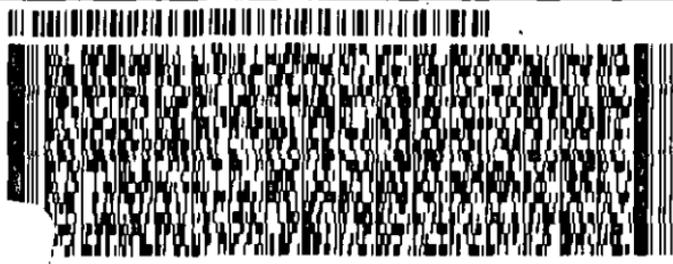
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UNITED STATES US

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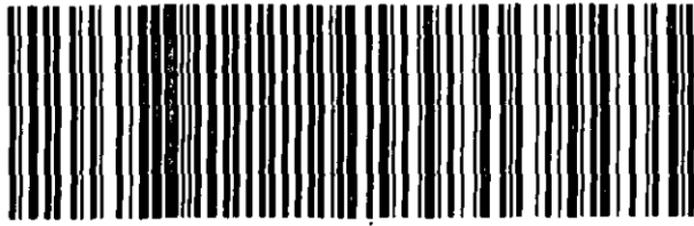
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